SENATE—*Wednesday, October 19, 1988*

(Legislative day of Tuesday, October 18, 1988)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable THOMAS J. DASCHLE, a Senator from the State of South Dakota.

PRAYER

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

Let us pray:

Dear Lord, with multiplied millions who trust, the centuries have found profound consolation in the Shepherd's psalm. We thank you for this exquisite word.

"The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake * * *"

Thank you, Lord, for this infallible leadership.

"* * * Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; * * *"

Thank you, Lord, for this eternal hope.

"* * * thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever."—Psalm 23.

Thank you, Lord, for this treasured promise of eternity. Thank you, Lord. 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 19, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank the Chaplain for rendering for us again the 23d Psalm. I have many favorites of the psalms, but this is the favorite above the favorites. It has a soothing, comforting, quieting thrust. It is meant for all times, for all seasons, and all conditions, telling us that "the Lord is my shepherd, I shall not want."

In our life of tensions, this is a psalm that brings us back to a quiet solitude. It comforts us in the time of sorrow and keeps us humble in the hour of triumph. And it reminds us that God is always with us, that His rod and His staff will protect us.

And it calls to our attention again God's promise of eternal life, as it speaks of our dwelling in His house forever.

It was my grandson's favorite scripture, the grandson I lost. The Chaplain was there with us when we gathered for our last goodbye. The Chaplain, in his sermon that day, quoted the 23d Psalm, and that psalm has been used through the ages, I am sure, by others, as the final farewells were spoken for loved ones who have set out upon the eternal sea to await in His heavenly mansions, the coming of those of us who were left behind.

I am grateful to the Chaplain and I am grateful for the 23d Psalm.

RESERVATION OF LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time under the order.

NOTICE

A final issue of the Congressional Record for the 100th Congress, second session, will be printed after the sine die adjournment of the Congress. Members may submit manuscript for printing to the Official Reporters of Debates no later than November 10, 1988.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date that Congress officially adjourned.

No provision herein shall be construed to supersede the two-page rule.

All material must be signed by the Member and delivered to the respective offices of the Official Reporters of Debate, Room HT-60 or S-220 of the Capitol. These offices are open Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m.

Members of Congress desiring to purchase reprints of material submitted for printing in the Congressional Record during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. This office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

FRANK ANNUNZIO, *Chairman.*

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I defer to the distinguished Senator from Wisconsin.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with the Senators permitted to speak therein.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the Republican leader.

WOULD THE LOSING PARTY BE LUCKY TO LOSE THE NOVEMBER PRESIDENTIAL ELECTION?

Mr. PROXMIRE. Mr. President, this Senator has said and I will say it again that whichever party wins the Presidential election this fall may not win another election for 4 years. I said they may, M-A-Y. Get it? It is conditional. Whether the winning party would have to wear a "Herbert Hoover" albatross for years if they should win the upcoming Presidential election would depend on two things. First it would depend on whether or not the country suffers a deep and prolonged recession in the 4 years of the next President's term. This, I believe, is highly likely regardless of policies the Federal Government may pursue. A recent poll of the Nation's business economists shows 89 percent—nearly 9 out of 10—believe the country will suffer a recession that will begin in the next 2 years. Why would such a recession be extraordinarily deep? Because debt in this country has become enormously burdensome. Household debt in America today exceeds $3 trillion. Household savings, in relation to income in recent years, has hit an all-time low. Not only would a recession devastate housing starts, it would drive household income so low that literally millions of householders would not be able to pay the now very heavy interest on their mortgages. Result: many homeowners would lose their homes. That bellwether American industry—automobiles—would also be in deep trouble. Two-thirds of the people who buy cars, finance the purchase with loans requiring large monthly payments on interest and principal. Again, millions of Americans who would lose their jobs in the next year or so would be unable to make their monthly payments. New auto construction would drop through the floor, many an auto owner would lose his car.

Business debt is far higher than the Federal debt or the household debt. Today it exceeds $4.3 trillion. The interest on that debt takes a record 50 cents of every dollar of the pretax earnings of the average American corporation. This is three times the interest burden of the 1950's and 1960's. Unlike other business expenditures, interest payments constitute a compulsory absolute unavoidable burden. No business can postpone these payments, stretch them out or reduce them. In most cases failure to meet the interest payments on time means bankruptcy. Indeed, even during the 6 years of this current recovery, corporate bankruptcies have been rising. This is the first time since the end of the terrible depression of the 1930's when the Nation's bankruptcies actually have risen in a period of recovery.

So what happens in a recession that hits this country when savings have been depleted and our debt has gone right through the roof? What happens is a depression that tosses millions of families out of their homes, shuts down auto plants all over the country, increases unemployment to 15 or 20 million or more, skyrockets the national debt into double digit trillions and calls for swift and drastic Federal Government action.

Some will argue that such an economic catastrophe would simply present a President with an unparalleled opportunity to act. In this view, the Federal Government could step in swiftly and decisively. It could use its sovereign powers including the constitutional warrant "to coin money and regulate the value thereof" to print whatever money was necessary to keep people in their homes, and to enable businesses to continue to function without any great increase in unemployment. But such a response would swiftly bring on explosive inflation. Interest rates would—as they always do—follow prices to the sky. Result: a further collapse of the housing and auto industries. It would be worse. Because of the international interdependence of the free world economies, our deep depression would swiftly spread to Europe, Japan and elsewhere in the free world. And precisely because of international differences, no single government, including the Government of the United States, might be able to provide the unifying leadership that would pull the free world economies together. Conflicts and competition over taxing and spending, as well as over interest rate policies, between the competing international economies might condemn our country, its trading partners and allies to such economic difficulties that the American people might throw the incumbent leadership out and keep it out for many years.

Would this happen? Possibly. Maybe. It would depend on how the next administration responded to this economic challenge. It would also depend on how other nations reacted. And, as always, in these global economic situations, it would depend very heavily on some critical developments far outside the control of the U.S. Government and even outside the control of the combined control of the governments of the free world. There can be no question of the superior productivity and efficiency of free markets and free economies compared to controlled, tightly regulated, centralized economies. There also can be no question that the performance of free economies, especially depend on developments outside of their control.

Still, the new administration might meet and master the challenge. Enormous technological advances have made modern economies much more productive and efficient. Marvelous global communications systems permit instantaneous worldwide market reaction. Sharply improved levels of education and technical skill in the developed free world and the demonstrated capacity to provide an abundance of material goods all permit life, even in an international depression, to be far better than it has been in the past.

The business cycle is not dead. Recessions and depressions are inevitable. But that does not mean the wholesale hunger and idleness of the 1930's will recur. The long trend of the international free world economy is moving ahead. The next administration will very likely be challenged by a severe recession that could easily deepen into a prolonged depression. An administration might meet that challenge with such vigor, force, intelligence, and international leadership that the country would emerge from economic hard times stronger than ever. Mabye. On the other hand, it would not. No one really knows.

THE TONGASS BILL MUST WAIT FOR NEXT YEAR

Mr. PROXMIRE. Mr. President, I am extremely disappointed that the Senate will have no opportunity to vote this year on the Tongass timber reform bill. Unfortunately, without the support of the Energy and Natural Resources Committee and its chairman, efforts at debate were pointless. Without his support, attaching Tongass as an amendment to other matters would have resulted in filibuster and stalemate. And finally, with few days remaining in the session, no time remained for clearing the bill through parliamentary maneuvers.

What a shame. This bill passed the House on July 27, 1988, by a vote of

361 to 47 and was the subject of 2 full days of Senate hearings in the Energy and Natural Resources Committee last November. One quarter of the Senate cosponsored S. 708, the companion legislation. The National Taxpayers Union and every major environmental group support it, 16 southeast Alaska communities support it and editorials in many of our Nation's leading newspapers and magazines support it.

Why is the Tongass timber reform bill so important, and why are we wrong to put it off until next year? The answers are simple. Each year that the Congress avoids dealing with the Tongass, U.S. taxpayers lose a minimum of 40 to 50 million more dollars; eagles, salmon, and grizzly bear lose more habitat; and, the Forest Service sells more 400-year-old trees for $2 to Japanese companies that make them into cellophane bags.

Even worse, taxpayers subsidize this wastefulness to the tune of 99 cents on the dollar. That is right, according to the Government Accounting Office and the Forest Service's own figures, the forest, which should by law be self-sufficient, brings in just one penny for each Federal dollar spent. And unlike every other national forest, Tongass expenditures are off-budget and immune from congressional scrutiny.

Then why do American taxpayers keep paying for the destruction of this precious resource, one of the only remaining temperate zone rain forests in the world? The Alaska Senators say that Congress promised the Tongass timber program to their State at the time we signed the Alaska National Interest Lands Act in 1980. Even ignoring the fact that one Congress cannot bind another, we meant the deal to last just 5 years, a time long since over.

So why should we continue a deal which was a loser from the start? Even worse, why should we support a deal which props up a declining timber industry at the expense of two thriving ones—tourism and fishing—that depend on an unspoiled forest for success? Together the fishing and tourism industries employ more people than the timber industry and their workers are among the strongest supporters of Tongass timber reform.

Does the 1980 deal do what we intended? No way. In 1980, we thought that subsidizing timber jobs in southeast Alaska to the tune of over $35,000 apiece would stem the out-flow of Tongass timber jobs. It didn't work. Instead of holding fast at 1980 levels or increasing, timber jobs continued to fall. In fact, according to the GAO, even though the Forest Service spent $131 million more on timber sales since 1980 than was needed to meet market demand, jobs still fell by about half in the industry during the same period. No amount of Federal investment would have maintained employment at the artificially high levels contemplated by section 705.

Instead of jobs, section 705 created a backlog of over 1 billion board feet of timber, prepared for sale but never purchased. At current cutting levels, this backlog alone would provide enough timber to keep the industry in business for at least 4 years. Since 1980, the timber industry has never purchased more than 330 million board feet of Tongass timber in a given year out of the 450 million that the Forest Service is required to offer for sale each year. Yet, because of section 705, the Forest Service must keep on spending taxpayers' dollars preparing timber that no one wants.

Mr. President, what does S. 708 do? Identical with title 1 of H.R. 1516, which passed the House, it repeals section 705(a) of the 1980 Alaska National Interest Lands Act [ASNILA] and with it the existing Tongass timber supply program.

This section required the Forest Service to offer 450 million board feet for sale in southeast Alaska each year and required the Forest Service to spend at least $40 million each year doing the job. What have these economically artificial terms meant for the Forest Service, southeast Alaska, and the timber industry? Unnecessary roads to nowhere, unused facilities, anything to spend money and mechanically comply with this nonsensical Federal mandate. At a time when the Federal deficit stands at $150 million we can't afford this waste.

H.R. 1516 in the House also contained two other sections which flowed directly from the idea that only radical surgery can save the Tongass program. I hope both of these sections will be added when the bill is reintroduced in the next Congress. Title II of the House bill gives the Secretary of Agriculture 1 year to try to renegotiate reform of two 50-year timber contracts which account for most of the Tongass timber purchased.

According to its House authors, this title gives the Forest Service, "one last shot at putting its management of the Tongass in order." For example, under these 50-year contracts, signed in the 1950's, trees which would go for $200 in the lower 48 States go for under $2 in southeast Alaska.

Title III places a 5-year moratorium on commercial harvesting of Tongass trees with special fish and wildlife, Native subsistence, recreation, or other values. This pause in the program gives the Forest Service time to evaluate these resources during revision of the Tongass land management plan now under consideration. These special areas were identified by those with the most knowledge of the resources: the southeast Alaska Conservation Council, the State of Alaska Department of Fish and Game, the United Fisherman of Alaska, Sealaska Corporation and a number of small southeastern Alaska communities.

Mr. President, last year Senator STEVENS and I had the GAO prepare an analysis of the current Tongass timber program. Here's what they said, "We do not believe that section 705's provisions for sustaining employment by ensuring the availability of timber are likely to succeed." They go to make an important recommendation to Congress: the amount of timber supplied should be based on anticipated demand for timber rather than rigid, required timber cutting. That's just what my bill does by repealing section 705 of the Alaska Lands Act and returning the Tongass to normal supply and demand laws.

According to the Congressional Budget Office this would save $40 million per year.

And what resources could we save by sensible management of the Tongass? The Tongass is our largest national forest and one of the most beautiful. It consists largely of mountain islands that rise dramatically from the sea, covered by rare, old growth forests, the world's largest populations of grizzly bear and our national emblem, the bald eagle. It contains the spawning streams for five species of salmon, critical to the region's commercial fishing industry.

Finally, Mr. President, while my bill did not contain the contracts and land protection titles found in the House bill, these measures deserve Senate support next year. The two main contracts for Tongass timber date back to the 1950's, before the era of modern forest management.

Under their terms, the Japanese-owned Alaska Pulp Corp. and the Louisiana Pacific-Ketchikan Co. have exclusive rights for 50 years to two-thirds of the commercial forest lands on the Tongass at bargain basement prices. Unfortunately for the taxpayer and the environment, the last of these contracts extends to 2011. And these two lucky companies have not been model citizens as they enjoyed their Federal largess. Both mills were found guilty of price fixing, violating antitrust laws and colluding to drive independent loggers out of business. And both repeatedly violated clean air and clean water regulations and stymied the use of modern forest planning laws. Under the House bill, these contracts would be renegotiated in accordance with the same environmental and economic standards that apply elsewhere in the National Forest System.

The Senate should also include the land protection section when it considers the Tongass bill next year. The House bill contains a 5-year moratorium on cutting some of the most environmentally significant or fragile lands in the forest. This moratorium

places no hardship on a system sitting on a 4-year backlog of timber for harvesting. Nor does it unfairly "lock up" a huge portion of the forest in quasi-wilderness status. Remember, we are talking about 5 years, not forever.

In fact, only 8 percent of the high volume, commercial timber land in the forest was put into wilderness with the passage of the Alaska National Interests Lands Act in 1980. Yet this same land houses the region's most critical fish and wildlife habitat. For example, just 30 percent of the best salmon streams and most significant wildlife habitat is currently protected from logging.

Mr. President, the Tongass bill gives the Senate a chance to do something really important for the environment while saving precious dollars. How can we fail to act? I encourage all my colleagues to pass this bill next year.

A MAN CALLED LEMKIN

Mr. PROXMIRE. Mr. President, on Tuesday the New York Times carried a column by A.M. Rosenthal that is a masterpiece. It is a tribute to a remarkable man named Raphael Lemkin. Raphael Lemkin more than any other person was responsible for the action of the United Nations in adopting the Genocide Convention. In fact, it was Lemkin who actually coined the word "genocide." In his superb piece, Rosenthal tells the story of one individual who made the great difference against virtually impossible odds and without any position of power or influence. Lemkin died 29 years ago. As Rosenthal tells the story Lemkin died alone, in a hotel in New York without medals or prizes. Only seven people attended his funeral. He was a great man.

I ask unanimous consent that the article by Mr. Rosenthal be printed at this point in the RECORD.

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

A MAN CALLED LEMKIN

(By A.M. Rosenthal)

The story in the paper reported that after 40 years of consideration the United States Senate had voted to make it a Federal offense to commit genocide. That is the crime of acting with intent to destroy a national, ethnic, racial or religious group.

The story did not mention a man called Lemkin.

Raphael Lemkin pokes his head into a newspaper office in the headquarters of the United Nations in the village of Lake Success on Long Island.

"Here is that pest, that Lemkin," he says. "I have a genocide story for you."

Everybody groans; Oh, Lemkin again? He makes a funny face, folds his hands in begging gestures. The reporters gather around for a few minutes. He gets his little story about the genocide convention, usually tucked away in the paper on a Sunday.

Raphael Lemkin was a Polish professor of law, a distinguished academician who spoke nine languages. He was a Jew. During the Holocaust the Germans murdered 49 members of his family; see how few words it takes to tell the whole story.

He escaped to Sweden, reached the United States, found good positions at Duke and Yale. He left them and gave himself over to his life's work.

His work was to convince the nations of the world that they must make it a crime to plan or carry out another Holocaust of any people. He coined "genocide" from the Greek word for race and the Latin for killing. He wrote a convention, a treaty for the nations to sign.

Then he walked the corridors of the U.N. He stopped journalists, took junior delegates by the arm and hung on until they listened, at least a moment. To see an ambassador, he would plan and plot for weeks and sit for days in reception rooms.

He had no money, no office, no assistants. He had no U.N. status or papers, but the guards always let him pass. He carried a black briefcase stuffed with documents and his daily sandwich.

He knew that when he opened the door people would say: What, Lemkin, you here again? Sometimes it was said affectionately, sometimes with distaste. Then he would pretend he did not care. But there were many days when he sat slumped in the cafeteria over a cup of coffee, barely able to lift it for the weariness in him and the rebuff.

But if he had to wheedle and plead he did. If he met an arrogant delegate who had influence, he made himself small and fawned. Then he would turn away and make the small smacking noises of a man trying to get a bad taste out of his mouth.

He would bluff a little sometimes about pulling political levers, but he had none. All he had was himself, his briefcase and the conviction burning in him. We would say to him: Lemkin, what good will it do to write mass murder down as a crime; will a piece of paper stop a new Hitler or Stalin?

Then he put aside cajolery and his face stiffened.

"Only man has law. Law must be built, do you understand me? You must build the law!"

He walked the halls every day from the spring of 1946 until Dec. 9, 1948, when the General Assembly, in Paris, adopted a resolution approving his convention. That day reporters went looking for him to rejoice in his triumph. But we could not find him until, hours later, we thought to look into the darkened Assembly hall. He sat there weeping as if his heart would break. He asked please to be left in solitude.

Then this Lemkin came back to the corridors for years, pleading with delegation after delegation to follow through on the U.N. resolution by getting their countries to sign the treaty. There was a time when he was considered for the Nobel Peace Prize; Winston Churchill backed him.

But he died alone on Aug. 28, 1959, without medals or prizes, in a hotel in New York. There were seven people at the graveside when Raphael Lemkin was buried.

In his lifetime, and for long after, the country that gave him succor never signed the treaty, although almost 100 others did. For almost 40 years lawyers fought it on technical grounds, Senate racists fought it out of fear that blacks might use it. Some senators worried that making mass murder a Federal crime would diminish state rights.

The Senate gave its consent to the treaty in 1986. But it took two more years to push through the legislation needed to make genocide a crime in the Federal code.

Jacob Javits fought for it all his senatorial years. And at every Senate session for 19 years, Senator William Proxmire rose in outrage to plead for the convention—3,000 speeches, each different. Raphael Lemkin and the Senator from Wisconsin never met. But they would have understood each other at once.

THE GOLDEN FLEECE AWARD FOR OCTOBER

Mr. PROXMIRE. Mr. President, I am awarding my Golden Fleece Award for October to the Indian Health Service of the Department of Health and Human Services for wasting $1.3 million on housing allowances when Government housing was available.

The Indian Health Service paid twice for housing and left the American taxpayer homeless.

Through the Public Health Service Commissioned Corps, health care personnel are assigned to the Indian Health Service [IHS] to provide medical services to tribes located on reservations. In turn, the IHS provides housing to corps members through either existing living quarters or a basic housing allowance when housing facilities aren't available.

However, between April 1987 and March 31, 1988 the IHS paid housing allowances when suitable quarters were available and wasted $1.3 million because they didn't properly enforce their rules.

In addition, over the years the IHS has spent the taxpayers' money to construct and maintain quarters to be used by members of the Health Service Corps. Since 1976 the IHS has spent $48.6 million to construct housing. In 1986 another $5.6 million was appropriated to build even more housing.

While the taxpayers are left shivering in the cold, the IHS allows double payments to occur by not requiring corps members to stay in available housing and then paying them to live somewhere else.

According to the Inspector General of the Department of Health and Human Services, the Schurz Health Facility had 20 housing units of which 12 were vacant. At the same time, 11 of the 12 corps members who were assigned to Schurz were receiving quarter allowances and commuting back and forth each day from nearby communities.

Not only did the IHS not require corps members to stay in available housing, they were equally lax in who they did permit to stay in the quarters.

In the Whiteriver Service Unit area, corps members stayed in a nearby ski resort while the available quarters housed three researchers, six medical students and a missionary family. Again, housing allowances should have been terminated, but they weren't.

For paying twice for housing and leaving the taxpayer without a decent roof over their heads, the Indian Health Service of the Department of Health and Human Services deserves this month's fleece.

Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

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

RETIREMENT OF SENATOR JOHN C. STENNIS

Mr. DOLE. Mr. President, when the 100th Congress ends—and it will end—an era will also end. Because JOHN C. STENNIS, who has served in this body since 1947, is retiring.

JOHN STENNIS is one of the last of a breed; a true gentleman; a true patriot; a true statesman; and most of all, a true Senator's Senator.

Time and again, when the Senate leadership needed someone to tackle a difficult job, someone who could handle both delicate political situations and difficult issues, they turned to Senator STENNIS. His experience as a prosecuting attorney and 10 years as a judge in Mississippi, coupled with his unquestioned integrity made him a natural.

From Joseph McCarthy, to Bobby Baker, to Watergate, Senator STENNIS has been the one man his colleagues were most willing to trust when it came to judging issues of ethical standards. This trust, which was always well placed, culminated in his appointment as the first chairman of the Committee on Standards and Conduct—now known as the Ethics Committee.

But Senator STENNIS is perhaps best known in the legislative arena for his dedication to, and his vast knowledge of, this Nation's defense establishment. He has served as both the chairman of the Armed Services Committee, and, most recently, Appropriations Committee chairman, the two most influential positions in the Senate regarding national security policy. And while Senator STENNIS has always been a staunch supporter of the military, he has exercised his independent judgment on defense issues—whether it was on specific weapons systems or restrictions on war powers.

It did not have to be an important defense bill, or an appropriations bill that Senator STENNIS was personally involved with, for Senator STENNIS to be on the Senate floor. Whatever the issue, if it were of national consequence, Senator STENNIS was here, listening to the debate, asking questions, playing the role a Senator is supposed to play.

As I said at the outset, Senator STENNIS is one of a kind. And one of the characteristics that sets him apart is his vision of duty and responsibility. "I want to plow a straight furrow," Senator STENNIS once said, "right down to the end of my row."

There is no question that JOHN STENNIS has achieved that goal—and much, much more. I will miss Senator STENNIS, his wise counsel, his charm and courtesy, and his commitment to this institution. And I wish him Godspeed in the years ahead.

RETIREMENT OF OMB DIRECTOR JIM MILLER

Mr. DOLE. Mr. President, as we near the end of the Reagan administration, there are many in the executive branch who will be leaving the White House or other executive departments seeking other employment, and this week the Office of Management and Budget Director Jim Miller has left the White House. He has left probably the most difficult job in many ways, at least one of the least pleasant jobs, in Government, and that is heading up the Office of Management and Budget. Jim Miller, who has been the Director since October 1985, is now resigning from that post, and I want to take just a moment to thank him for his hard work and patience.

Jim has had to preside over the office during a time of fiscal restraint and retrenchment. Dividing up the shrinking pie of Federal resources is no easy task, since there are many programs, often worthwhile programs, competing for fewer and fewer dollars. As a longtime fiscal conservative, and former member of the Federal Trade Commission, Jim Miller was well prepared for the task. He carried out his duties with equanimity and an ever watchful eye on the task at hand. And his vigilance has borne fruit.

Despite a deficit that is larger than any of us would like to see, the fact is that the rate of Federal spending has slowed significantly during the Reagan years—from a 15-percent annual rate in 1981, to between 5 and 6 percent annually today. It is the policies of the Reagan administration, pursued and adhered to by people like Jim Miller, that made this possible.

One other factor contributing to the decline in spending is the Gramm-Rudman-Hollings Balanced Budget Act, a bipartisan act which was initiated in this Chamber. The law imposed additional responsibilities on OMB, which Jim has overseen and fulfilled admirably.

So, Mr. President, again, I thank Jim Miller for his years of Government service and dedication. I wish him well as he pursues new goals, and I hope he remembers us fondly around budget time next year.

GEORGE SHULTZ: STEADY HAND AT STATE

Mr. DOLE. Mr. President, another very important figure in the administration who will be leaving at the end of this year is Secretary Shultz. Secretary Shultz I think has dealt with probably everyone in this Chamber.

Through his 8 years of office, President Reagan has appointed some outstanding public servants to his Cabinet. With the exception of a former Transportation Secretary, there is none that I personally hold in higher regard than Secretary of State George Shultz.

Secretary Schultz has been a steady hand at State for more than 6 years. He has been there through many extraordinarily successful times—the negotiation and ratification of the INF agreement, the first Nuclear Arms Control Agreement in history that actually reduced the number of nuclear weapons in the world; the agreement on a Soviet withdrawal from Afghanistan; the strong stand we have taken in the Persian Gulf, strengthening our own hand in that vital region and catalyzing the Iran-Iraq peace talks.

He has also been there through some tough times—especially in the aftermath of the Iran-Contra affair.

Through it all, he has done his job with skill, quiet determination, and a total commitment to the President's policies.

We have agreed on almost every important issue. But one striking characteristic of George Shultz is that, even on those few issues on which we have held different views, he is a man with whom you can disagree—agreeably. And he is a man with whom you can work, in this real-world environment of compromise and consensus.

Mr. President, this President and this administration will leave a remarkable legacy in the foreign policy field. George Shultz is one important reason why.

UNREST IN YUGOSLAVIA

Mr. DOLE. Mr. President, many very angry chickens are coming home to roost in the Soviet Union and throughout Eastern Europe.

The people of the Balkan States—Latvia, Lithuania, and Estonia; the people of Armenia; the people of Poland, Czechoslovakia, and Yugoslavia: they are all fed up with decades of communal violence, political and social repression, and economic mismanagement. In a way that Mr. Gorbachev never intended, glasnost has given them an opening to express their pent-up anger, and yearning for greater freedom and prosperity.

One of the most dangerous and violent situations is in Yugoslavia. I will ask consent to have printed in the RECORD an article from today's Wash-

ington Post on the "tinder-box" situation in Yugoslavia.

The roots of Yugoslavia's ethnic and political crisis go back many decades. The situation is very complex. No one nationality or ethnic group has a corner on virtue; all must share the blame for increasing unrest and violence.

But I would like to express very deep concern about the unwarranted attempt by the Communist leadership of the Serbian Republic—one of the constituent Republics of Yugoslavia—to eliminate the semi-autonomous status long enjoyed by the provinces of Kosovo and Vojvodina, areas heavily populated by ethnic Albanians.

That effort is one key reason for the crisis in Yugoslavia today. If it succeeds, it would upset a delicate political and ethnic balance which is essential to preserve order in Serbia, and which many believe is essential if Yugoslavia is to survive as a nation.

The principle of semi-autonomy for Kosovo and Vojvodina should be reaffirmed; and both the Serbian and Albanian sides must "stand-down" from the escalating series of demonstrations and counterdemonstrations which have now reached a crisis state.

I hope the national leadership of Yugoslavia, and the political and ethnic leaders of Serbia, will heed this call; and that order can be restored in Yugoslavia, without further assaults on any of the citizens of that country, or on their human rights.

Mr. President, I now ask unanimous consent that the aforementioned article be printed in the RECORD.

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

PARTY STRIFE AIRED IN YUGOSLAVIA—LEADERSHIP MEETS ON POLITICAL CRISIS

(By Jackson Diehl)

BELGRADE, Oct. 17.—A key meeting of the Communist Party's policy-making Central Committee opened here today under the shadow of a top-level power struggle that party president Stipe Suvar said threatens the "bare survival" of the country.

In televised speeches to the emergency committee session at Belgrade's modernistic convention-center, Serbian party leader Slobodan Milosevic, the focus of the political storm, bluntly laid out the demands of his republic—the largest of Yugoslavia's six—for more power within the national federation, while Suvar delivered a thinly veiled attack on Milosevic's crowd-stirring tactics.

A number of other speakers called also for a major shake-up in the party and in the policy-making Central Committee itself. The removal of up to a third of the committee's 165 members and the retirement of at least four from the ruling 23-member party Presidium are expected to be confirmed at the second day of the session Tuesday.

Strong contingents of police were stationed in and around the convention center to counter possible demonstrations, and party sources said contingency plans had been prepared to evacuate the Central Committee from Belgrade in the event crowds marched on the hall.

Party organizations in the capital have been instructed to prevent groups of people from converging on the meeting, official sources said. Earlier this month, crowds of Milosevic supporters besieged party headquarters in the Serbian province of Vojvodina and the republic of Montenegro, forcing resignation of Vojvodina's leadership and prompting the national government to threaten emergency security measures.

In one speech to the committee session today, Yugoslavia's Defense Minister, Lt. Gen. Veljko Kadijevich, denounced rumors of a play for power by the military, saying that it was "false and malicious" to suggest either that the Army "should take power through a putsch" or that it should stay out of politics completely.

Milosevic, who has orchestrated a dramatic series of political protest rallies by Serbs since July through appeal to their strong nationalist feelings, said that he expected the Central Committee to take decisive action to strengthen Serbia's control over its two largely autonomous provinces, Vojvodina and Kosovo, both of which lie wholly within Serbian territory.

The Serbian leader said drastic measures were needed to stop what he called "the terror in Kosovo"—the alleged persecution of Serbs in the province by the ethnic Albanian majority. "Serbia has no pretensions to the territory of other republics, but it does have pretensions to its own territory," he declared.

The national party Presidium has already endorsed constitutional changes that would strengthen Serbia's authority over the provinces, but Milosevic has also demanded that the Central Committee purge three former chiefs of the Kosovo party organization, including Azem Vlasi, who is widely considered the province's most popular Albanian politician.

Another of the Kosovo party leaders, Kolj Siroka, a member of the national Presidium, has already announced his resignation from that powerful body. Three other Presidium members also have stepped down, but Vlasi and other Albanian leaders in Kosovo have publicly defied the pressure from Milosevic.

There was no public indication of how the Central Committee session would decide the personnel dispute or what measures were contained in a resolution submitted to the committee by the Presidium. In a lengthy opening address, however, Suvar appeared to renew criticism of Milosevic's populist tactics by declaring that Serbia was seeking to impose its leader on the country.

"All reasonable people here are aware that unscrupulous confrontations, taking to the street in large numbers and the denial of all institutions of the system do not lead us anywhere," said Suvar, who represents the republic of Croatia on the Presidium. He acknowledged that incompetent leaders should be forced out, but he added: "The latest events have shown that the workers do not demand that all should resign, that the leaderships of the country, republics, provinces and communes should become headless and that states of unrest [and] anarchy . . . should be provoked.

"The strength of Yugoslavia," Suvar said, is "the unity of its nations and nationalities and their awareness that this unity is a condition not only of prosperity but of bare survival."

Milosevic responded by defending the rallies and demonstrations. "Any condemnation of rallies in Yugoslavia is not acceptable," he said. "They are held in protest against the inability of institutions and individuals to stop terror in Kosovo."

The leader of another Yugoslav republic who has opposed Milosevic, Milan Kucan of Slovenia, delivered a speech objecting to Serbia's call for an extraordinary party congress and rejected the possible imposition of emergency measures. "We must put aside ethnic differences and national tensions and consider democratizing the party," Kucan said.

Mr. President, I reserve the remainder of my time.

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

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

LIFE SERVICE TO VETERANS AWARD TO SENATOR DOLE

Mr. BYRD. Mr. President, on May 25, 1988, the Paralyzed Veterans of America and the Vietnam Veterans Institute presented their annual Life Service to Veterans Award to Senator BOB DOLE. The ceremony took place in the Madison Building of the Library of Congress and was hosted by John Michaels, president of the Paralyzed Veterans of America, and J. Eldon Yates, chairman of the Vietnam Veterans Institute.

Following the remarks from Mr. Michaels and Mr. Yates, the four previous award winners addressed the hundreds of attendees. Those award winners, speaking on Senator DOLE's behalf, were Senate majority leader ROBERT BYRD, Senator CRANSTON, Representative MONTGOMERY, and Representative HAMMERSCHMIDT. Additionally, Senators MURKOWSKI and KASSEBAUM attended and addressed the gathering.

Mr. President, I ask unanimous consent that the remarks by the two heads of the organizations and the Members of Congress be printed in the RECORD.

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

PVA AND VVI LIFE SERVICE TO VETERANS AWARD

(Comments by John Michaels, President, PVA)

Paralyzed Veterans of America takes great pleasure in joining with the Vietnam Veterans Institute to recognize and pay tribute to The Honorable Robert Dole for his outstanding efforts on behalf of America's veterans. Tonight we present Senator Dole with the Fifth Annual "Award for Life Service to Veterans" as a symbolic expression of the respect, admiration and grateful appreciation we hold for his personal and legislative accomplishments.

The award is intended to recognize outstanding Americans who through public or voluntary service have made consistent, dedicated contributions to the well-being of

America's veterans. This award is a prestigious form of recognition which PVA and VVI bestow upon those individuals whose demonstrated loyalty and commitment are deserving of honor.

The significance of the award is expressed through artistic application indicating the desire to historically preserve the contributions of the recipient for all time.

On this occasion, Senator Dole will take his rightful place beside the distinguished past Life Service Award recipients, Congressman G.V. (Sonny) Montgomery, Senator Robert C. Byrd, Senator Alan Cranston, and Congressman John Paul Hammerschmidt.

For the members of Paralyzed Veterans of America, this is an extremely proud moment. Senator Dole himself is a Life Member of PVA. In 1945 Senator Dole suffered a catastrophically paralyzing injury while leading a platoon of the 10th Mountain Division Infantry in Italy. For this action he was awarded the Bronze Star with "V" device and his second Purple Heart. As a disabled veteran, he typifies the levels to which one can excel and his courage serves as an inspiration to all. Senator Dole's personal experiences have made him a strong and determined advocate for veterans and all disabled Americans. In 1985, PVA awarded Senator Dole with the Harry A. Schweikert, Jr., Disability Awareness Award.

Senator Dole's service in the U.S. Congress has spanned over 27 years but his service to veterans began even earlier as a veterans' service officer in his home state of Kansas following his lengthy recuperation after World War II. Beginning with his first election to the U.S. House of Representatives in 1960, Senator Dole has been a crusader for federal aid for American veterans and disabled individuals.

His remarkable ability to produce meaningful legislation has earned him the respect of his colleagues and the role of the Senate's Republican Leader since the 99th Congress. During this time, Senator Dole has made compensation benefits for disabled veterans and extension and improvement of the G.I. Bill among his top priorities. He was also one of the first U.S. Senators to introduce legislation elevating the Veterans Administration to Cabinet status. In addition to the Life Service Award, Senator Dole has been honored with the AMVET's Silver Helmet Award and the VFW's Congressional Award.

Senator Dole has a long and well-established leadership record on issues that affect persons with disabilities. As a disabled veteran, he recognized the necessity to support or introduce legislation that would serve to improve programs for people with disabilities. Through his vision and course of action, Senator Dole's efforts have consequently benefitted and contributed to a better life for disabled individuals, including disabled veterans. Beginning with his initial speech on the floor of the U.S. Senate in 1969, Senator Dole has focused the attention of the Senate on eliminating barriers to individuals with disabilities in this country. In the 99th Congress, he sponsored legislation to create work incentives in the Supplemental Security Income Program and is now working to do the same with the Social Security Disability Insurance Program. In 1986, Senator Dole introduced the "Air Carrier Access Act" and continues to closely monitor the regulatory process in this area. In 1984, he was an original cosponsor of the "Voter Accessibility for the Elderly and Handicapped Act" to ensure that all have access to registration and voting in polling places.

In 1984, Senator Dole established the Dole Foundation for the Employment of People with Disabilities. The disability community has honored him on numerous occasions, recognizing him for his legislative accomplishments on behalf of people with disabilities.

The remarkable career of Senator Robert Dole, both as Majority and Minority Leader of the United States Senate is the epitome of the significance of the "Award for Life Service to Veterans".

Again, we are pleased to salute U.S. Senator Robert Dole and pay tribute to him by presentation of the Fifth Annual Paralyzed Veterans of America and Vietnam Veterans Institute 1988 "Award for Life Service to Veterans."

COMMENTS BY J. ELDON YATES, CHAIRMAN, VIETNAM VETERANS INSTITUTE

"It was the best of times, it was the worst of times: it was the time that tried men's souls." "Fifty thousand did not go gentle into the good night as the rest returned to the winter of their discontent."

Almost two decades have passed since that generation of young Americans went to war. This Award, in a sense, stands as a tribute to them as well as to its recipient. For the veterans of the Vietnam years, this award personifies the integrity and character of a generation who, upon their return, were again subjected to hostilities vis a vis the emotional ambushing and sniping by their non-veteran countrymen.

Like the outnumbered troops at Concord and the Alamo, they forged ahead through the scrimmages of negative media stereotyping un- and underemployment to rebuild their lives. Most survived these scrimmages, some did not; but they were the generation that was called upon to "ask not what your country can do for you, but, rather, what you can do for your country."

As we gather here in camaraderie with the Paralyzed Veterans of America and our friends and guests, we wish to reaffirm our belief in the integrity of military service. Equally, we will remain ever vigilant to assure that the next generation of young Americans who are called upon, will not return to a Nation wrought with misconceptions and hostility.

It is in this spirit that the Vietnam Veterans Institute and the Paralyzed Veterans of America have selected an American who knows the perils of battle and exemplifies the courage of all Americans who fought to rebuild their lives after being stunned by the rages of war—a man who not only fought to rebuild his own life but has dedicated a major part of that life to assisting other veterans to rebuild theirs. As a result of those selfless acts, he has emerged as one of the most respected Congressional leaders of our time. It is our privilege to unveil the portrait of our 1988 recipient of the "Award for Life to Veterans", Senator Robert Dole.

REMARKS OF SENATOR ROBERT C. BYRD

Mr. BYRD. Senator Dole, my many colleagues, ladies and gentlemen. I am most pleased to attend this reception in honor of my good friend Bob Dole. I have known Robert Dole for a good many years. I know him as few other Americans do. We share a unique history. We both come from a rural heritage. Bob Dole's roots are in Russell, Kansas. I hale from a little town in West Virginia called Sophia. We have been in the Senate together a very long time. I was elected in 1958. Bob Dole followed me two years later in 1960.

In the last decade, there have been three Majority Leaders in the United States Senate; Bob Dole, Howard Baker, and myself. Between January 1977 and January 1981, I held the position of Majority Leader. In 1981 Howard Baker became the Majority Leader. I became the Minority Leader. In 1986 when Howard Baker gave up his seat, Bob Dole became Majority Leader. In 1987, I again became Majority Leader when the Democrats regained the majority.

In the last 28 years, Bob Dole and I have worked together, opposed each other, and stood side by side as Americans when this nation has confronted a crisis. We share a common bond in our affection for the institution in which we both serve, the United States Senate. We respect its traditions and history, its unique Constitutional role in our form of government.

I know Bob Dole as a colleague. We all know him as a war hero, a veteran, and as a champion for the handicapped. Like all of the veterans here tonight, Bob Dole is no quitter. He knows what it means to persevere.

America is a stronger country because it is full of men like Bob Dole; veterans who did not quit in the midst of the battle. Men and women of character who came back from the battlefield, overcame their own handicaps, and saw fit to contribute their leadership and talent to this country that we all love so much.

Now, the Paralyzed Veterans of America and the Vietnam Veterans Institute honor Bob Dole with the "Award for Life Service". As a previous award winner I find myself in good company. Three of my fellow Senators have been so honored: Senators Cranston, Murkowski, and Kassebaum. So I am honored to be part of this ceremony; to show our affection and respect for a colleague, an American, and patriot, Bob Dole.

Thank you.

REMARKS OF SENATOR KASSEBAUM

Governor Bradford of Massachusetts set down these attributes for a successful politician:

To live long politics, you must possess
the hide of a rhinoceros,
the memory of an elephant,
the presistence of a beaver,
the native friendliness of a mongrel pup.

But all of these combined are not enough, unless when it comes to the matters of principle, you also have the stubbornness of any army mule.

I don't believe Governor Bradford knew Bob Dole, but he certainly had him pegged. His courage, commitment, and leadership is unchallenged; and I can think of no more fitting recipient for this award.

REMARKS OF SENATOR ALAN CRANSTON ON THE PRESENTATION OF THE "LIFETIME SERVICE TO VETERANS" AWARD TO BOB DOLE

I am delighted to join the Paralyzed Veterans of America, the Vietnam Veterans Institute, member of Congress, and the many others who are gathered in tribute to Bob Dole for his life service to veterans.

As an honoree two years ago and a fellow World War II veteran, I want to welcome you, Bob, into this group of which I am so proud to be a part with our good friends, Robert Byrd, Sonny Montgomery, and John Hammerschmidt.

As wonderful as it is to be picked for this honor, receiving the handsome oil portrait

done by Tom Nielsen is a very exciting part of this event. Tom did an outstanding job with my portrait, and I look forward to the unveiling of yours, Bob.

Bob is most deserving of this honor. As one who has participated in the process for a number of years, I can state without equivocation that Bob's contributions—on behalf of veterans, most especially those with service-connected disabilities, and on behalf of all individuals with disabilities—have been of special significance.

It's not always easy to know how someone's life was affected by this or that event. But it seems abundantly clear that the events that befell Bob Dole in Northern Italy in April, forty-three years ago, altered his life in most fundamental ways.

His experiences in battle, his injury, and his long, grueling fight to recover from those wounds left him with a deep understanding of the horrors of war, and an appreciation of the obligation to meet the needs of those who fight our Nation's battles.

When Bob speaks about veterans' issues or about matters affecting those with disabilities, the genuineness of his commitment gives special force and substance to his words.

It is certainly accurate to describe Bob as a Republican's Republican. My own roots are all Democratic. Nevertheless, it is also accurate to note that, we have always been able to work together.

In saying this, I don't want to be misunderstood—our dealings have not all been sweetness and light. I understand that Bob's World War II unit, the 10th U.S. Mountain Division, had quite a reputation for not taking prisoners and, once having taken territory, for not giving it up. That pretty much sums up Bob's Senate style!

In addition to his work specifically on behalf of veterans, Bob deserves most special recognition for his work on behalf of individuals with disabilities. He has fought long and hard—and with significant success over the years—to improve the status of disabled persons in our society. In his leadership role on the Finance Committee, he has authored and repeatedly succeeded in preserving the deduction for removing architectural and transportation barriers. A lot of deductions died in 1986—as many of you are aware—but this one was made permanent. Good work, Bob! Can you help me with my taxes?

Pursuing opportunities for disabled Americans is a matter of deep personal commitment for me as well, and I have profited from working with Bob on many such initiatives—including the 1986 legislation prompted by the PVA's lawsuit in the Supreme Court against the Department of Transportation, to promote fully accessible air transportation.

Bob and I share another area of interest—once we were both quarter milers and we're both still running. Also we both sought another position in the Federal Government, one located at the other end of Pennsylvania Avenue. Bob got closer than I did, but the less said about that affliction, the better!

Bob Dole's record on behalf of veterans and disabled individuals is absolutely first-rate. You honor yourselves in honoring him this evening.

Congratulations Bob!

REMARKS BY SENATOR FRANK H. MURKOWSKI, HONORING BOB DOLE

Thank you, Jack.

"The Faith to Endure," an article by Noel Koch, is an insightful portrait of the man the Paralyzed Veterans of America and the Vietnam Veterans Institute are honoring this evening. I would like to outline that portrait for you.

The date is April 14, 1945, and "Operation Craftsman," the spring offensive to bring about the German surrender in Italy begins. A young second lieutenant from Russell, KS, would lead the second platoon of "I" Company, of the 10th Mountain Division in the battle to take Hill 913. It has been said that, on that day, the 10th Mountain Division took more casualties than all of the allied forces in Italy combined.

Bob Dole was one of the many casualties of that day's battle. He was not expected to see a new dawn.

Bob beat the odds, and for the next three years—much of it spent on his back—he fought another battle—a battle to recover. Just as the men of the second platoon never gave up and ultimately took Hill 913, neither did Bob give up; and after years of rehabilitation he was back. In that moving article, we read the words of a young soldier in Bob's platoon which tell us much about the man we know as the Republican Leader in the Senate, "Dole was the best combat leader the platoon had. If he had to take a farmhouse, he went right for it. Never told somebody else to do it. He stayed in front."

He stayed in front. This is the Bob Dole I know, and this is why I consider it an honor to participate in this tribute. I know of no individual who better exemplifies the attributes implicit in the words "Award for Life Service."

Life service—to his Country—to Kansas—to the people of Russell—to his fellow veterans—and to those challenged by handicap. Life service is what Bob Dole is all about.

He is an individual who continually demonstrates the sensitivity, courage and determination to fight for the principles in which he strongly believes. We, as a Nation and a people, reap the harvest of his service.

Thank you.

HONORABLE JOHN PAUL HAMMERSCHMIDT—"AWARD FOR LIFE SERVICE TO VETERANS" AWARD CEREMONY FOR SENATOR ROBERT DOLE

Thank you, Jack, for that introduction.

The paralyzed Veterans of America and the Vietnam Veterans Institute do themselves proud by their selection of Senator Bob Dole as the recipient of their prestigious "Award for Life Service to Veterans". He is indeed a most worthy recipient.

The Senator has many notable accomplishments. Many are talked about. One, however, does not—in my view—get enough attention. I think that we can all agree that he married extremely well, and I think any award he gets ought to be shared with Elizabeth. Maybe we can get Tom Nielson who did the portrait on the Senator to also do one on Elizabeth.

You, of course, know that last year I was greatly honored to receive this award and the life size portrait that goes with it. It has also been given to Senator Robert Byrd, Senator Alan Cranston and Sonny Montgomery. We are now going to be joined by the distinguished minority leader of the United States Senate.

Senator Dole comes to this place tonight with a distinguished record. In war and peace he has demonstrated great leadership, unparalleled courage. He is admired and respected by each of his colleagues and by his countrymen all across the land.

The Senator knows that global wars have an individuality about them that transcends the millions of persons that have been involved in them.

The Senator knows that war often has a pain attached to it that never goes away—pain that cannot be fully described even by those upon whom it is inflicted.

He knows and understands that in the governing process there is a rightful place for a just veteran's legislative program that is and ought to be the pride of our Nation and he has been in the forefront of those who would assure that this is so.

He knows and understands that those who have suffered the ravages of injury and disease deserve to have a fair chance to compete for dignified employment and his mark is deeply inscribed on the governmental effort in this regard.

He knows and understands how a great Nation must govern itself.

He knows and understands that such a nation needs and must have leaders who can match the greatness of her people.

He knows and understands the art of compromise and that there is a great difference in compromise and being compromised.

Senator Dole has made a difference. He has made good government better government. He has touched the lives of each of us. He has overcome infirmity. He has climbed the national mountain. All of us have been made better by his exercise of leadership. Indeed the Nation has been graced by his presence and the Nation is better for it.

I am honored to have been asked to be on the award program tonight of PVA and the Vietnam Veterans Institute as they give their highest honor to Senator Bob Dole, a truly distinguished citizen of our land.

Thank you one and all.

REMARKS OF CONGRESSMAN MONTGOMERY

I'm a little confused. My invitation said this was a portrait unveiling for Dole. But I peeked behind the curtain. It doesn't look at all like Elizabeth.

The year is 1923. A year of major events. Calvin Coolidge become President. Jack Dempsey holds on to the heavyweight championship. The first talking motion picture is released. The Yankees win the World Series. In the small town of Russell, Kansas, the Doles have a son, and America gets a future leader.

I think it's worth noting that Henry Kissinger and Bob Michel were born in the same year as Bob Dole—some kind of Republican movement I guess.

Nancy Reagan was also born that year. Must have been in the stars. Bob Dole doesn't watch the planets. He is one of the most common sense guys up here. He uses his own judgment on what is best for the country.

He has paid the price for serving his Nation in physical wounds and in bravery. He is a patriot and this portrait is well deserved.

It is appropriate that the painting should be done by a Vietnam veteran, Tom Neilsen and that this event is sponsored by veterans groups, Jerry Yates of the Vietnam Veterans Institute and Jack Michaels of the Paralyzed Veterans of America.

Congratulations Senate Dole on this well deserved honor.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

DRUG-RELATED MURDERS OF POLICEMEN IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate that last night, in a space of 3 hours, two New York City police officers were murdered in drug-related events. This is the first time in half a century where two police officers have died on 1 day, and yet it is an event that is part of a rising torrent of crime, violence of a like we have not seen in the modern history of the city.

On February 26, while guarding the home of a drug witness in Queens—a simple citizen who had objected to the selling of drugs in his neighborhood—drug dealers decided to murder Officer Edward Byrne. He was assassinated by three young men, mindless, destructive, and guilty. On April 13, Housing Police Officer Anthony McLean was murdered; on April 27, Sgt. John McCormick; Housing Police Officer Gary Peaco on June 16; and Officer Joe Galapo on August 16, and in the meantime, dozens of others have been wounded, harassed, injured.

We have an epidemic, Mr. President, and it is seizing the cities of this Nation.

I was in our upstate city of Rochester on Monday, and I was asked to talk about the bipartisan anti-substance abuse bill which we passed on Friday afternoon. Before I could scarcely begin a few remarks, a story was reported to us about the murder of a young man, a child, in high school, by three other young men not four blocks from where we were talking, in a city you hardly associate with murder in the streets.

What is causing these violent activities? It is crack. Mr. President, I have come to the floor before and showed it to you. There it is. These are crack bottles, manufactured in the Republic of China as the label says, which is to say Taiwan in our usage. Part of our trade deficit is the import of drug paraphernalia from overseas: Most of our drug epidemic is due to the import of cocaine from overseas. Cocaine's most potent derivative, crack. It came from the Bahamas in 1983, hit New York City in 1985 and has swept through the country like a plague.

The measure we passed on Friday is an extraordinary piece of legislation, the first true bill addressing the totality of drug abuse in the history of this body, the first consequential one since the Harrison Act of 1914. We passed it with near unanimity—87 to 3, as I recall.

At the end, the distinguished Senator from New Hampshire, Mr. RUDMAN, very handsomely noted that last spring, when each side of the aisle was developing a drug proposal, I had suggested that we had more in common than we had dividing us and we ought to work together, and we did. I think we surprised ourselves and produced a bill which is not well understood in the country. Unfortunately, the bill is not printed. I cannot understand that we would not print a bill of this consequence, but it has not been printed, so it is simply not there to be distributed and shown. Even so, we know what the House did was not very helpful, and does not address the drug epidemic in a productive manner.

I am going to take a moment of the Senate's time to set forth the principles of the Senate's bill in order that they might be in the RECORD.

The bill, as passed, provides a 2-year authorization totalling $2.6 billion in budget authority and $1.4 billion in outlays, of which 60 percent will be devoted to demand reduction programs such as treatment and education, and 40 percent to supply reduction programs, including law enforcement and eradication.

Spending of outlays immediately available in fiscal 1989, some $500 million, will be split 50-50, and the adjustment will be in the following fiscal year to maintain the overall 60-40 balance. Title I, organization, creates a Director of Drug Control Policy, a Cabinet-level position, responsible for coordinating all Federal drug efforts.

Title II is devoted to law enforcement and interdiction. It provides $1 billion over 3 years for State and local law enforcement programs to ensure the survival of this program in light of attempts to zero out this program in budget proposals. In addition, we set aside a proportion of these grants, 10 percent, for street-level law enforcement.

It authorizes $232 million—roughly a quarter of a billion dollars—in new funds for Federal prison construction. It authorizes $79 million for increased court security, juror expenses, and public defenders.

It authorizes $49 million in new funds for the Drug Enforcement Agency, $25 million for the FBI, $36 million for U.S. attorneys, $16 million for U.S. Marshals, and $11 million for the Bureau of Alcohol, Tobacco, and Fire Arms.

For Interdiction equipment and personnel, it authorizes $84 million in new funds for the Coast Guard, $93 million for Customs, and $36 million for the Immigration and Naturalization Service. It strengthens penalties for drug offenses committed within 1,000 feet of a school yard, for purchasing drugs from children, distributing drugs to children, or employing children to sell drugs.

It increases the mandatory minimum penalties for using hand guns or machine guns in drug offenses and a mandatory minimum life sentence for three-time drug offenders—a mandatory minimum life sentence. It also mandates drug testing for all persons on probation for a Federal felony or drug-related misdemeanor.

On chemical diversion, which is a necessary aspect of the production of illegal drugs, it sets strict record-keeping requirements for transactions of precursor chemicals. It strengthens precursor chemical import and export guidelines. It prohibits the unauthorized possession of machines used to manufacture medicine, and it sets penalties for violation of chemical diversion laws.

Title 3, in a way the heart of the bill, involves treatment and education. Mr. President, we call for treatment on request. We know more about the nature of cocaine addiction than we ever have. We are clear that we do not have a reliable pharmacological treatment. We have no blocking agents such as we have for heroin. Yet, we know enough to pursue such remedies.

I was talking to Dr. Goodwin this morning, of the Alcohol, Drug Abuse, and Mental Health Administration, and he made the point that we are finding that there are properties in cocaine and crack that are very close to the properties of some chemicals used successfully as antidepressants, and there is some possibility of substitution in some cases. In other words, we are making slight progress. That is how science works, and there are people determined to see that it should, and we must provide the funds to enable them to do that.

With regard to demand requests, we authorize $5.9 billion over the next 3 years. In doing so, we make the provision of substance abuse treatment on request an explicit goal of the U.S. Government.

On treatment facility construction, for the first time, we authorize the use of Federal grant moneys to build new substance abuse treatment centers.

On AIDS and intravenous drug abuse, we authorize $90 million for treatment and prevention in areas of high incidence of AIDS. The need for this is quite clear.

In my city of New York, some 2 percent of children now born test positive for AIDS. I remind my colleagues that an additional 5,000 children are born with crack in their urine.

We call for demonstration grants for drug education, focusing special efforts on high-risk youth. We know the profiles of these children, but we need to learn more. That is why we call for research and training in the field.

Title 4, on international matters, authorizes funds for the development and installation of a machine-readable passport system which will allow border officials to identify drug smugglers.

Title 5—user accountability. Yes, Mr. President, user accountability. It codifies current HUD guidelines which grant public housing agencies the authority to evict tenants if they, their families, or their guests engage in

drug-related criminal activity. It also allows the Federal Government to seize housing units from tenants who violate drug laws by clarifying that public housing leases are considered property with respect to civil forfeiture laws. Lastly, it establishes a pilot program, based on a proposal by Senator LAUTENBERG, to allow public authorities to hire security personnel.

Title 5 also requires drug testing of employees in safety-sensitive positions in the airline, railroad, trucking, and bus industries, in the Federal Aviation Administration, and in urban mass transit.

As an additional user sanction, it requires the revocation of passports of individuals convicted of trafficking or money-laundering offenses.

Finally, it calls for a drug-free workplace, prohibiting the awarding of any Federal grant or contract to businesses that do not maintain a drug-free workplace by establishing a drug education program for employees.

Mr. President, I ask unanimous consent that the full text of these highlights be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, this is an extraordinary effort, 5 months in the making. The Senators who were involved in the core group, as we came to term it, all agreed that it could not have come out of our ordinary committee structure. There is no committee with this range of jurisdiction, this flexibility for response, this openness to information.

We have produced a bill which can make real inroads into this epidemic. I know there are some who regret the presence of the death penalty, and I understand exactly why, but there was a majority who felt strongly enough to make its inclusion a necessity. And the benefits from this bill cannot be underestimated.

But this bill is in jeopardy, Mr. President. Indeed, it is in harm's way. We assented to the House in the expectation that the House would either pass it or amend it and return it to us. Instead, we find ourselves being summoned to conferences on this aspect or that aspect, the inevitable territorial concerns of jurisdiction arising in the face of a clock ticking. The 100th Congress is all but over.

As I look about the Chamber, I see but three other Senators, myself making four, on this Senate floor. I do not know how many more there are in Washington. We will lose our quorum. The House will lose its quorum. And we will lose an opportunity scarcely to be expected again if this bill does not pass.

I do not know what more to say, how many more policemen will die, how many more children will ruin their lives, how many more neighborhoods will become unsustainable for any civilized society before we act.

Mr. President, I know the Senate would wish to express its condolences to the families of Officer Hoban, Officer Buczek, 26 years of age and 24 years of age respectively, and all those others, from Officer Byrne on, who have died in one city—New York—dying this year, the fourth year of the crack-cocaine epidemic of the 1980's For them, and all others who might die before the year is out, we must enact this bill

Mr. President, I thank the Chair and I yield the floor.

EXHIBIT 1

HIGHLIGHTS OF THE DRAFT BIPARTISAN DRUG BILL, OCTOBER 3, 1988

Overball Balance: The draft bill provides a 2-year authorization totaling $1.4 billion in outlays ($2.6 in budget authority), of which 60 percent will be devoted to demand reduction programs such as treatment and education, and 40 percent to supply reduction programs including law enforcement and eradication. Spending of outlays immediately available in fiscal year 1989 (approximately $500 million) would be split 50-50 between supply and demand, with subsequent spending weighted toward demand programs consistent with the need to maintain the overall 60-40 split.

In contrast, President Reagan's fiscal year 1989 budget request proposes that 72 percent of anti-drug spending be directed at supply reduction.

TITLE I—ORGANIZATION

Director of Drug Control Policy: Creates a Director of Drug Control Policy, a Cabinet-level position, responsible for coordinating all Federal anti-drug efforts.

TITLE II—LAW ENFORCEMENT AND INTERDICTION

State and Local Grants: Authorizes $1.025 billion over 3 years for the State and Local Law Enforcement grant program. President Reagan proposed no authorization for this program in fiscal year 1989. Sets aside 10 percent of these grants for street level law enforcement, the first such set aside ever.

Prisons: Authorizes $232 million in new funds for prison construction and expenses.

Courts: Authorizes $79 million in new funds for increased court security, juror expenses, and public defenders.

Law Enforcement Personnel: Authorizes $49 million in new funds for the DEA, $25 million for the FBI, $36 million for U.S. Attorneys, $16 million for U.S. Marshals, and $11 million for the Bureau of Alcohol, Tobacco, and Firearms.

Interdiction Equipment and Personnel: Authorizes $84 million in new funds for the Coast Guard, $93 million for Customs, and $36 million for the INS.

Penalties: Strengthens penalties for drug offenses committed within 1,000 feet of a schoolyard, for purchasing drugs from children, distributing drugs to children, or employing children to sell drugs. Increases mandatory minimum penalties for using handguns or machine guns in a drug offense, and a mandatory minimum life sentence for three-time drug offenders.

Drug Testing in Prisons: Provides for mandatory drug testing for all persons on probation from a federal felony or drug related misdemeanor conviction.

Chemcial Diversion: Sets strict record keeping requirements for transactions of precursor chemicals; strengthens precursor chemical import and export guidelines; prohibits the unauthorized possession of machines used to manufacture medicine; and sets penalties for violations of chemical diversion laws.

TITLE III—TREATMENT AND EDUCATION

Treatment on Request: Makes provision of substance abuse treatment on request an explicit goal, and authorizes $5.9 billion over the next three years in an effort to achieve it.

Treatment Facility Construction: For the first time, authorizes the use of federal grant money to build new substance treatment centers.

AIDS/Drug Treatment: Authorizes $90 million for drug treatment/prevention grants to areas with a high incidence of AIDS. This provision is carried over from S. 1220, the Kennedy AIDS bill.

Treatment Demonstration Grants: Creates 5 substance abuse demonstration grants serving adolescent addicts, addicted women with infant children, and minorities.

Drug Education: Reauthorizes the Drug Free Schools program at $405 million for 1989, $155 million above the President's request.

High Risk Youth: Increases current spending on demonstration grants for substance abuse prevention among high risk youth from $23 to $52 million.

Research and Training: Authorizes increased federal spending in drug and alcohol abuse research and creates a $14 million grant program for training health personnel in substance abuse treatment, counseling, and research.

TITLE IV—INTERNATIONAL

Passport Security: Authorizes funds for the development and installation of a machine readable passport system, which will allow border officers to identify drug law violators.

TITLE V—USER ACCOUNTABILITY

Public Housing: Codifies current HUD guidelines by granting Public Housing Agencies the authority to evict tenants if they, their families, or their guests engage in drug-related criminal activity.

Allows the federal government to seize housing units from tenants who violate drug laws by clarifying that public housing leases are considered property with respect to Civil Forfeiture Laws.

Establishes a $8 million pilot grant program to allow Public Housing Authorities to hire security personnel, reimburse law enforcement agencies for security services, and make physical improvements.

Drug Testing: Requires that employees in safety-sensitive positions in the airline, railroad, trucking and bus industries, in the Federal Aviation Administration and in Urban Mass Transit Authorities be subject to random, pre-employment, and post-accident drug testing.

Passports: Requires the revocation of passports of individuals convicted of drug trafficking or money laundering offenses.

Drug Free Workplace: Prohibits the awarding of any federal grant or contract to businesses that do not maintain a drug free workplace by establishing a drug education program for employees.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from New York for his leadership in this area and for his willingness to come on the floor and talk in terms of research and all the other aspects of this bill. It is an extraordinary bill, it is an extraordinary effort on the part of many people who have worked on this particular bill.

I would just like to say in backing the distinguished Senator from New York that research is really the defining mission of ADAMHA, the Alcohol, Drug Abuse, and Mental Health Administration.

Information generated through research is the foundation upon which the agency promotes effective strategies to deal with health problems and issues associated with the use and abuse of alcohol and drugs and with mental illness and mental health.

ADAMHA is "the only act in town" with respect to the generation of new knowledge applicable to the treatment and prevention of drug and alcohol abuse and mental illness. The Federal Government, largely through ADAMHA, supports more than 85 percent of the research on alcohol and drug disorders conducted in this country. This is in contrast to a 45-percent Federal share of general health research support.

At the same time, it should be realized that the Federal research budget is less than 1 percent of the total service-related costs of mental health and substance abuse disorders.

The primacy of the research mission defines but does not limit the activities of the agency.

Information obtained through research enables ADAMHA to speak authoritatively, within government and outside, to issues germane to the allocation of resources, the design and delivery of services, and the financing of services.

Adhering to a research mission does not suggest an intent to seclude the agency in an "ivory tower." If it is to be successful, the conduct of research encompasses information development and dissemination and the translation of research techniques into clinical practice through demonstration projects.

In the absence of new information regarding the causes, mechanism, treatment, and prevention of substance abuse disorders, the treatment community will "run, standing in place." Continued major investments in service systems to deliver the treatments currently available at the expense of research might be viewed as analogous to having invested 40 years ago in more sophisticated iron lungs, rather than in the research quest for a polio vaccine.

The research-driven psychopharmacologial revolution in mental illness, particularly as it applies to understanding and treatment of depression, has saved billions of dollars in burden of illness related costs; more importantly, it galvanized and energized the mental health treatment community.

A comparable research-driven breakthrough in the treatment or prevention of substance abuse would be of even greater significance to the substance abuse fields.

Permitting ADAMHA to focus on the generation of research knowledge and the translation of that knowledge into clinical practice will strengthen the agency's capacities to engage productively in national leadership as opposed to being responsible for oversight of Federal responsibilities related to the management of the Nation's State and local mental health and substance abuse service systems.

The success of States in managing the delivery of services through local mental health and substance abuse programs has truly been outstanding since we passed the first ADAMHA block grant program. The research findings of ADAMHA are being implemented by the States in cooperation with local mental health and substance abuse programs. This collegial approach, Federal, State, and community, is bringing the best knowledge and technology to our communities. Those who are delivering services, and in the best place to know, are able to adjust their programs to local needs and conditions, to provide services that are acceptable to their clients and responsive to the needs of their communities.

I am very, very concerned that we approach our discussions of this bill in our conference meetings intelligently and that we work to establish the Federal Government's preeminence in the area of research, while acknowledging the importance of States and community groups. Treatment certainly is a major concern, but it is certainly not the major role that the Federal Government should be conducting at this time and it is not the major role of the Federal Government. The major role of the Federal Government is research. Through research we might be able to resolve these problems once and for all and everybody in our society will benefit.

Finally, I would just like to say that I again thank the distinguished Senator from New York because he speaks in an articulate and intelligent way on these issues, and I appreciate standing with him on some of these issues as strongly as we have. This is a good bill. There are many, many things in the Senate bill that I think everybody should want to have. There are points of dispute and difficulties in the Senate bill but nowhere near as many as there are in the House bill.

I think what we have to do is try to work out these points of dispute and come up with the very best antidrug bill possible.

I hope we can work together to do that with our colleagues in the House.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

NUCLEAR REACTORS

Mr. EVANS. Mr. President, almost daily we read of the added problems of our nuclear production facilities for national defense. Yesterday it was a plant in Ohio, a few days before it was the Savannah River plant in South Carolina. A few days before that it was Rocky Flats in Colorado.

They are all indicative of the precarious position in which we find ourselves in producing the necessary materials for our own national defense.

The N-reactor at Hanford was shut down in 1986, and it has not been restarted. All three reactors at Savannah River have been shut down and the P reactor at Savannah River was unable to restart as scheduled. That, Mr. President, leaves us with no production capabilities today for nuclear materials for defense purposes.

The real problem is not plutonium. We seem to have enough of that explosive, at least currently. But tritium, an important element in the triggering mechanism of our nuclear weapons, does not last for an extended period of time. It decays rapidly and must be replaced.

If for an extended period of time we have no capacity to produce tritium, we will shortly get to the point where one after another of our nuclear weapons simply must be taken off the line because they are no longer viable.

Finally, Mr. President, the public and the press seems to be recognizing this fact. I do not mean to say I told you so, but these latest revelations are not new. I and others have been aware of problems with these so-called tea kettles for some time. They have been operating beyond their design lives. They have unique designs without the critical peer review which occurs in our commercial nuclear powerplants.

The actual power spike in the P reactor at Savannah River occurred on August 8, an incredible occurrence. People there did not know why it occurred and showed little interest in finding out why it occurred.

It is the evolution of a problem that should have been on the front burner for a long, long time.

Mr. President, I commend Senator GLENN for his long-standing efforts in bringing issues of this magnitude before the public. He has fought hard and continuously to ensure that our nuclear capacity for national defense is safe, done well, and capable of producing when we need that kind of production.

I also commend my colleague from the other body, Congressman NORM DICKS of the State of Washington. He has shown equal concern and has produced several important ideas that, if adopted, would allow us to do a better job in the future.

Mr. President, it is going to take billions, not millions, billions of dollars, to modernize our production complex. We seem to be talking about billions without realizing the budgetary constraints we are operating under. After the 5 years I have been in the Senate, I still find it difficult to stand on this floor and talk blightly of hundreds of millions, or even billions, without feeling a little scared about talking about that amount of money.

But each 100 million, not to mention a billion, is terribly important.

Remember that just a few days ago we avoided the automatic sequestration with all of the problems that would have carried with it under Gramm-Rudman by just $545 million out of a $1 trillion budget.

Safety and environmental considerations for this nuclear production capability will be high on the priority list as we build new production reactors. This was not the case when we built the current reactors in the 1940's and the 1950's. We built them at Hanford and at Savannah River under wartime conditions. We did it without fully knowing the consequences of all we were doing.

But the Manhattan project, which produced the first atomic bomb, and the Atomic Energy Commission, which followed it, all were focused on first winning the war and, second, embarking on what they then called a new atomic age. But, remember, as we deal today with a rebuilding of that important—no, critical—production capacity, we must understand that safety factors, environmental considerations, EIS's, and challenges to EIS's, will affect all sites. Not just Hanford, which has been undergoing a good many of those EIS challenges, but also the Savannah River project and the nuclear facilities in Idaho.

I hear, Mr. President, that Greenpeace not long ago opened an office in Idaho Falls to fight the environmental impact statement on the SIS project, and eventually the high temperature gas reactor at that site.

We must all recognize this new reality and deal with it up front. Time frames for new production must be adjusted accordingly. And I do commend Secretary Herrington for his efforts to address these problems more directly and more openly, including establishing an Assistant Secretary for Environmental Safety and Health, and an advisory panel, the so-called Ahearne Panel, which advises the Secretary on these production reactors.

Mr. President, recognizing the difficult task ahead of us in budgetary, environmental, and safety areas, to build these new production reactors we simply must turn to the job. Peace through strength has worked in arms control. We are on the right road today with the signing of an INF agreement and with a move toward a better relationship with the Soviet Union. But we cannot be strong at home without a safe and secure production complex to produce the materials, the nuclear materials for our nuclear triad.

Especially important for all of us is to maintain all options for the next administration. In less than 3 weeks a new administration will be chosen. In less than 3 months, a new administration will take charge. This issue is going to be one of the toughest challenges to be met by that new administration.

We should not at this point preclude options. And, in fact, the last months of this administration ought to be devoted to retaining all options. In fact, we ought to be accelerating our planning on all of these options during the next several months so that we can present to a new administration some responsible and complete alternatives.

Let me speak briefly about the current problems we seem to be having with our basic production facilities at Savannah River. They are already operating beyond their designed lives of 30 years. Life extension is an option but it is increasingly questionable, given the lack of an adequate safety baseline and the mismatch between design and operating specifications which seems to be endemic there. There is a real and an obvious disconnect between engineers who worked on the design and the operations and maintenance personnel. Specifications do not often match, design documents do not often exist. This is especially true in testing the ability of those reactors to react to seismic shocks.

A recent National Academy of Sciences report of safety issues at the defense production reactors pointed out several problems, including: first, the aging phenomenon caused by stress corrosion cracking; that is the hairline cracks in reactor vessels which come because of the intensity of nuclear reaction and, simply, the age of those reactors. If adequate ultrasonic testing cannot be developed, then we may seriously have to look at retiring those reactors from service.

Second, there is a lack of adequate understanding of the behavior of the reactors in a loss of cooling accident. This is the primary reason reactors have to be ramped down, if you will, operated at only 45 percent of their operating capacity. Why? Because they are simply not sure of the reactor's behavior in such a scenario. "The DOE should ensure that before restoring full power operation at Savannah River it satisfies itself on the basis of a rigorous external review that it has a thorough understanding of the behavior of the Savannah River reactors in a loss-of-coolant accident."

Third, I do not like to draw scare stories, and in fact I dislike those who do. But there is a potential for a Chernobyl-like power excursion caused by potential positive reactivity in the reactor in a severe accident. That is a scientific way of saying the potential of a meltdown is there.

Although such a scenario is not likely, the NAS has recommended that special attention should be paid to this problem.

There are other recommendations from the National Academy of Sciences as well. To my knowledge, none of these recommendations have been completed and none are scheduled to be completed prior to the restart of the K-reactor in December of this year.

Frankly, Mr. President, I am puzzled as to why the K-reactor—why the DOE now plans to restart the K-reactor in December instead of the P-reactor as it tried to do in August. The apparent reason seems to be the addition of a fourth emergency core cooling system in the K-reactor. But DOE apparently intended to restart the P-reactor without such a fourth cooling loop.

Are there other reasons for selecting K instead of P? And are all of the issues affecting these old-fashioned tea kettles, pointed out by the National Academy of Science and the others, going to be resolved in the next 8 to 10 weeks?

Mr. President, the relationship between the contractor and the Department of Energy, both on site and between Savannah River project and DOE headquarters, needs to be strengthened. There needs to be a more aggressive safety mentality in the line management of the contractor.

Safety cannot be an after-the-fact review. It must be built into the management process itself. There has got to be more understanding of reactor physics, such as reactivity issues and control rod mechanisms, in the control room itself. And whoever is in charge of each shift in those control rooms must understand thoroughly those basic physics.

Are all these problems going to be resolved by December? The contractor refused to recognize the severity of the safety issues in August after the DOE headquarters raised the range of safety issues. The attitude simply appears to be: Well, we know these reactors. We know how they operate. And outsiders simply do not. We define the scope of the problems and how they are to be resolved. Do not tell us how to run our shop.

You know, Mr. President, similar attitudes seemed to exist within commercial nuclear reactors before TMI-2 and its difficulties. That seemed to be endemic in NASA before the *Challenger* accident—insular communities become defensive when criticized by outsiders.

How is all of this going to be turned around overnight? It cannot be. A new contractor, due to come on early next year, simply will not be able to resolve this either, internally and separately.

Mr. President, we are looking ahead at the new production reactors and that process of EIS scoping hearings are going forward on three sites: Savannah River, Idaho, and Hanford. Hearings will be held in late November and early December for each site.

The Department of Energy made a decision to go forward with a dual reactor strategy as a preferred option: Heavy water reactor at Savannah River and a high-temperature gas reactor at Idaho. Hanford was preserved as a contingency for the WNP-1 option.

DOE followed, to a large extent, the recommendations of the panel, that were made in July 1988 to the Secretary. Frankly, I disagreed then with the preferred option announced by Secretary Herrington because I believed then, and I believe infinitely more so today, that it is essential for the Department of Energy to maintain the Hanford WNP-1 option. Its completion seems with each passing day to become not just a third option; not just a viable option; but a virtually inescapable one.

WNP-1 makes increasingly good sense for a number of reasons. The first one is cost. Simply, it is the least-cost operation by far: Less than $2 billion in capital outlay and a little over $4 billion on a net present value basis over the life of the plant. That is a lot of money. But it is a huge savings over each of the other options.

It is $4 billion less than the heavy water reactor at Savannah River; $3.3 billion less than the high temperature gas reactor at Idaho Falls, assuming electric power reveneus.

And Mr. President, the WNP-1 plant is already two-thirds complete. The others have yet to even be designed. Our experience over the years shows that when you start design of a new family of nuclear facilities, costs and time escalate far beyond current expectations. That will not be the case with the completion of WNP-1, most of its construction having already been accomplished.

Second, there is a cost advantage in the sale of byproduct steam for electricity purposes. At WNP-1, the steam plant is already completed. All it needs is the steam from the nuclear plant to operate.

If we do not need to use that plant for nuclear production at any one time for defense purposes, the sale of electricity from that steam will essentially cover the operating costs; thus producing a unique advantage to the Federal Government.

Third, there is a cost advantage in having a fixed-price contract to complete the project. Several contractors have said they would bid on a fixed-price basis to complete because they know what has been done and it is a relatively straightforward job to complete.

Believe me, Mr. President, there will be no fixed-price contracts on any of the other new reactors that have not yet been designed.

There are two places, and only two, in the country, Mr. President, where there is the existing infrastructure to support these important production reactors: Hanford and Savannah River. They have the ability to deal with special nuclear materials, plutonium and tritium, in an integrated fashion. We should utilize this existing infrastructure, build on it; not throw it down the drain.

The second big issue is time savings. This plant can be completed and be operational in 6 years. This compares with 10 to 12 years, and I would suggest considerably longer than that in practice, that it will take to build a new reactor from scratch. We would have a new, operating reactor a half dozen years or more ahead of time.

It is difficult to quantify the gain to our national security by having a tritium producer on line producing in that timeframe during an important window of vulnerability which this Nation has in its own national defense.

The next reason, Mr. President, is the licensability of this plant. It is 63 percent completed. It has a construction permit from the Nuclear Regulatory Commission [NRC]. The design has already been licensed and a similar design has extensive operating experience. This all benefits from the Nuclear Regulatory Commission's review process that has already taken place for most of the major structures and components. The plant has been kept in a good preservation mode since mothballing in 1981 through oversight by the NRC.

Comparability with commercial regulatory criteria will be an important part in the Congress approving funds for a new reactor, in my view. WNP-1 is halfway there. None of the other reactors come close in this regard.

Some, Mr. President, have suggested that there are proliferation problems, that somehow this is changing a commercial reactor into production for military purposes.

Well, Mr. President, that is stretching the argument quite far, indeed. The Non-Proliferation Treaty is simply not a problem. Letters from the Department of State and the Arms Control Agency reinforce this assertion, and I will shortly introduce into the RECORD those letters and reports.

We are one of several weapons States. There is no restriction in the Non-Proliferation Treaty on conversions or completions of this type. The GAO report which we requested on this issue agrees with the Department of State and ACDA on this point. Arguments that talk of potential violation of the spirit of the Non-Proliferation Treaty are a red herring and miss the point completely.

Our leadership in the nonproliferation regime depend on many other more important considerations than this one.

It is ironic, Mr. President, that those who support the high-temperature gas reactor as a second reactor for defense production appear to favor its quick transfer to the commercial field for use by utilities. This would be totally inconsistent with the position over maintaining the traditional distinction between commercial and military nuclear sectors in the development of fuel and technology and in the use of spent fuel.

With all of that, Mr. President, there are issues that need to be resolved for the completion of WNP-1 and specifically two of them:

We need to develop high-temperature tritium targets for use in several of the LWR reactors which are now under consideration. Lithium aluminate targets need to be developed to be used in light water reactors. DOE has been working on this research and development for some time and needs to accelerate its work here. It is my understanding that funds have been appropriated and will be spent in fiscal year 1989 for this purpose, and they should be.

I do not believe this is an overwhelming problem, but a reference design needs to be done within the next 3½ years if we are to utilize the WNP-1 alternative.

But there is an alternative target design, with aluminum cladding, that can deliver at least 90 percent of tritium levels we need. This was tested in the N-reactor in the 1960's and is currently available for use.

The second concern, Mr. President, is the legal question on the Department of Energy's acquisition of the plant. We do not need to study this any further, but there are some legitimate questions as to how a Federal court will deal with a condemnation proceeding and establish a price for the partially completed reactor.

A study done for the DOE suggests a low value of $35 million for the salvage, to $450 million as the upper price that the Department would have to pay for the WNP-1 plant.

DOE can and should clarify this issue, and it is simple to do so. That is

to move forward with legal proceedings as soon as possible.

It is cheap, it is easy, and it does not commit the Department of Energy to anything. It gives the answer, however, as to how much that partially finished plant might cost the Government.

Some suggest, Mr. President, that there are politics in the Northwest which would mitigate any kind of use of this valuable reactor.

Again, this assertion is primarily a red herring used by proponents of plants and other sites in the country. Hanford has been a subject of division in the past, especially on the potential location of a geologic repository for spent fuel at Hanford. But that issue is over. There is opposition in our State to activities at Hanford.

There is also opposition mounting at other sites. In fact, recent developments may result in opposition at other sites far more vehement than any opposition to Hanford activities.

Environmental groups and citizen groups are gearing up for challenges at all other sites. But it is better to have these issues out in the public and debated rather than brought out on the front pages of newspapers and dealt with defensively.

Mr. President, in conclusion, we are entering into a fragile and increasingly dangerous time. The next 12 to 15 years potentially are an era of real vulnerability.

The terms "window of vulnerability" and "missile gap," and others, have been used pretty freely during the course of the last 30 or 40 years. But there is little question now with recent events and recent discoveries that we do have a very real window of vulnerability. We have the immediate problem if those reactors at Savannah River cannot be started. We have an intermediate problem to get something on line better than these old reactors as fast as possible. And we have a long-term problem of a modernized defense production complex.

That window of vulnerability is just this: If we have no capacity to produce tritium, then the viability of our nuclear arsenal decays day by day, week by week, and year by year. It would not be very long at all before one after another of our nuclear weapons would cease to be operable. And I have said it before and I will say it again: That represents, if we allow it to happen, unilateral disarmament in a still dangerous world.

We ought to work as hard as we can for peace. We ought to work as hard as we can toward the reduction of nuclear arms. But we must do it in conjunction with the Soviet Union and with others who have nuclear armaments; not do it independently, separately, unilaterally, and without thorough consideration for the consequences.

A new administration will have to face squarely up to this problem, both in the fiscal year 1990 budget request and in weapons modernization decisions, and even in arms control negotiations themselves.

Additionally, Congress will have to face up to this issue as well as the bills for hundreds of millions, even billions, are submitted to be appropriated.

Prudency, therefore, dictates that we keep all options open at this moment. We simply cannot, as a Nation, afford to ignore even one option until we are clear in our decisionmaking that will be best and safest for this Nation.

I believe, Mr. President, that WNP-1 completion especially offers clear and substantial cost savings and a quicker start of operations for the production of necessary materials faster than any other option before us.

It is no longer a question of whether we are going to move ahead. Both Houses of Congress, not on just one but on several occasions, have voted by overwhelming margins for appropriations to do just that, to move ahead on a new and modernized production system for nuclear defense.

Even the strongest opponents of nuclear war—and I think we are all opponents of nuclear war—the strongest opponents of increased defense spending, have voted to go ahead with the construction of new defense production reactors.

Those who would like to see us reduce the cost to our military have a real opportunity to do so while at the same time moving ahead in a responsible way on one or more new production reactors. WPN-1 conversion would cost less and, in doing so, reduce military expenditures while producing the necessary materials, at least as well and certainly faster than any other option.

Mr. President, let us at least adopt what we have done so well in recent years in electric power planning, and that is to embark on a least-cost strategy. That means a process to examine all alternatives, and once having examined them look at which ones can produce the electricity, and then choose the one that is least costly. I suggest we deserve to do the same thing when it comes to military expenditures, when it comes to our national defense and to our national welfare.

Mr. President, I ask that a series of articles, editorials and a GAO report be printed in the RECORD.

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

U.S. GOVERNMENT MEMORANDUM, SEPTEMBER 16, 1988

EH-30.

Subject: Savannah River (SR) P Reactor Events—Safety Implications.

To: Ernest C. Baynard, III.

INTRODUCTION

The events of August 1988 associated with the restart of P reactor have resulted in extensive media coverage, investigations and ongoing corrective measures at Savannah River (SR). In order to assess the safety implications and to identify lessons learned, the EH staff was directed to prepare a chronology of events. This was done August 19, 1988, and is included herein as enclosure 1. The EH resident engineers' daily reports for the time interval of interest are included as enclosure 2. As a result of onsite inspections and interviews, an augmented EH onsite contingent recommended a reactor shutdown on August 15, 1988. On August 16, 1988, a DOE/SR team proposed an alternative set of actions which was subsequently the basis for a show cause letter from DOE/SR. These documents are included as enclosure 3. Based upon the chronology, interviews with EH and SR staff, a visit to SR on September 7th and 8th, 1988, and consideration of reports prepared by outside review groups (ACNFS, DuPont's RSAC, ACRS), I have prepared my analysis to help focus on some underlying issues. This evaluation is included as enclosure 4. Reflecting on the insights gained as a result of the overview, a number of specific recommendations for enhancing safety oversight were developed and provided herein as enclosure 5.

BACKGROUND

The two events of interest were a reactivity induced transient during startup and a small power pulse. Due to the neutron poisoning effects (negative reactivity feedback) of two phenomena during startup, reactor power was decreasing to the point that shutdown ensued. The same day the reactor was restarted. A subsequent small reactor power pulse was identified. The reactor continued operating until August 17, 1988. As noted in the analysis, there were several complicating factors (e.g., poor communications, informal decisionmaking, differing interpretations, poor data, etc.) that need to be remedied. After additional facts were obtained on-site, EH staff and managers conducted a preliminary evaluation which concluded that the two events did not represent an immediate safety threat. They are precursors and indicative of the gaps in the safety analysis of the facility. Notwithstanding, there was a more serious problem. The operating crew and reactor engineer did not understand the events at the time, did not understand the phenomena involved, and lacking guidance in dealing with such anomalies, they elected to continue reactor startup and operations. Subsequent interviews demonstrated that the events would be handled the same way again if they recurred. Given the age of the reactors, including limited instrumentation and control capability, unplanned events or anomalous reactor behavior places a premium on human performance. The demonstrated lack of technical inquisitiveness and caution raises the question of adequacy of management controls to assure conservative, safe decisions toward operation.

UNDERLYING ISSUE

Assuring safe performance cannot be done with sole reliance on technical solutions. The issue is not whether the reactor was

out of control; this time it was not. The more serious issue deals with an institutional problem and attitudes toward safety. There are currently some senior managers within the Department with an attitude toward production reactor safety, which on the face seems to be similar to that which existed in the space program prior to the Challenger accident. This is reflected in individuals who challenge EH staff to prove that reactors are unsafe before taking actions recommended by EH. Such a mindset presumes reactors are safe unless demonstrated otherwise. The presumption appears to be based upon historical experience and reliance on outdated safety analyses. Even when problems are identified there is a reluctance to acknowledge them, and subsequent delays in resolution are generally encountered. Steps to overcome this attitude and lack of technical inquisitiveness have been taken by the Secretary and Deputy Secretary by the reliance on outside groups (NAS) and the recognition of the need for a strong ES&H function to identify problems.

Recent experience has shown that EH safety oversight does raise safety issues that otherwise would not have been identified to the Department. However, there is pressure to reach consensus within the Department. The program and field offices jointly encourage EH to agree with the program offices' point of view. This has placed EH, and safety in particular, in a peculiar situation. There is a need to enhance the Department's checks and balances by strengthening line management safety responsibility. Currently, the program official and the field office manager are responsible for safety. This has placed an additional burden on EH and there continues to be a greater reliance on EH to find safety problems.

RECOMMENDATION

Resolving the technical problems at the production reactors will take time. There are solutions which would allow early restart of the reactors, but overcoming mindset problems will take time. However, assuring that events similar to the P reactor startup will not recur will require decisive action by the new SR contractor and by DOE senior management. In order that we benefit from the P reactor experience, I propose that we use the lessons learned as a catalyst for institutional changes. I recommend that the following topics be considered for senior management discussions as soon as possible:

1. Clarification of lines of responsibility and authority within the Department for the safety of operating nuclear facilities;
2. Enhanced EH oversight authority;
3. Improved process for resolving, at a higher level within the Department, disagreements between safety issues and production needs, and;
4. Accelerated decisions on the direction of the proposed draft Safety Policy and the attendant revisions to the Orders.

On balance, there are both technical and institutional issues that need to be faced. Resolution of the technical problems, including a schedule for implementation, should be a priority task. However, there is a critical urgency to provide enhanced real time safety oversight by qualified DOE staff for the Savannah River production reactors. A proactive approach to safety is needed to counter the current prevailing mind set.

RICHARD W. STAROSTECKI,
Deputy Assistant Secretary, Safety, Health and Quality Assurance.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 27, 1987.

Hon. DANIEL J. EVANS,
U.S. Senate

DEAR SENATOR EVANS: Thank you for your letter of February 24, 1987 to Secretary Shultz concerning the possible conversion of an unfinished nuclear reactor located in the State of Washington to defense materials production purposes. At the outset, I would like to note that it is our understanding that the Department of Energy has only completed a technical feasibility study on such a possible conversion.

With regard to your specific questions regarding any legal issues which might be raised by such a conversion, we believe that the United States would not be precluded by treaty obligation or domestic law from taking such a step. While the Atomic Energy Act of 1954, as amended in 1983, prohibits the use of special nuclear materials produced in a NRC-licensed facility for nuclear explosive purposes, this would not apply to the conversion of this unlicensed power reactor if it were rededicated to military purposes.

Moreover, the conversion of a nuclear power reactor to defense production purposes would not violate U.S. commitments under the Non-Proliferation Treaty or under our agreement with the International Atomic Energy Agency (IAEA) for safeguards application in the U.S. As a nuclear weapons state party to the NPT, the U.S. is not prevented from using its own nuclear facilities for military purposes. If a civilian power reactor were rededicated to military purposes, it would by definition become a facility of direct national security significance to the United States, and thus would not be eligible for the application of IAEA safeguards under the terms of the U.S.-IAEA treaty.

You also asked about the likely impact of conversion on United States efforts to promote foreign acceptance of IAEA controls and on non-proliferation policy generally. While the U.S. has sought to maintain a clear distinction between the peaceful and military uses of nuclear energy, it does appear in our view that, if this particular facility were converted to defense production purposes, it would not have significant implications for either foreign acceptance of IAEA safeguards or for our non-proliferation policy generally.

Finally, as you indicated, we agree that there are many potential legal and institutional questions, including non-proliferation issues, which would need to be addressed in connection with any decision to convert a civilian power reactor to national defense purposes. We will, of course, review these issues carefully in connection with any further consideration or study which might be given to such a possible conversion.

I hope these views are helpful.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, March 27, 1987.

Hon. DANIEL J. EVANS,
U.S. Senate

DEAR DAN: Thank you for your letter of March 3, 1987, asking about certain legal and nonproliferation policy implications of converting an unfinished commercial nuclear power reactor to a defense materials production reactor.

The United States is not precluded by treaty obligations or domestic law from carrying out the conversion you have described. With respect to this issue, the U.S. Atomic Energy Act of 1954, as amended in 1983, prohibits only the use for nuclear explosive purposes of special nuclear materials produced in facilities licensed by the NRC. These facilities include commercial and industrial facilities in the private sector, such as civilian reactors used for electric power production or research.

As a matter of policy, the United States has sought to maintain a clear distinction between the civil and military uses of nuclear energy. This separation of civil and military facilities supports US nonproliferation policy and also is an important factor in sustaining public support for civil nuclear power.

We believe the impact of such a conversion on our efforts to encourage wider acceptance of IAEA safeguards and on nonproliferation policy generally would not be very significant. If such a conversion receives further consideration, however, a number of factors should be taken into account, including implications for nonproliferation over the longer term. Of course, any such conversion would also require Congressional approval.

I hope these comments have been of use in your consideration of this question. If you should have additional questions or need additional information, please feel free to contact me or my Office of Congressional Affairs at 647-1085.

Sincerely,

Kenneth L. Adelman.

OCTOBER 11, 1988.

ACTIONS BEING TAKEN ON SRP REACTORS
FACT SHEET

BACKGROUND

Since 1986, under the direction of Secretary John S. Herrington, the Department of Energy has been conducting a series of intensive reviews of the safety of its nuclear facilities. In addition to reviews and appraisals performed by the department and expert consultants, the Secretary requested that the National Academy of Sciences conduct a detailed study of the department's reactors, including the three production reactors at Savannah River. The reports from all of these reviews have been made public.

As a result of the department's safety initiative, a number of issues were identified involving the Savannah River reactors. The DOE has made a firm commitment to resolve all of the issues raised. In addition, the Department has announced its intention to replace the three Savannah River reactors, which were built in the 1950's, with new product on reactors expected to be built at Savannah River and at the Idaho National Engineering Laboratory.

The three Savannah River reactors are the nation's only current source of the tritium needed for the nation's nuclear deterrent. At present all of the three reactors are out of service for routine maintenance and accelerated safety upgrades.

The department is implementing a comprehensive program at SRP to enable the facility to resume protection of tritium within acceptable margins of safety. The program is designed to resolve uncertainties about safety issues, improve operations, improve the department's technical vigilance and strengthen oversight. The program will result in a sequenced restart of K, L and P

reactors in a timely and safe manner. The sequence for initiating restart activities is:

Reactor—Time:

K reactor, late 1988.

L reactor, 1st Quarter 1989.

P reactor, 3rd Quarter 1989.

PHASED RESTARTS

The schedule and procedures for restarting each reactor will include a formal and structured program with milestones where the Department's operations, program and safety managers will examine work completed before approving the next step.

SPECIFIC ACTIONS

Specific actions will be taken prior to restart, including tightening the formal procedures and technical operations used by the contractor; strengthening the department's on-site technical expertise and safety oversight; increasing DOE presence in the plants; and resolving outstanding technical issues.

I. DOE Operations

DOE will augment both DOE program and safety staff as Savannah River Operations Office

High level manager added on site environment and safety office

Special team will develop formal startup plan including milestones for DOE review and decision. Team to be headed by Grover Smithwick, former Principal Deputy Assistant Secretary for ES&H.

II. Contractor Operations

Significant upgrading of control room staffing and opeating procedures:

Control room shift supervisor must be degreed engineer.

Add technical support personnel for each shift, including advisors with commerical reactor experience.

Add fifth shift to make time for operator training.

Training for reactor operators to provide technical background and safety consciousness.

Revised operating procedures and technical specifications which will be reviewed and approved by DOE.

Tougher internal technical reviews, including greater use of INPO.

III. Hardware/Procedures

Complete seismic reviews and make modifications as needed in all reactors.

Revise startup procedures, including technical guidelines and reactivity controls.

Recheck of all safety systems.

Add fourth loop to P reactor emergency cooling system.

STATUS OF SAVANNAH RIVER REACTORS

P reactor

Began Operations: February, 1954.

Down: August, 1988.

Reason: DuPont responding to DOE's concerns regarding operations.

Current status: The fourth emergency core cooling system (ECCS) is being designed. Seismic walk-downs have been completed.

Target restart: Initiate restart activities during third quarter of 1988.

K reactor

Began Operations: October, 1954.

Down: August, 1988.

Reason: Annual maintenance.

Current status: Fourth ECCS loop has been installed. Currently undergoing seismic walk-down.

Target restart: Initiate restart activities by the end of 1988.

L reactor

Began Operations: July, 1954 to February, 1968; Resumed October, 1985.

Down: June, 1988.

Reason: Normal summer closing due to cooling lake temperature and annual maintenance.

Current status: Currently undergoing seismic walk-down; Construction underway to upgrade electrical distribution system.

Target restart: Initiate restart activities during first quarter of 1988.

ENVIRONMENT, SAFETY AND HEALTH FACT SHEET

When Secretary John S. Herrington came to the Department of Energy in 1985, he placed a high priority on strengthening oversight activity in the areas of environment, safety and health.

Secretary Herrington ordered a thorough review of DOE's environment and safety functions, a review that identified areas in management, programs and emphasis that could be strengthened. As a result, DOE developed plans for addressing environmental and safety issues in both the short and the long term.

The three principal elements of DOE's plan to deal with those concerns were:

The establishment of an Assistant Secretary for Environment, Safety and Health (ES&H).

A thorough environmental survey of all DOE facilities to identify problem areas and rank them in order of priority.

Technical Safety Appraisals of DOE nuclear facilities, with a focus on evaluating in-plant activities. The TSA program is being expanded to include followup visits.

The Office of ES&H is responsible for ES&H requirements for operations and facilities; for monitoring the efforts of facilities in complying with DOE requirements; and, for conducting safety analyses. The Office of ES&H also provides technical support and assistance as needed for solving unique technical problems.

Where DOE is self-regulating, the office of ES&H establishes requirements through the DOE order system. ES&H adopts the requirements of the applicable regulatory system, or negotiates compliance agreements with the appropriate regulatory agencies. When ES&H oversight conflicts with the viewpoint of the program involved, those differences are brought to the attention of and resolved at the highest level of the DOE organization.

Additional safety oversight is provided by the Advisory Committee on Nuclear Facility Safety, an independent board established by the Secretary in 1987 to advise the department on safety issues.

In addition to the Environmental Survey and Technical Safety Appraisals, the office of ES&H regularly conducts additional occupational safety appraisals at DOE sites, including:

Type—Frequency:

Fire Protection, 3-5 years.

Packaging and Transportation safety, 1-3 years.

Aviation safety, six months-one year.

Provide support for safety appraisals of federal employees, 2-3 years.

High Explosives safety, 3-5 years.

ES&H appraisals are intended to be diagnostic; to identify problems and assess the underlying causes so that appropriate remedial measures are instituted.

Ernest C. Baynard III is the current Assistant Secretary for Environment, Safety and Health.

DOE ISSUES NOTICE OF INTENT TO PREPARE NEW PRODUCTION REACTOR ENVIRONMENTAL IMPACT STATEMENT

The Department of Energy today published a Notice of Intent to prepare an Environmental Impact Statement (EIS) on the proposed siting, construction and operation of new production reactor (NPR) capacity and related support facilities.

The Notice of Intent was published in the September 16 edition of the Federal Register. It invites interested agencies, organizations and members of the general public to submit comments or suggestions on the proposed scope of the EIS, and also announces a series of public scoping meetings to be held in November and December.

Three production technologies and three sites have been identified as alternatives. The three technologies are a heavy water reactor, a modular high temperature gas-cooled reactor and a light water reactor (including conversion of the Washington Public Power System's unfinished Nuclear Power Station Number 1); the three sites are the Savannah River Plant in South Carolina, the Idaho National Engineering Laboratory in Idaho and the Hanford Site in Washington.

In August, Secretary of Energy John S. Herrington announced that the department proposes a dual strategy which involves proceeding on an urgent schedule with the construction of a heavy water reactor at the Savannah River Plant in South Carolina, and concurrent preparation leading to the construction of a modular high temperature gas-cooled reactor at the Idaho National Engineering Laboratory. This recommendation is the DOE preferred alternative to be evaluated in the EIS.

The primary purpose of the proposed new production facilities is to ensure an adequate and reliable supply of tritium for the Nation's nuclear weapons program. A secondary purpose is to provide capability for plutonium production.

To aid interested parties in formulating comments and suggestions, the Notice of Intent contains background information on the proposed project and alternatives. In addition to the public scoping meetings, DOE invites written comments, which should be postmarked by December 15, 1988.

Persons interested in obtaining more information about the proposed action, the scoping process and meetings should contact:

SOUTH CAROLINA

S.R. Wright, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A., Aiken, South Carolina 29802, (803) 725-3957.

IDAHO

Peter J. Dirkmaat, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526-6666.

WASHINGTON

Tom Bauman, U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-7501.

A schedule of scoping meetings is attached.

INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT ON PROPOSED SITING, CONSTRUCTION AND OPERATION OF NEW PRODUCTION REACTOR CAPACITY

Agency: Department of Energy (DOE).

Action: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

Summary: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed siting, construction and operation of new production reactor (NPR) capacity and related support facilities and to conduct public scoping meetings. The proposed new production reactor capacity facilities would primarily produce tritium for the U.S. nuclear weapons program. The EIS will consider reasonable alternatives among the reactor technologies and the sites reasonably suited to support production reactor and support facilities in a safe and environmentally acceptable manner. The technologies to be evaluated include the light-water reactor (including conversion of the Washington Public Power Supply System's unfinished Nuclear Power Station Number 1 (WNP-1)), the high-temperature gas-cooled reactor, and the low-temperature heavy-water reactor. The impacts of the potential production of plutonium by these technologies will also be evaluated. The environmental impacts of siting each reactor technology will be evaluated for the Hanford Site, Richland, Washington; the Idaho National Engineering Laboratory (INEL), Idaho Falls, Idaho; and the Savannah River Plant (SRP), Aiken, South Carolina.

The proposal for the siting, construction, and operation of NPR capacity and related support facilities is based upon congressional initiative (Public Law 100-202) and studies by DOE showing construction and operation of this new capacity as one of the key elements required to assure maintenance of the nuclear weapons stockpile. Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR 1500-1508), and the DOE NEPA guidelines (52 FR 47662).

Invitation to comment: To ensure that the full range of issues related to this proposal are addressed, comments on the proposed scope and content of the EIS are invited from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS should be postmarked by December 15, 1988. Comments received after that date will be considered to the extent practicable. Agencies, organizations, and the general public are also invited to present oral comments or suggestions pertinent to preparation of this EIS at the public scoping meetings scheduled as indicated below. Written and oral comments will be given equal weight in the scoping process. Comments and suggestions received during the scoping period will be considered in preparing the draft EIS. The draft EIS is expected to be completed in 1990, at which time its availability will be announced in the Federal Register, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

Addresses: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meetings, or questions concerning the project should be directed, as appropriate, to one of the following:

Mr. Peter J. Dirkmaat (INEL), U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, or;

Mr. Tom Bauman (Hanford Site), U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-7501, or;

Mr. S. R. Wright (SRP), U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, (803) 725-3957.

Those persons who wish to receive a copy of the draft EIS should make their request to:

Mr. John Jicha Jr., Director, Project Division, Office of Nuclear Materials Production, U.S. Department of Energy, Washington, DC 20545, (301) 353-2255.

Envelopes should be marked: "NRP Capacity EIS."

For further information contact: For general information on the EIS process, please contact:

Carol M. Borgstrom, Director, Office of NEPA Project Assistance (EH-25), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20858, (202) 586-4600.

Dates: Written comments and suggestions on the proposed scope of the EIS should be postmarked by December 15, 1988, to assure consideration in the preparation of the EIS. Comments received after that date will be considered to the extent practicable.

Background information: In January 1988, the Department established a formal process for reviewing and assessing sites and technologies for NPR capacity. This review resulted in the preparation of an acquisition strategy report to Congress, which was exempted from the provisions of NEPA by Public Law 100-202. The Department submitted the report, "Acquisition Strategy for New Production Reactor Capacity," to Congress on August 8, 1988. In the report, the Secretary of Energy recommended pursuing a dual strategy which involves proceeding on an urgent schedule with construction of a heavy-water reactor at SRP which can produce 100% of expected tritium requirements, and concurrent preparation leading to the construction of a modular high-temperature gas-cooled reactor at INEL which can produce 50% of expected tritium requirements. This recommendation is the DOE preferred alternative to be evaluated in the EIS.

The primary purpose of the proposed new production facilities is to ensure an adequate and reliable supply of tritium for the Nation's nuclear weapons program. A secondary purpose of the proposed facilities is to provide the capability for plutonium production. The production facilities to be evaluated in this EIS include new production reactors and related support facilities including driver fuel element and tritium production element fabrication facilities, a tritium recovery plant, a spent fuel reprocessing facility, and appropriate waste handling facilities.

Reactor technologies under consideration include the light-water reactor (LWR), high-temperature gas-cooled reactor (HTGR), and low-temperature heavy-water reactor (HWR). The LWR alternative includes possible conversion of the WNP-1 at the Hanford Site. The WNP-1 is a partially completed light-water reactor owned by the Washington Public Power Supply System. The LWR can be used to produce tritium, as well as byproduct steam for electric power generation. The HTGR is a graphite moderated, helium-cooled reactor, designed to produce tritium. The HTGR could also supply, as a byproduct, steam for electric power generation. The HWR is a heavy-water moderated, heavy-water cooled reactor which is similar to the existing production reactors at SRP. Because it would operate at low temperatures and pressures, it could not economically produce steam for electric power.

In order to meet safety and security requirements, DOE determined that NPR facilities should be constructed at large, secured, DOE-owned sites at which there has been experience with reactor operations and/or fuel reprocessing. Thirteen sites were evaluated against general screening criteria. The sites which met these criteria and are considered the reasonable alternatives to be evaluated in the EIS are the Hanford Site, INEL, and SRP.

The Hanford Site is a DOE nuclear research and defense program site of 560 square miles near Richland, Washington. The Hanford Site was the first U.S. nuclear material production site and is currently engaged in nuclear materials processing and nuclear research. The existing facilities include a production reactor (not operating), various nuclear materials processing plants, waste management facilities and a fuel fabrication facility.

INEL, located in southeastern Idaho, is a large (890 square miles) DOE reservation where various kinds of nuclear reactors and support facilities have been built and tested to demonstrate the applications of reactor technology, to conduct safety research, and to support defense programs. The existing facilities include waste management facilities and a chemical processing plant which serves as the primary facility for the recovery of fuel from the Naval Reactors Programs.

The SRP encompasses approximately 300 square miles near Aiken, South Carolina. SRP has actively produced strategic nuclear materials for national defense programs for more than 30 years. The existing facilities include production reactors, chemical processing plants, waste management facilities, fuel and target fabrication plants, and a tritium recovery facility.

Proposed action: The proposed action is the siting, construction and operation of NPR capacity and support facilities. The preferred alternative is construction and operation of a heavy-water reactor at SRP which can produce 100 percent of expected tritium goal requirements and concurrent preparation leading to the construction and operation of a modular high-temperature gas-cooled reactor at INEL which can produce 50 percent of expected tritium goal requirements.

Alternatives proposed for consideration: The alternatives proposed for consideration in the EIS are a LWR, HWR or HTGR at SRP, INEL or the Hanford Site. The LWR alternative at the Hanford Site is conversion of WNP-1. The liquid-metal reactor technology is not considered a reasonable alternative due to cost and schedule risks of reactor concept development. As required by the CEQ NEPA regulations, the EIS will also analyze the "no action" alternative (i.e., no construction of NPR capacity).

The EIS will include a comparative assessment of the environmental impacts of the reasonable reactor/site alternatives, including support facilities. For the purpose of the EIS analyses, all technologies will be analyzed at 125 percent of expected tritium requirements. This will allow flexibility in the assessment of impacts by bounding all technologies at the same level. The EIS will also address the cumulative effects of adding the proposed facilities to the sites. Alternative reactor analyses will include, where applica-

ble, an assessment of the impacts of the byproduct steam production for power generation. If any other reasonable alternatives are identified which could potentially achieve the objectives of the tritium production program, they would also be considered in the EIS.

Identification of environmental issues: The following issues have been tentatively identified for analysis in the EIS. The list of issues is intended to apply to facilities associated with NPR capacity including driver fuel and tritium production element fabrication, fuel and tritium production element reprocessing, waste handling, and the steam generation options as appropriate. The EIS will address the environmental impacts of the proposed action including routine operations and potential accidents during facility construction and operation. In accordance with CEQ NEPA regulations (40 CFR 1500.4 and 1502.21), other environmental documents, as appropriate, may be incorporated by reference, in whole or in part, into these impact analyses. This list is not all inclusive nor does it imply any predetermination of potential impacts. Additions or deletions to this list may occur as the result of the scoping process.

1. Public and Occupational Safety—The radiological and nonradiological impacts of routine operations and potential accidents including projected effects on workers and the public will be addressed in accordance with DOE policy.

2. Water Resources—The qualitative and quantitative effects on water resources and other water users in the region.

3. Air Quality—The effects of radiological and nonradiological air emissions.

4. Regulatory Compliance—Compliance with all applicable Federal, state and local statutes and regulations.

5. Wildlife Areas—The disturbance or destruction of habitat of game and nongame wildlife species including potential effects on threatened or endangered species of flora and fauna.

6. Aquatic Species—The potential for entrapment or impingement of aquatic organisms on surface water intake structures and impacts to aquatic habitats.

7. Waste Management—The environmental effects of generation, treatment, transport, storage, and disposal of radioactive, hazardous and solid wastes.

8. Socioeconomic—The socioeconomic impacts on affected communities of large construction and operation labor forces and support services.

9. Cultural Resources—The potential impacts on historical, archaeological, scientific or culturally important sites.

10. Transportation—Impacts of the transportation of NPR related supplies, materials, equipment, products and wastes on-site and off-site.

11. Decommissioning and Decontamination—To the extent that information is available, the EIS will evaluate impacts that may result from decommissioning and decontamination of existing and new facilities as a result of the proposed action.

Related documentation: Background information on the new production reactor capacity project, the alternative technologies, and the alternative sites are available in the public reading rooms listed below. The available documents include:

1. Assessment of Candidate Reactor Technologies for the New Production Reactor; A Report of the Energy Research Advisory Board to the United States Department of Energy, Washington, D.C. DOE/S-0064, July 1988.

2. Site Evaluation Report for New Production Reactor; Submitted by the DOE Site Evaluation Team to the Chairman of the Energy Systems Acquisitions Advisory Board (ESAAB) and the Acting Assistant Secretary for Defense Programs, DOE/DP-0053, July 1988.

3. Acquisition Strategy for New Production Reactor Capacity, Report to Congress by the Secretary of Energy, August, 1988.

Scoping meetings: In addition to receiving written comments, DOE will conduct public scoping meetings to assist DOE in determining the appropriate scope of the EIS and the significant environmental issues to be addressed. Public scoping meetings will be held at the following times and locations:

A. HANFORD SITE

(1) Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington, Date: November 29, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) Portland City Hall Hearing Room, 1120 S.W. Fifth, Portland, Oregon, Date: December 6, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) H.M. Jackson Federal Building, North Auditorium, 912 2nd Avenue, Seattle, Washington, Date: December 8, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

B. IDAHO SITE

(1) Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, Idaho, Date: November 14, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Boise City Hall, 150 N. Capitol Boulevard, Boise, Idaho, Date: November 16, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) O'Leary Jr. High School Auditorium, 2350 Elizabeth Boulevard, Twin Falls, Idaho, Date: November 10, 1988, Time: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

C. SAVANNAH RIVER SITE

(1) Odell Weeks Recreation Center, Whiskey Road, Aiken, South Carolina, Date: November 29, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(2) National Guard Armory, 1 Milledge Road, Augusta, Georgia, Date: December 1, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(3) DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia, Date: December 5, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(4) Radisson Hotel, 937 Assembly Street, Columbia, South Carolina, Date: December 7, 1988, Time: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

Please note that the scoping meeting in Spokane, Washington will be cosponsored by both the Hanford Site and the Idaho Site. The purpose of the scoping meetings is to offer all interested persons the opportunity to voice their opinions on the proposed content and scope of the EIS. DOE will designate a presiding officer to chair each meeting. The meetings will not be conducted as evidentiary hearings and there will be no questioning of speakers; however, the presiding officer may ask for clarification of statements made to assure that DOE fully understands the comments and suggestions. The presiding officer will establish the order of speakers and provide any additional procedures necessary for conduct of the meeting. To assure that all persons wishing to make presentations can be heard, a 5 minute limit for each speaker has been established. Speakers who wish to provide further information for the record should submit such information to one of the Operations Office addresses above by December 15, 1988. Comments received after that date will be considered to the extent practicable. Individuals who do not make an advance arrangement to speak may register to speak at the time of each meeting. After all previously scheduled speakers have been given an opportunity to make their presentations, an opportunity will be provided to these registrants to speak, as time permits. DOE reserves the right to change the meeting locations, and procedures for conduct of the scoping meetings.

DOE will prepare transcripts of the scoping meetings. The public may review the transcripts, other NEPA documents, and unclassified background information on this project at DOE public reading rooms during normal business hours. Addresses of these reading rooms are given below:

1. U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526-0271.

2. U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376-8583.

3. U.S. Department of Energy Reading Room, University of South Carolina, Aiken Campus, University Library, 2nd Floor, University Parkway, Aiken, South Carolina 29802, (830) 648-6851.

4. U.S. Department of Energy, Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, Southwest, Washington, DC 20585, (202) 586-6020.

Signed in Washington, DC, this 9th day of September, 1988, for the United States Department of Energy.

ERNEST C. BAYNARD III,
Assistant Secretary,
Environment, Safety and Health.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 11, 1987.

Hon. CHARLES A. BOWSHER,
Comptroller General, U.S. General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: The Department of Energy is currently reviewing available technologies and locations for a new production reactor. One of the options is conversion of the 63 percent complete Washington Public Power Supply System's No. 1 reactor (WNP-1). The possible conversion of WNP-1 has received a great deal of publicity and has resulted in many conflicting opinions concerning cost, schedule, technical feasibility, safety, non-proliferation goals, and effect on the Northwest ratepayers.

The conversion of WNP-1 could positively affect our national defense capability as well as benefiting the ratepayers of the Pacific Northwest. The Richland Operations Office has reviewed both the technical and institutional feasibility of converting WNP-1 to production reactor. The accuracy of those reviews, however, has been questioned both by opponents of the conversion and the Department of Energy.

Therefore, it is desirable that an independent agency, such as the General Ac-

counting Office, review both the technical and institutional feasibility of the conversion of WNP-1 as well as the advantages/disadvantages when compared to other alternatives. Specifically, I request that GAO review the Richland Operations Office's analysis of WNP-1 and verify the following:

1. The methods and reasonableness of the capital and operating cost estimates to convert and operate WNP-1 as a production reactor as well as the proposed schedule to complete and convert the facility to a production reactor.

2. A comparison of WNP-1 cost and schedule to other options, if comparable information for the other possible alternatives is readily available.

3. If the proposed conversion violates the Non-Proliferation Treaty or is precluded by domestic law.

4. If the proposed conversion has adequately adressed the recommended safety enhancements proposed by the Babcock & Wilcox owners group.

5. Whether or not WNP-1 could be completed to licensable standards given its current condition. Have the licensing requirements been documented and maintained?

6. If the proposed conversion would be consistent with the recent National Academy of Sciences' recommendations for future DOE production reactors.

7. Whether or not condemnation action by DOE, for either all or part of WNP-1, would result in an event of default making the WNP-1 bonds due and payable.

Currently, the Secretary of Energy is required to make recommendations to Congress on February 1, 1989, for both the technology and locations of DOE's future production reactors. Accordingly, it is necessary that your review, or an oral briefing of the results of your review, be provided to my staff prior to the Secretary's recommendation. To expedite your review, use of previously published reports by DOE or others would be appropriate as long as GAO is confident of the validity of the information. Communication of results as they are developed would be appreciated as timeliness is essential. Please coordinate with Kitty Rising of my staff concerning the dates and locations to communicate the results of your review.

Sincerely,

SID MORRISON.

NUCLEAR SCIENCE: QUESTIONS ASSOCIATED WITH COMPLETING WNP-1 AS A DEFENSE MATERIALS PRODUCTION REACTOR

SEPTEMBER 21, 1988.

Hon. SID MORRISON,
House of Representatives.

DEAR MR. MORRISON: On December 11, 1987, you asked us to answer several questions regarding a partially completed commercial nuclear power plant which the Department of Energy (DOE) is considering acquiring and completing as a nuclear weapons materials production facility. The plant is located on DOE's Hanford Reservation near Richland, Washington, and is presently owned by the Washington Public Power Supply System (Supply System).

The questions you asked stemmed from a DOE report [1] that assessed the feasibility of acquiring and completing the plant, referred to as Washington Nuclear Plant #1 (WNP-1), as a tritium [2] production facility. Your questions dealt with issues related to the safety, licensability, and cost of WNP-1, and the schedule for completing it. In addition, you asked if completing the reactor would (1) be a violation of the 1968 Nuclear Non-Proliferation Treaty or law and (2) result in an act of default, making the WNP-1 bonds [3] due and payable.

RESULTS IN BRIEF

Our review disclosed no major safety, technical, or other barriers which would preclude WNP-1 from being considered as an option for the next new materials production reactor. In addition, we found no basis to question the process used by DOE contractors for estimating the WNP-1 completion cost and schedule. However, we did identify several unresolved issues that could have an impact on the cost and schedule for completing the WNP-1. These include:

Potential design changes identified by NRC and common to all pressurized light water reactors. For example, WNP-1's decay heat removal system and the station blackout prevention system may need to be modified.

Technical issues associated with (1) ensuring the integrity of the tritium fuel pins, (2) preventing recriticality,[4] and (3) achieving the required production of tritium.

Establishment of safety requirements or standards that may be needed for completing the WNP-1 as a tritium production reactor, instead of its intended commercial purpose. These may require review of the existing systems and also review of any modifications necessary in order to produce tritium.

Remaining legal questions surrounding the acquisition cost for the WNP-1. The cost could range from $30 million (salvage value) to $2.1 billion (total of outstanding bonds).

Policy questions arising from completing a commercial reactor as a weapons materials production reactor. Traditionally, the peaceful and military uses of atomic energy have been separated.

Regarding the legal implications, we found that completion of the WNP-1 as a production reactor would not violate federal law or the Non-Proliferation Treaty. We also found that condemnation of the WNP-1 by DOE would not be an event of default and would not make the bonds immediately due and payable.

The remainder of this letter provides you with a summary of our findings, including a discussion of the unresolved issues. More detailed answers to your specific questions on WNP-1's design, technology, licensability, cost, schedule for completion, and legal and policy questions are provided in appendixes I through VI.

BACKGROUND

DOE is responsible for producing nuclear weapons materials for national defense purposes. The primary materials used are tritium and plutonium, which are produced in nuclear reactors. The only defense production reactors presently operating are located in South Carolina. These reactors are over 30 years old and have had power reductions due to environmental and safety concerns.

The N-Reactor, located on DOE's Hanford Reservation, has been used mainly for plutonium production since it started operating in the early 1960s. The N-Reactor could be modified to produce tritium; however, it has been shut down since January 1987 for safety work and is not expected to be restarted. Thus, DOE is presently planning to construct and operate a new reactor especially for the production of tritium.

One option available to DOE is completing the WNP-1 as a materials production reactor. WNP-1 is a pressurized light water [5] reactor designed by Babcock & Wilcox for commercial power production. Construction on the plant was halted by the Supply System in 1982 because of financial problems and uncertainties concerning future electric power demand. The plant is 63-percent complete and has been maintained in accordance with Nuclear Regulatory Commission (NRC) licensability requirements.

In August 1986, DOE established a task force to examine the feasibility of completing WNP-1 as a materials production reactor. The task force assessed only the WNP-1 and did not compare it with other options. The task force's March 1987 report concluded that WNP-1 could be modified and associated support facilities made available at a cost and schedule appropriate to the requirements of DOE.

In January 1988, DOE initiated a two-prong study to aid in the selection of a site and technology for the new materials production reactor. DOE established a site evaluation team of internal officials to evaluate and advise on the suitability of several sites for the new production reactor. DOE also requested the Energy Research Advisory Board (Advisory Board), an independent peer review board appointed by the Secretary of Energy to provide input to DOE, to evaluate four different reactor types as candidate technologies for a new production reactor. In July 1988, the Advisory Board provided the Secretary of Energy with its report specifying the strengths and weaknesses of alternate technologies.[6]

On August 3, 1988, the Secretary of Energy recommended that two reactors be constructed at separate locations. He recommended a heavy water [7] reactor at DOE's Savannah River Plant in South Carolina and a high-temperature, gas-cooled reactor at Idaho National Engineering Laboratory in Idaho. In addition, as a contingency, the Secretary stated that research and development should continue on the light water reactor option (WNP-1), and that work should continue on solving any institutional problems associated with its completion. (See app. I.)

OVERCOMING DESIGN PROBLEMS

The Babcock & Wilcox Owners Group, an organization of owners of Babcock & Wilcox reactors, has proposed 215 recommendations for improving the operation and safety of its reactors. A number of the recommendations concern design issues which may apply to the WNP-1 reactor. However, the Supply System has deferred action on the

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[1] *Technical Feasibility Task Force WNP-1 Conversion Preinvestment Analysis Report*, Mar. 1987.

[2] Tritium is a gaseous isotope used in nuclear weapons. It is produced in a nuclear reactor when uranium neutrons react with another element, lithium.

[3] WNP-1 was financed by the Supply System with long-term revenue bonds.

[4] Recriticality is an event that may occur during an accident in which the nuclear fuel melts and reshapes itself in a sphere configuration that sustains an uncontrolled nuclear reaction.

[5] "Light water" refers to water whose molecules contain normal rather than "heavy" hydrogen.

[6] These technologies are the heavy water reactor; light water reactor; high-temperature, gas-cooled reactor; and liquid metal reactor. WNP-1 is a pressurized light water reactor, a type of reactor explained in more detail in appendix II.

[7] Any of several isotopic varieties of water, especially deuterium oxide, consisting chiefly of molecules containing hydrogen with a mass number greater than 1, and used as a moderator in certain nuclear reactors.

recommendations until after reactor construction resumes.

In February 1987, the Union of Concerned Scientists[8] petitioned the NRC to shut down Babcock & Wilcox-designed plants because it believed the plants had serious design problems that made them unsafe to operate. The problems cited in the petition were associated with the (1) once-through steam generators, (2) reactor pressurizer, (3) auxiliary feedwater system, (4) integrated control system, and (5) non-nuclear instrumentation system. (App. II explains these features and describes the systems.)

NRC denied the petition in October 1987, although it agreed that Babcock & Wilcox reactors have experienced problems. In denying the petition, NRC stated that:

Substantive improvements have been made to Babcock & Wilcox reactors.

The petition contained no substantial health and safety issues that would warrant suspension of any licenses or permits for Babcock & Wilson reactors, or that would be resolved by granting the relief requested.

We examined the applicability of the five design issues to the WNP-1 reactor and found that Babcock & Wilcox and the Supply System either have taken steps to ensure that the issues will not affect safe operation of the WNP-1 reactor or have plans to take such steps. Four of the five design features have been resolved on the WNP-1 reactor through design changes, and the fifth—the integrated control system—is planned for modification during completion of the reactor.

In addition to the problems pointed out by the Union of Concerned Scientists, NRC has identified two problems common to all pressurized light water reactors. The major problems are decay heat removal and station blackout. (See app. II.)

The decay heat removal system is used to remove heat from the core once the reactor is shut down. NRC has ruled that the decay heat issue be addressed in the risk analysis submitted to NRC for each reactor. WNP-1's independent heat removal system is not dedicated solely to the removal of a decay heat, a condition NRC may require.

A station blackout occurs when all alternating current power to the reactor is lost. NRC has recently issued a ruling that plants be capable of enduring a blackout for up to 8 hours. The main concern is that the seals around the pumps, which circulate coolant through the reactor, may leak. For WNP-1, a backup system powered by a dedicated diesel motor is planned to prevent the failure of the pump seals

RESOLVING TECHNICAL ISSUES

WNP-1 was designed as a commercial nuclear power plant with a steam supply system to generate electricity. While most of the systems are adaptable to a tritium-producing reactor, certain modifications will be necessary because the design was not engineered to produce tritium. The major change will require redesigning the core to include fuel assemblies containing enriched uranium fuel rods and tritium target pins.

In commercial light water reactors, the core is made up of thousands of rods, each containing pellets of uranium fuel. These rods are fixed in fuel assemblies containing several hundred rods each. In WNP-1, 205 fuel assemblies form the core. In a defense production reactor producing tritium, target pins filled with lithium are added to the core. The lithium in the target pins reacts with the neutrons released during the nuclear process to form tritium.

The key issue with respect to tritium production in the WNP-1 reactor is whether tritium target pins can be designed and manufactured that will retain their structural integrity and hold the tritium during the production process. The core will contain approximately 13,000 tritium target pins that must be manufactured to extremely high quality to ensure their integrity and avoid the loss of tritium. Whether the target pins will work satisfactorily cannot be fully resolved until full-scale manufacturing and irradiation testing of the target pins have been completed.

As part of the irradiation testing, the DOE contractor plans to test a relatively small number of target pins in a DOE test reactor to determine whether leaks occur. However, testing even a few hundred target pins will only confirm that there are no gross deficiencies in the final design. It will not demonstrate that several thousand pins can be produced virtually defect-free. According to DOE's contractor, component tests and a quality assurance program are planned as part of the manufacturing process to increase confidence that the pins can be successfully manufactured on a large scale. In addition, an alternative target pin design may be developed and tested, but questions remain regarding the quality of tritium it can produce.

Another technical issue is that the uranium fuel in the WNP-1 assemblies will require uranium with a higher enrichment level[9] than a commercial power reactor needs. DOE initially planned to run the reactor with 20-percent enriched uranium fuel. However, with 20-percent enriched fuel, there is a chance of a safety concern called "recriticality." Recriticality is a condition that, on a rare occurrence, can result in an extremely severe accident. If the nuclear fuel inside a reactor becomes too hot—for example, if it overheats because the flow of coolant in the cooling system is interrupted—it may melt or slump into a shape in which the nuclear reaction restarts but is no longer controlled by the nuclear reactor control system. While DOE contends that such an accident would not breach containment, it has done calculations which provide full support for this conclusion.

The fuel enrichment has since been lowered to 10 percent, and DOE's contractor concluded that at this level of enrichment, the possibility of recriticality in WNP-1 is precluded. A consulting nuclear physicist we used to help us review technical issues examined the redesigned core and concluded, on the basis of the data and models available, that the possibility of recriticality would be virtually nil at the 10-percent enriched uranium level.

A third technical issue is whether the WNP-1 reactor will be able to produce goal-established amounts of tritium. This issue has not been fully resolved. DOE's contractor believes that tritium production goals can be achieved using 10-percent enriched uranium fuel. However, this confidence assumes that a tritium target pin for WNP-1 can be successfully designed and manufactured. (See app. III.)

ENSURING LICENSABILITY

There is considerable interest within the Congress and scientific community that DOE receive external and independent review of its reactor safety decisions of the type regularly obtained in the commercial reactor industry for all its nuclear facilities. Currently, however, DOE production reactors are not licensed by NRC.

The NRC has found that the Supply System is maintaining the WNP-1 reactor in a way that meets the NRC's licensing standards. However, completing the plant for defense production instead of for commercial purposes would require safety analyses of the existing systems and modifications needed to complete the reactor for tritium production. In this respect, the WNP-1's pressurized light water reactor design is well known and understood, thus it would seem that techniques needed to analyze the modified reactor against safety standards could be developed and used.

It is not clear how DOE plans to provide assurance that its facilities will meet NRC standards. In this regard, we and the National Academy of Sciences have pointed out the need for independent oversight of DOE facilities to ensure and certify that safe standards are maintained. We have pointed to the need for a review process to include (1) independence, (2) technical expertise, (3) the ability to perform review of DOE facilities as needed, (4) clear authority to require DOE to address the oversight organization's findings and recommendations, and (5) a system to provide public access to the organization's findings and recommendations.[10]

Legislation is in progress to establish a safety board, made up of outside experts, to review the safety of DOE facilities. However, as of August 1988, the provision to establish such a board had not been signed into law. (See app. IV.)

REASONABLENESS OF COST AND SCHEDULE ESTIMATES

A DOE subcontractor estimated in March 1988 that the cost to complete WNP-1 for tritium production is $2.6 billion, excluding the cost of acquiring the plant from the Supply System. We found no basis to question the process used by DOE contractors and subcontractors for estimating the WNP-1 completion cost and schedule. Although we did not perform a detailed examination of all of the components of the estimate, we did so for the estimate related to installing electrical cable. This is one of the larger items left to be completed; approximately 6 million feet of cable remains to be installed. We found the estimate for cable installation in WNP-1 to be reasonable.

The DOE subcontractor estimates it will take 6 years to complete WNP-1 as a tritium production plant. An important item in meeting the 6-year estimate is the successful development and testing of tritium target pins. In addition, legal uncertainties concerning the government's acquisition of a partially completed commercial plant for defense purposes could delay the completion. Delays in either case, or in the environmental or safety reviews, could ultimately affect the final cost and schedule estimates of WNP-1. (See app. V.)

[8] An independent group of scientists concerned with U.S. energy and arms policies, especially nuclear policy.

[9] The level of enrichment of the uranium is the percentage of U^{235} present. Natural uranium is only about 0.7-percent U^{235}, the other 99.3 percent being another uranium isotope. The uranium fuel in commercial power reactors is "enriched" to 2- to 4-percent U^{235}.

[10] *Key Elements of Effective Independent Oversight of DOE's Nuclear Facilities* (GAO/T-RCED-87-32, June 16, 1987).

LEGAL AND POLICY ISSUES

Legally, condemnation of WNP-1 by DOE would not be an event of default and would not make the bonds—totalling $2.1 billion—immediately due and payable. The following are other issues associated with completing WNP-1 as a defense production plant:

Although DOE has statutory authority to condemn the WNP-1 plant, the plant's cost through condemnation is not known. The cost could range from $30 million (salvage value) to $2.1 billion (total of the outstanding bonds).

While DOE's condemnation and completion of a partially completed commercial power plant as a defense production plant do not violate the 1968 Non-Proliferation Treaty or existing law, it may raise policy questions. For example, such action may be criticized on the basis that it breaks away from the traditional separation between peaceful use of atomic energy and military use. (See app. VI.)

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our review was to assess the issues associated with DOE's acquiring and completing WNP-1 as a defense production plant. Our specific objectives were to (1) examine safety issues by reviewing the design and technical feasibility of the completion, (2) assess the cost and schedule estimates, and (3) answer specific legal questions.

Our scope was limited to assessing the WNP-1's completion only. We did not compare the WNP-1's completion with the other options being considered by DOE for a new materials production reactor. DOE had independent studies conducted which compare the options for the reactor technology and the site. These studies were completed after we completed our field work.

We conducted our review from November 1987 through July 1988. This review included (1) an examination of DOE's March 1987 report entitled *Technical Feasibility Task Force WNP-1 Conversion Preinvestment Analysis Report*, its classified appendixes, and supporting studies, (2) a limited review of the estimated cost and schedule to complete WNP-1 as a materials production plant, and (3) discussions with representatives from DOE, DOE contractors and subcontractors, state governments, the Union of Concerned Scientists, the Supply System, and the Natural Resources Defense Council.[11] A consulting nuclear physicist assisted us.

During the course of our work, we obtained the views of responsible DOE and contractor officials on the information we gathered. These officials generally agreed with the facts presented, and we incorporated their views in the report where appropriate. We did not obtain official agency comments on this report. This review was conducted in accordance with generally accepted government auditing standards.

As arranged with your office, we are sending a copy of this report today to Representative Vic Fazio and Norm Dicks, who also requested this work. In addition, a similar but separate report is being sent to Senator Brock Adams. Unless you or the other recipients of this report or the sister report publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the appropriate congressional committees and the Secretary of Energy. We will also make copies available to others upon request.

This work was performed under the direction of Keith O. Fultz, Senior Associate Director. Other major contributors are listed in appendix VIII.

Sincerely yours,

J. DEXTER PEACH,
Assistant Comptroller General.

TABLE 2.2.—CONSTANT DOLLAR AND DISCOUNTED NPR LIFE CYCLE COSTS INCLUDING EFFECTS OF ELECTRIC REVENUES

[In millions of 1988 dollars]

Cost category	Ebasco HWR			DuPont HWR			West. HWR			SWR			WNP-1, Richland
	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah	
Preoperational	352	352	346	238	229	208	234	229	208	514	514	514	514
Capital	4,232	3,727	3,146	4,378	3,963	3,040	4,692	4,129	3,379	5,711	4,936	4,836	1,954
O&M	19,837	19,143	19,555	16,956	16,334	16,544	17,103	16,347	16,785	17,955	17,320	17,858	17,591
Total costs	24,421	23,222	23,047	21,572	20,526	19,792	22,029	20,705	20,372	24,180	22,770	23,208	20,059
Electric Revenues	0	0	0	0	0	0	0	0	0	10,160	10,160	13,880	11,080
Discounted values (present worth):													
Costs	10,497	9,912	9,366	9,468	8,974	8,076	8,603	8,976	8,313	10,944	10,185	10,116	8,736
Revenue	0	0	0	0	0	0	0	0	0	3,532	3,532	4,825	4,333
Net Project Cost	10,497	9,912	9,366	9,468	8,974	8,076	9,603	8,976	8,313	7,412	6,653	5,291	4,403

Souce: "NPR capacity cost evaluation" U.S. Department of Energy, July 1988.

TABLE 2.2.—CONSTANT DOLLAR AND DISCOUNTED NPR LIFE CYCLE COSTS INCLUDING EFFECTS OF ELECTRIC REVENUES

[In millions of 1988 dollars]

Cost category	HTGR			GE LMR			RI LMR		
	Richland	Idaho	Savannah	Richland	Idaho	Savannah	Richland	Idaho	Savannah
Preoperational	547	546	547	687	687	687	677	677	677
Capital	5,946	5,314	5,306	5,005	4,887	4,873	4,125	3,907	4,014
O&M	21,345	20,063	20,415	19,102	19,044	19,036	18,062	18,014	18,007
Total costs	27,837	25,924	26,267	24,794	24,617	24,596	22,864	22,717	22,697
Electric revenues	10,840	10,840	13,760	6,480	6,480	8,280	6,040	6,040	7,800
Discounted values (present worth):									
Costs	12,347	11,476	11,434	10,806	10,697	10,591	9,784	9,692	9,589
Revenue	3,769	3,769	4,784	2,253	2,253	2,879	2,100	2,100	2,712
Net project cost	8,578	7,707	6,650	8,553	8,444	7,712	7,684	7,592	6,877

Source: "NPR Capacity Cost Evaluation" U.S. Department of Energy, July 1988.

DOE WANTS NEW WEAPONS REACTORS TO REPLACE AGING, TROUBLED ONES

The political fallout from the explosion and meltdown at Chernobyl's Unit 4 in April 1986 led to reappraisals of reactor safety around the world—nowhere with such swift effects as on the materials production program for US nuclear weapons. Chernobyl led the Secretary of Energy, John S. Herrington, to order several independent studies of reactors producing plutonium and tritium. Before the end of 1986, one panel called for major modifications or a complete shutdown of the large N-Reactor at the Hanford Nuclear Reservation near Richland, Washington, which is like Chernobyl's four RBMK-1000 plants in having a graphite core. A few months later, the department turned off the N-Reactor to make mechanial changes (Physics Today, February 1987, page 63). Since then, DOE has decided not to restart the reactor.

Other studies of DOE reactors, conducted by the National Research Council and by the department's independent Advisory Committee for Nuclear Facility Safety, found some either rapidly nearing or already past the ends of their expected lifetimes. This was especially true for defense production reactors at Savannah River, not

[11] Environmental organization staffed by lawyers and scientists who undertake litigation and research. Provides information on environmental issues, including nuclear power and non-proliferation.

far from Aiken, South Carolina, where deteriorating components and design changes since the reactors were turned on in the 1950s have put increased demands on control-room staffs and their supervisors. Indeed, for the past seven years the Government Accounting Office, Congress's watchdog over executive agencies, has criticized operating practices at Savannah River and designated the reactors as "high-hazard facilities."

So it came as a surprise when Herrington called in the news media on 3 August to announce that DOE proposed to replace the three tritium production plants at Savannah River with a single reactor that is similar in concept to those now there but would provide 100 percent of current military requirements. Experts have warned that the P, K and L reactors, all more than 30 years old, may not last the ten years it will take to design and build the successor, which would be capable of yielding plutonium as well as tritium.

Herrington's statement also contained a surprise: A smaller reactor, based on a novel high-temperature gas-cooled technology, would be constructed at the Idaho National Engineering Laboratory near Idaho Falls. This reactor would also take ten years to complete and would yield another 50 percent of the tritium the Pentagon currently uses.

The reason the Energy Department wants the capability of producing so much tritium is that this isotope, the basic fuel of thermonuclear bombs and useful in upgrading the power of fission warheads, must be replenished periodically. Tritium degrades at a rate of 5.5 percent each year. Plutonium, by contrast, is a relatively stable material, with a halflife of about 23,000 years.

"As long as this nation relies on the nuclear deterrent," explained Herrington, "we must have the capability for a steady, reliable supply of tritium and plutonium." The need for two production plants at widely dispersed locations, he said, will "minimize the technical risks to national security." This "two-reactor strategy," he declared, "involves proceeding on an urgent schedule" to make the US less vulnerable to operating interruptions. DOE estimates the price tag for the two reactors would be $6.8 billion if built today. Critics say the final cost is likely to be more.

The reactor for Savannah River would be based on proven technology for making weapons-grade material, using heavy water or deuterium. The Idaho reactor would be based on technology developed in the US and the Federal Republic of Germany. The concept originated in Britain in 1956 with the Magnox-class power reactors, which use carbon dioxide as a coolant and natural uranium as fuel. In the US, GA Technologies of San Diego pioneered the development of a reactor using helium as the coolant and graphite as the moderator. In 1967, the 40-MW Peach Bottom No. 1 plant, designed by GA Technologies (then known as General Atomics) went on line in the Philadelphia Electric Co system as part of the Atomic Energy Commission's power reactor demonstration program. The reactor was shut down in 1984 when scheduled tests were completed. The Fort St. Vrain plant was another experimental reactor built by GA Technologies for Colorado's Public Service Co. It went critical in 1974 and continues to operate. But as a commercial demonstration it was not a good advertisement for the concept. It produced only about 10 percent of the power it was designed to provide if it could have run at full capacity. Although GA Technologies claims the plant showed the benefits of helium instead of ordinary water as a coolant, frequent breakdowns of the helium circulator raise questions about its reliability.

High-temperature gas-cooled reactors have been develped in West Germany for a 15-MW power plant that has been operating since 1968 and a 300-MW plant that is set to start up soon.

The use of graphite is uncommon among nearly all reactors. Graphite was used in Hanford's N-reactor, which produced plutonium, and in Chernobyl's RBMK-1000 types. The GA design departs markedly from those reactors. A major difference from the Chernobyl reactors is that as the core temperature rises in the high-temperature, gas-cooled reactor, the nuclear reaction is choked off. At Chernobyl the opposite was true.

Unfortunately, six days after Herrington's announcement, an incident at Savannah River called into question the safety of the aging weapons-material reactors. A DOE source called the episode a "complete collapse" of safety procedures that, in worst circumstances, could have resulted in a Chernobyl-type calamity.

The history of the problem has its origin in power cutbacks of the Savannah River defense reactors to 45 percent capacity because of safety concerns. According of DOE officials, the P reactor, which had been shut down since early April for safety modifications and routine maintenance, was being restarted on 7 August when operators found that the position of its control rods apparently prevented a sustained reaction. When they attempted to restart the reactor on 9 August, its temperature and pressure surged unexpectedly in what is termed a "power spike."

Instead of trying to control the surge, however, operators not only continued to run the reactor but did exactly the wrong thing: They turned up the power. It seems that when the operators had trouble getting the reactor to sustain a chain reaction, they did not do the customary thing, pushing in the control rods to suppress the reaction, but instead pulled the rods further out. If the reactor had been running at higher power, a tragedy might have resulted, said an offical at Du Pont, which operates the Savannah River complex.

John F. Ahearne, the former chairman of the Nuclear Regulatory Commission, who heads a special DOE safety advisory committee named by Herrington last year (see page 38 for an article by Ahearne) expressed anger that the problems at the P reactor were not reported instantly. In an electronic mail message to plant managers, Ahearne admonished operators for not informing him of the problem. When Ahearne was asked what he would do in the circumstance, he recommended an immediate shutdown. That was done.

DOE's assistant secretary for environment, safety and health, Ernest C. Baynard III, said that at one point the operators increased the reactor's power to 60 percent, one-third higher than the 45-percent maximum approved by the board. The operators detected more decay products—primarily helium-3, which acts to absorb neutrons and suppress the reaction. The presence of helium-3 made the reactor more difficult to start. Puzzled by this, the operators pulled more control rods in an effort to boost the reaction. Each time they pulled the rods, the reactor surged briefly and then subsided. "You can't have people operating a nuclear reactor acting as if it is business as usual when something unusual occurs," said Baynard.

After interviewing the operators, DOE issued a report explaining that the reactor did not "exhibit uncontrollable behavior." The surge had never been more than 1 percent of the authorized power level. But the DOE criticized the operators for neglecting the "checks and balances that would prevent a recurrence of the events." Still, members of Congress have expressed concern that this worrisome episode happened at the very time that DOE is seeking their support for the new reactors.—Irwin Goodwin

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[From the New York Times, Oct. 13, 1988]

THE CANDIDATES AND THE BOMB ALARM

America's capacity to build nuclear weapons is disintegrating. Worried military planners contemplate cannibalizing their components. Worried members of Congress discover that the capacity to build them safely has eroded. And what is the response?

Energy Secretary John Herrington says sunnily, incredibly: Give us a couple of months and we'll be back in business. Meanwhile, the message from the Presidential candidates about this alarm in the night is, as they head into their last televised debate, even more astonishing. Neither has said a word.

That's no surprise. After years of neglect, complacency and mismanagement, the complex of plants that make nuclear material is becoming too decrepit to operate. The accumulated bill for remodeling and repair amounts to $130 billion.

The next President thus will have three choices: Find that huge sum, keep the present plants running despite mounting risk of disaster, or face unilateral nuclear disarmament.

Recent investigations by the Department of Energy and others are turning up an array of safety problems. The last three production reactors, at Savannah River, S.C., have been temporarily shut down. This week the department said it had closed its plutonium processing center at Rocky Flats, Colo, site of pervasive inadequacies in worker protection, maintenance and fire prevention.

The safety problems at Savannah River may not be as bad as feared but could still cause a production crisis. Du Pont, which runs the plant, cites its outstanding record of minimizing worker exposure to radiation as proof the plant has been operated safely. This is probably true, though outside experts see room for extra safety measure, like those adopted at commercial reactors after the Three Mile Island accident. Hence the three Savannah River reactors have already been put on half power and then closed down.

Richard Heckert, chairman of Du Pont, says the Savannah River plant is safe and fully capable of producing all the nuclear materials needed until new reactors are built. Energy Secretary Herrington says he intends to restart one of the reactors by December. But any delay could prompt a crisis in the supply of tritium.

Tritium, used to boost the yield of fission trigger devices, decays by 5 percent a year. Without fresh supplies, the United States would be forced to retire about 1,200 of its 22,000 nuclear warheads a year. "To have these reactors not operational is tantamount to unilateral nuclear disarmament," says a senior Pentagon official.

How could the Department of Energy allow such a risk to arise? It skimped on modernization, ignoring for a decade Du Pont's request to build a new Savannah River reactor. The Reagan Administration has run the whole aging complex at full speed making weapons. The Department has let toxic and radioactive waste accumulate in the thousand dump sites.

These problems have grown over decades but have not reached a point of crisis. It's none too soon for the next President to say how he will meet it.

[From the Atlanta Constitution, Oct. 6, 1988]

A FIX FOR THE SAVANNAH RIVER PLANT

The government has created a nasty, unscientific chain reaction at the Savannah River Plant. For three decades, the feds have run the installation in secrecy—which means they could push production at the expense of safety and get away with it. As a result, plant operations have suffered from poor training, flawed procedures and bad attitudes. Urgent constructive criticism has had a way of getting filed and forgotten.

A recent Washington hearing revealed more than a few hair-raising tales. During a startup in 1960, one reactor surged to 10 times the approved rate and came within 40 seconds of a process that could have led to a meltdown. In a 1970 power-up of another reactor, some fuel was partially melted. In 1971, the operator of still another reactor ignored alarms that showed radiation was being released. The list goes on and on.

But now, after 30 years, the Savannah River Plant's penchant for irresponsibility is about to be checked. Late last week, the president signed into law a measure that sets up a special oversight committee to monitor activities at this plant (which makes plutonium for our nuclear arsenal) and at similar installations around the country. Until now, scientists and workers at the plants could protest conditions until their lungs collapsed, but nothing would happen. Too often, the bureaucrats in the Energy Department simply ignored them.

No more. The oversight group will not be beholden to the Energy Department. The five-member board will be appointed by the president. About 100 staffers will help carry out its policing duties. The group will have the power to make recommendations for safer procedures. When it finds "severe and imminent" threats to safety, it can take them directly to the president for remedial action. Less severe problems will be taken up with Energy officials.

For the troubled Savannah River Plant and its neighbors, this is a marvelous step forward. It is not, however, a panacea.

One issue the legislation leaves cloudy is the matter of environmental cleanups. The Savannah River Plant has a ghastly problem with buried wastes. Can the board order a cleanup if it discovers "severe and imminent" threats to safety? For the sake of consensus, this question wasn't answered.

Moreover, the board members and staff can only point the Energy Department and its contractors in the right direction. The implementation of better procedures and training programs within the plants rests in the same hands as before.

The board is a fail-safe mechanism. Its outsiders may be able to prevent another destructive chain reaction born of secrecy, sloppiness and blame-dodging. They can't create competence—that must come from within. The challenge isn't over.

[From the Washington Post, Oct. 14, 1988]

RESTARTING THE WEAPONS REACTORS

All five of this country's weapons reactors—the machines that produce the material for nuclear warheads—are now out of operation. In each case, the reasons are related to safety. Two of them will probably remain out of commission permanently. The remaining three, at the Savannah River Plant in South Carolina, are waiting for the Department of Energy to decide when and under what conditions to start them up again.

They can't be allowed to remain down indefinitely. One component of nuclear weapons, tritium, decays over time, and any prolonged interruption in production will affect the country's nuclear arsenal. The Energy Department is beginning the process of building two new reactors, but they won't be completed until the turn of the century. Any tritium produced in this country over the next decade will have to come from the Savannah River Plant.

It was built in the 1950s, and the reactors there are aging. One of them malfunctioned when it was being started up last August; that's the reason for the current shutdown. These reactors have been pushed hard throughout the 1980s for the Reagan administration's buildup of weapons, and the administration has skimped on the necessary investment to keep them up to date.

The accumulated size of that investment is daunting by any measure. The General Accounting Office has concluded that, to bring all of the Energy Department's weapons facilities up to current health and safety standards, including adequate waste disposal and environmental protection, would cost $100 billion to $130 billion.

It's not just a matter of replacing worn hardware. Ever since World II the weapons plants have worked behind a heavy veil of secrecy that has segregated them almost entirely from the civilian world. The steady tightening of environmental and safety requirements over the past two decades never reached these facilities. The sweeping reforms of the civilian nuclear industry after the Three Mile Island accident never touched them. Old habits became entrenched, and the supervisory structure became ingrown.

Several years ago Sen. John Glenn and his Governmental Affairs Committee began to take a serious interest in the subject, and the current attention is largely owed to their work. After the Chernobyl disaster in the Soviet Union, the Energy Department commissioned a study of safety issues and, like Sen. Glenn, it concluded that independent oversight was essential. The department appointed a committee of outsiders headed by John Ahearne, a former chairman of the Nuclear Regulatory Commission.

The Energy Department now expects to restart one of the Savannah River reactors by the end of the year, after safety improvements, and the other two in 1989. It would be far better to turn those decisions over to the Ahearne committee. These machines have been severely overused by successive administrations that have consistently ducked the costs of bringing the weapons plants up to the standards on which, everywhere else, this country insists. Under these circumstances, the judgments about putting the reactors back into production are ones that this administration would be wise to leave to the outsiders.

[From the Christian Science Monitor, Oct. 12, 1988]

IS THIS ANY WAY TO RUN A BOMB PLANT?

National security requires the United States to build and operate plants that make materials for nuclear weapons. That activity, however, is not well served when safety and reliability of the plants get shortchanged.

Unfortunately, that appears to have been the case at the US Department of Energy's Savannah River Plant in South Carolina and Rocky Flats Plant in Colorado. Reports and memos recently surfaced listing mishaps at the Savannah plant. These range from fires and leaks of contaminated water to melted reactor fuel rods and leaks of plutonium-laced sludge. The Rocky Flats operation was shut down after a safety lapse exposed employees to radioactive material.

Savannah River's reactors have suddenly shut themselves down from nine to 12 times a year for the last 20 years. A commercial reactor with a record like that would have been closed long ago—its license revoked and heavy fines levied.

Most disturbing is the withholding of safety problems from the public on "national security grounds."

Two reasons are more likely: Either an obsession with secrecy was out of proportion to the risk, or there was a conscious attempt to mask faulty operations.

The reactors' production rates are classified, as are the existing levels of US weapons-material stockpiles. Without that information, an enemy would find it difficult to use plant downtime to figure out whether the US was failing to make the weapons-grade material it needs—unless, of course, that downtime was so frequent as to allow no other conclusion. In that case, one would have ample grounds for questioning the competence with which the weapons program was being run.

If security concerns are legitimate, secrecy only doubles the need for safe and reliable operations; having no way to check on the facility's safety record, the public is forced to trust the government to see that the plant is properly run.

This is not lost on Energy Department officials. Energy Secretary John Herrington asked the National Academy of Sciences to review safety at defense production reactors after the nuclear accident at Chernobyl in 1986. Other studies have been conducted. Various recommendations have been adopted, but they involve structural changes, which don't guarantee changed attitudes.

Mr. Herrington has said that the weapons plants should adhere to safety standards comparable to those governing the commercial nuclear industry. The key is to drive that notion deep into lower levels of management, with clear guidelines for achieving the goal and strong penalties for failing. The potential for meeting that goal has been enhanced by a change of contractors at Savannah River: Westinghouse takes over from Du Pont April 1. Westinghouse has broad experience in the commercial sector.

Congress shares responsibility. The plants are vital to US security, so there is a built-in management bias toward production. Congress must ensure that defense production reactors are adequately financed. It should not put Energy Department managers in the position of having to choose between spending on production and spending on maintenance, safety, and training.

[From the Tacoma News Tribune, Oct. 6, 1988]

SAVANNAH RIVER'S DARK, DIRTY PAST

Government secrecy seems to pay, at least for the people who run the Department of Energy's defense reactors in South Carolina.

Between 1957 and 1985, it turns out, there were no fewer than 30 alarming accidents at five reactors on the Savannah River nuclear reservation. Some of these were near-disasters. In 1960, for example, the power level in one of the reactors surged uncontrollably 10 times faster than safety guidelines permitted. In December 1970, the operators of another reactor repeatedly tried to trigger its chain reaction, apparently oblivious to an insufficient flow of cooling water. As a result, the reactor overheated and a fuel assembly melted. A few weeks later, a radioactive rod melted in another reactor, contaminating its cooling system and releasing huge quantities of radiation.

These accidents were treated as state secrets. The Atomic Energy Commission—the predecessor of today's Department of Energy—didn't reveal them, nor did local managers of the South Carolina reservation. They were finally disclosed last Friday by members of Congress who are investigating Savannah River's problems.

What's disturbing about all this is that some of the people who helped close the N Reactor last February—people like Sens. Strom Thurmond of South Carolina and Sam Nunn of Georgia—had a strong vested interest in preserving defense programs and jobs at Savannah River. It wasn't a coincidence: All along, part of the motivation for shutting down the Hanford reactor was to shift defense spending from Washington state to South Carolina. Yet the Washington plant never experienced an accident remotely as serious as those at Savannah River.

Now the country is discovering that the Savannah River plant's safety record is far worse than the N Reactor's. Over the last few years, it seems, Savannah River kept its dirty linen in the closet while Hanford's managers more openly acknowledged lesser problems at the N Reactor. Now the N Reactor is closed. A cynic might conclude the Savannah River people played it smart.

[From the Seattle Times, Oct. 9, 1988]

MANAGEMENT MELTDOWN AT SAVANNAH RIVER PLANT

The deeply disturbing revelations of serious operating problems and chronic equipment failures at the federal nuclear-weapons facility at Savannah River, S.C., could have far-reaching repercussions—even in this state.

A report just made public (after an unexplained five-month delay) by the federal Department of Energy, information released by two congressional committees, and admissions by the DuPont Co., which operates the plant, reveal that:

Some of the five reactors at Savannah River had to be shut down up to 12 times a year between 1971 and 1987—a shutdown rate three times that of civilian nuclear plants.

25 workers were exposed accidentally to radiation, and some exposures greatly exceeded federal safety guidelines.

As many as 30 significant mishaps occurred over a 30-year period—but these were never reported to the government or made public by DuPont.

Between 1954 and 1982, DuPont admitted, the plants experienced fires, equipment failures, contaminated-water floods and a reactor-coolant leak that almost caused a spontaneous nuclear reaction.

Overall, a deplorable pattern emerges of lax oversight by the federal government and sloppy performance by DuPont that threatens the nation's continuing need for weapons-grade materials. Call it a management meltdown.

How might this affect Washington state? Last February, the DOE put the Hanford N Reactor on "cold standby" and announced that the nation's plutonium and tritium needs would be met at the South Carolina facility. But depending on what happens next at Savannah River, it's possible that the N Reactor—which underwent extensive safety improvements—could be needed again. Indeed, the Savannah River disclosures make the N Reactor's problems seem relatively trivial.

In addition, the idea of converting the mothballed WPPSS Nuclear Plant No. 1 at Hanford to defense production—which could be faster and cheaper than building a new reactor from scratch—may soon start to look more attractive.

Wherever the plutonium and tritium are produced, the nation's weapons stockpile simply must be maintained. Progress on arms control could eventually reduce the need for these materials, but that remains highly speculative.

Some members of Congress have called for full investigation by the Advisory Committee on Nuclear Facilities Safety. The sorry story of Savannah River clearly needs investigating.

[From the Seattle Post-Intelligencer, Oct. 11, 1988]

UNSAFE REACTORS THREATEN SECURITY

The Reagan administration asks us to believe that on its watch our military defenses were strengthened.

Quite to the contrary.

The administration, aided by a compliant Congress, has allowed our defense posture to be seriously compromised.

The basic ingredients of our defense recipe are nuclear materials. But the administration is baking them in broken ovens.

The nuclear materials production reactors at Hanford in this state and Savannah River in South Carolina are old and unsafe. Nevertheless, the administration chose to use them to build up armaments on the cheap. And Congress went along because no one wanted to pay for the true cost: a new reactor.

Now we're in the awkward position of being unable to produce the needed trigger to fire some of our warheads—tritium, a nuclear material that decays relatively rapidly. At the moment none of the reactors is functional, so none is producing tritium.

And unless one of these unsafe reactors is switched on again, our tritium reserve will be gone by next summer, according to a report in The New York Times. No one is saying how long after that the tritium-triggered weapons on the shelf will remain functional.

But here's a clue to the situation's gravity: "To have these reactors not operational is tantamount to unilateral nuclear disarmament," says the top Pentagon official responsible for nuclear energy matters, Robert B. Barker.

While we're enthusiastic about disarmament, that enthusiasm does not extend to unilateral disarmament caused by incredible bungling.

The administration now is picking through its miserable options, which are precious few. One disagreeable one currently afloat is to turn civilian reactors into military ones—thus violating international agreements that forbid such conversions because they mean acceleration of nuclear proliferation.

Also on the list is conversion of Hanford's N Reactor to full-bore tritium production which reportedly would take four years, or an expensive conversion of Hanford's Fast Flux Test Facility reactor which would produce only small amounts of tritium. If these options fail, we are asked to hope our allies will sell us what we need to defend ourselves.

As Sen. John Glenn, D-Ohio, aptly put it, the choice comes down to: "Do we operate a perfect plant or do we accept a little less than perfect plant that is probably safe to produce tritium? That's a pretty hard decision."

"Probably safe" won't do.

Who would have thought that the ironic legacy of the Ronald Reagan arms buildup would be weapons we can't fire because of a tritium shortage caused by ignoring unsafe defense reactors?

[From the Seattle Post-Intelligencer, Oct. 6, 1988]

SAVANNAH RIVER HORROR STORIES

Disturbing news for Washington state residents is coming from South Carolina. Thirty serious nuclear accidents have occurred at Savannah River over the last 31 years at the Department of Energy's weapons complex and, until now, none has been made public.

The department at first claimed it did not know about the accidents, which happened on the watch of E.I. du Pont de Nemours and Co., the long-term contractor at the site. Now the agency claims the company did report the incidents but word never reached DOE headquarters—even though one accident took 900 people three months to clean up.

Members of Congress complain there are no records regarding any possible harm to humans or escape of radiation. Some of the accidents, which caused extensive radioactive contamination of facilities, involved loss of coolant and melting of fuel rods, first steps on the way to catastrophic meltdown. In one instance, technicians ignored a radiation alarm for two hours.

The accidents, many of which happened when the old Atomic Energy Commission ran the show, came to light when inspectors tried to ascertain why a dangerous power surge—one of many at the complex—occurred last August in one of the five reactors. They still don't understand it.

These revelations tellingly illustrate the inherent management problem in the agency, which was born when President Carter abolished the AEC, headed in 1973-74 by former Washington Gov. Dixy Lee Ray, and created the Department of Energy. Ray this week refused to answer questions from the Post-Intelligencer about whether she knew of the accidents.

Top DOE officials—sounding for all the world like a frustrated Mikhail Gorbachev battling his own bureaucrats—blame the agency's seemingly endless screw-ups on the inability to change the habitual mindset favoring secrecy among the old guard in the lower echelons.

All of this is of more than passing interest in this state, which is home to the N Reac-

tor at Hanford, the only backup reactor capable of producing plutonium and tritium. It was put into "cold standby" for far less alarming safety concerns than these. So as Savannah River's environmental and safety horror stories continue to amaze and confound Congress and the public, Washington residents should realize that it's a good bet the N Reactor, which still has its safety problems, will seem ever more attractive as a source of weapons materials.

Congress, meanwhile, should persist in uncovering the missing information so the public is given a full explanation of what happened at Savannah River.

The tougher nut to crack will be to reform the people who run this agency, which is dangerously out of control.

[From the New York Times, Oct. 16, 1988]

AFTER 40 YEARS, THE SILENCE IS BROKEN ON A TROUBLED NUCLEAR ARMS INDUSTRY

(By Kenneth B. Noble)

WASHINGTON.—With a half-dozen Congressional committees scrambling—sometimes competing with one another—to expose the problems of the nation's nuclear weapons production industry, the Energy Department has provided a candid account of its failings. But some are beginning to wonder, why has the Government operated in virtual silence about its activities for the past 40 years?

The events of recent days suggest that behind the official quiet is an agency that kept the lid on problems rather than revealing them. Some in Congress, meanwhile looked the other way while they tried to solve more immediate problems.

The current storm began to break in August when the Energy Department shut down a reactor at the Savannah River plant in South Carolina after Government inspectors discovered severe safety problems.

Within weeks, the Energy Department said it would have to postpone opening the nation's first permanent nuclear waste repository, near Carlsbad, N.M., because its own inspectors were not satisfied that the plant could be operated safely. And then a week and a half ago, the department issued an emergency order halting plutonium processing at the Rocky Flats Plant in Colorado because of an accident in which three workers were exposed to radiation.

But the events paled in comparison with the problems of radiation exposure and contamination that unfolded at the 37-year-old arms plant at Fernald, Ohio.

Federal officials not only acknowledged last week that the plant had been releasing thousands of tons of radioactive waste into the environment for decades, but they also admitted that Government officials were aware of the contamination.

In view of such problems, Energy Secretary John S. Herrington last week acknowledged that, after years of neglect and haphazard management, many of the 15 sites in the weapons production system are falling apart.

SHORTAGE OF TRITIUM

Most of the plants were built in the decade after the initiation of the Manhattan Project in 1942. Their decay and decline was no secret to knowledgable members of Congress, who have held hearings on the matter and received reports for much of the past decade. But the problem has not been highlighted until this year, when Energy Department and Pentagon officials acknowledged that the deterioration was so acute they might be forced to dismantle some nuclear weapons because of a shortage of a key ingredient, the radioactive gas tritium, that is produced at the plants.

Why didn't Congress heed the warnings?

Environmentalists, public health officials, anti-nuclear groups and some Democrats say that much of the blame for the problems at the nuclear warhead production sites should be laid at Congress' door.

As these critics see it, Congress has long been more interested in production than in safety issues. Congressional experts, for instance, are unable to recall the last itme the Armed Services Committee, which has primary oversight of weapons production, held a hearing examining safety concerns in warhead production.

"Until now, the weapons systems were much sexier issues in Congress," said Dan W. Reicher, a lawyer for the Natural Resources Defense Council, an environmental group that has criticized many of the Government's plants. "It's difficult to get excited about radioactive waste dumps when you're contemplating the B-1 bomber," he said.

For one thing, few legislators until recently had taken a close look at how the weapon production system is operated. This attitude dates back to the early 1950's when the plant contractors, apprehensive about espionage and other real and imagined threats to their operations, sought to shroud the plants in secrecy.

UNUSUAL AUTONOMY

Getting heard on Capitol Hill, of course, is not just a matter of making the most noise. It did not go unnoticed that the Government-owned plants are managed by some of the nation's largest companies, including E.I. du Pont de Nemours & Company, and the Westinghouse Electric Corporation.

It came as little surprise then that Congress largely acceded to their desires, giving the weapon production centers an unusual degree of autonomy and self-regulation. When Federal environmental standards were tightened in the 1970's, the money the warhead centers spent to comply with the new rules left little for modernization. Then the Reagan Administration doubled production of nuclear warheads, mostly for new weapons ordered by the Carter Administration.

A few Senators, notably John Glenn, the Ohio Democrat who is chairman of the Government Operations Committee, sought to rein in the weapons plants, at least to the degree of insisting that they be subject, like most private ventures, to environmental and public health laws. But for the most part, lawmakers showed little appetite for the fight.

"At a time of tight budgets, unless something is really broken and not working, they just don't get excited about it," Mr. Glenn said.

Moreover, if the past is any guide, once the current flurry of activity fades and the condition of the weapons production sites no longer makes headlines, Congress is likely to fall into its old habits of inattention, critics say.

For one thing, a Congressional aide said, the dimensions of the problems facing the military weapons industry are so staggering that no solution will likely be seen for years to come.

"When the tough job of cleaning up the weapons' facilities is no longer on the front page," the aide said "you'll be able to count on one hand how many Senators are going to spend the rest of their careers on the thankless job of trying to clean up the mess."

[From the New York Times, Oct. 14, 1988]

FINANCES AND THE FEAR OF SERIOUS ACCIDENT PROMPT RARE OPENNESS ON WEAPON PLANTS

(By Keith Schneider)

WASHINGTON.—In a remarkable public admission, the Energy Department has acknowledged over the last two weeks that the Government's mismanagement of the nation's nuclear weapon industry has resulted in many industrial mishaps, chronic safety violations and a legacy of environmental contamination.

The scope of the difficulties almost defies comprehension. Toxic and radioactive wastes that will remain dangerous for thousands of years contaminate underground water around many of the department's weapon plants. Three major plants have been shut down in the last three months, and aging and neglected equipment at the others may no longer be able to reliably supply critical materials for nuclear weapons. The nation may thus be in an uncomfortable position of weakness.

Why is the Energy Department, normally so secretive about its military nuclear operations, now declaring that conditions at its plants pose threats to national security and public safety?

Finances and fear of a serious accident are among the forces motivating the Energy Department, a variety of experts say. By admitting that the 46-year-old program to manufacture nuclear weapons is in crisis, this reasoning goes, the department believes it can make a case for proceeding with an extraordinary expensive program of repair and rebuilding.

Congressional critics of the department argue that its candor is in many ways a political shell game. They note that many safety problems at the aging facilities stem from the Reagan Administration's decisions to pay for new weapon systems, like the B-1 bomber, by not maintaining laboratories, production plants, a waste repository and a test site in the system for producing nuclear warheads.

Another factor in the department's disclosures may have been the likelihood that if the department was not forthcoming about the problems, the press and Congress would be.

Last August, the Energy Department shut down a reactor at the Savannah River Plant in South Carolina after inspectors from Washington discovered that local operators neither understood nor cared about an unsettling power surge and other unusual events. The public learned about this not from the department but from press reports that began with The Washington Post.

Only weeks later, the Energy Department said it could not open the nation's first permanent nuclear waste repository near Carlsbad, New Mexico because its own inspectors were not satisfied the facility could be operated safely. The department's action followed a New York Times report about water seeping into rooms and corridors that were supposed to be bone dry.

And 10 days ago, top officials of the department and a predecessor agency the Atomic Energy Commission, said subordinates never made them aware of a spate of serious nuclear accidents from 1957 to 1985 at the Savannah River Plant. The accidents had just been disclosed at a joint Senate-House Committee hearing.

In recent years, national and regional newspapers have reported on a string of plant shutdowns, releases of radiation to surrounding communities, accumulation of toxic and radioactive wastes, equipment failures and management breakdowns. Taken together all these incidents convinced critics and the Energy Department's own safety officers that the system was heading for a disaster.

The Government-owned plants and laboratories are managed by some of the nation's largest companies, including E. I. du Pont de Nemours & Company, the Rockwell International Corporation and the Westinghouse Electric Corporation. For decades, these companies and others have managed the warhead production system almost as fiefdoms, free from the close scrutiny they would have received had the weapon plants been operated as private ventures and subject to the nation's environmental and public health laws.

The armed services committees in Congress, which have primary oversight of weapon production, have been intent on satisfying the Pentagon and have not paid nearly so much attention to the Energy Department's nuclear weapon production.

As a result, despite substantial evidence of contamination and unsafe conditions at many of the 15 sites in the weapon production system, the dimensions of the problems now confronting Congress and the next Administration were not clear until very recently.

Perhaps most startling, however, is that the Reagan Administration, which has prided itself on rebuilding the nation's defenses, did not recognize the crisis building in the nuclear weapon complex.

In the fiscal year 1981, at the start of the Reagan Administration, the Energy Department's budget for nuclear weapon programs was $3.7 billion. In the fiscal year 1989, which began this month, the agency will spend $8.1 billion. (Almost $1 billion of that is directed to studying and solving environment and safety problems.)

Over the same period, though, the Pentagon's budget climbed to $291.2 billion from $178.4 billion. "We all ought to be asking why we are playing catch-up ball with something so critical as this system is," said Representative John M. Spratt Jr., A Democrat from South Carolina who is on the House Armed Services Committee.

Mr. Spratt said the Administration had periodically told the committee that its weapon facilities were old and that there was a risk of not being able to fulfill the nation's weapon production needs. "But," said Mr. Spratt, "we never heard from the Energy Department that they needed substantial new funding for staff, for repairs, for safety or to take care of the entire weapon operation."

As for safety, C. Anson Franklin, the Energy Department's chief spokesman said the department had to peel away the cloak of secrecy to break through the traditional "complacency" about safety that he said had overtaken the system. "We have known that this was a public crisis waiting to happen," said Mr. Franklin. "We could see there was going to be a day we had to face up to conditions in the weapons complex."

Other experts, including Senator John Glenn, a Democrat from Ohio, said the candor was necessary to alert Congress that the weapon production system was in danger of failing and needed an infusion of money.

The question now, though, is how much will it cost? The aged equipment and systems to manufacture materials and warheads are literally falling apart. Repairing the system sufficiently to keep it operating safely for 15 to 20 more years, until new plants are built, will cost $13.3 billion from 1989 until 1995, according to the Energy Department.

At the same time, the Energy Department has asked Congress for at least $17 billion over the next decade to build the huge atom smasher dubbed the superconducting supercollider, to begin the largest biological research project in history to analyze completely the total chemical structure of all human genes and to share the cost of a high-level nuclear waste repository in Nevada. The agency also wants to build a plant in Idaho for separating and purifying and two new reactors to produce tritium in South Carolina and Idaho.

These cost estimates do not include cleaning up the radioactive and toxic waste that accumulated at about 80 sites in 27 states and Puerto Rico since the nuclear weapon program began in the Manhattan Project in December 1942.

As the Energy Department tries to restart three nuclear reactors at the Savannah River Plant, the conflict over national security and public safety will come into sharper focus. The reactors produce tritium, a radioactive gas that is essential for maintaining warheads in readiness.

In any case, solving the immediate need will not assure reliable supply over the next decade or two.

"The Department of Energy and the Department of Defense have to outline a plan for what is needed to maintain production," said Senator Glenn.

For now and years to come, the nation faces an arresting paradox. The very system designed to protect the United States from foreign enemies is now being viewed by many in Congress, and millions of Americans, as a threat to domestic safety.

[From the New York Times, Oct. 12, 1988]

ENERGY SECRETARY VOWS FAST ACTION ON ARMS REACTOR

(By Keith Schneider)

WASHINGTON.—Energy Secretary John S. Herrington said today that he had appointed a special team to correct safety failures at the Savannah River Plant and to put a reactor that produces material vital to the American nuclear arsenal back into operation in January.

In his first public response to disclosures about safety problems at the nation's largest nuclear weapon plant, Mr. Harrington said at a news conference here that he intends to begin procedures in December to restart one of the plant's reactors and to have all three reactors operating by late next summer. The timetable surprised many nuclear analysts and touched off criticism from at least one legislator that the department was trying to move too fast.

The reactors, all shut down this year, produce tritium, a radioactive gas that is necessary to keep most of the nation's warheads in a state of operational readiness. Tritium decays at a rate of 5.5 percent a year and at some point—exactly when is secret—decays enough to render weapons inoperative. Energy Department officials say that unless the reactors at Savannah River are restarted by next summer, the United States could be forced to start deactivating warheads to recover tritium for use in higher priority weapons.

PRESIDENT IS BRIEFED

Energy Secretary Herrington and Lieut. Gen. Colin L. Powell, the national security adviser, briefed President Reagan today about the conditions at weapon production plants and the supplies of tritium available for maintaining nuclear warheads. Marlin Fitzwater, the President's spokesman, said Mr. Reagan was assured that the supply of tritium was adequate as long as the reactors are restarted according to the schedule and their production schedules are maintained.

When asked if the President believed there had been a cover-up of serious reactor accidents at Savannah River for as long as three decades, Mr. Fitzwater replied: "Well, that's what the Department of Energy says. A lot of these reports were not made public, and they wanted them to be."

Mr. Herrington said today he hoped to avoid deactivating weapons. "I have committed all of the Department's resources to this program and the goal of a phased restart of these reactors beginning at the end of the year," said Mr. Herrington. "It's a realistic objective. The experts that have worked with us say that it is a realistic objective. It's one we are determined to achieve."

Mr. Herrington's announcement came amid a rash of developments that have stopped production at three of the 15 plants nationwide that form the nation's nuclear weapon manufacturing system. Workers have been on strike since Friday at the program's only uranium processing plant, the Feed Materials Production Center in Fernald, Ohio. The strike over wages and safety conditions by 632 workers at the 35-year-old plant halted production there.

The Savannah River Plant, which produces plutonium and tritium, the radioactive gas, and the Rocky Flats Plant near Boulder, Colo., have been shut by the Energy Department for safety reasons.

Critics of the agency said today that they doubted the carelessness, equipment failures, and flaws in key safety systems that have been identified in recent months at the Savannah River Plant by agency and independent investigators could be addressed and resolved by January, when Mr. Herrington said the K reactor, shut down in April, would restart. Of particular concern are suspicious marks on reactor vessels, which some believe could be indications of cracks, questions about the ability of the reactors' emergency cooling systems to function properly during earthquakes, and a long history of accidents and operational errors at the reactors that have been documented by the Energy Department, Congress, the National Academy of Sciences and other groups.

INDEPENDENT VERIFICATION

"This new self-evaluation on the part of the Energy Department is just not good enough," said Representative Mike Synar, an Oklahoma Democrat, and chairman of the House Government Operation subcommittee on Environment, Energy and Natural Resources. "Before we can feel confident that the safety problems have been resolved, we need independent verification."

Mr. Herrington today confirmed that the vast industrial network of aged plants and weapon laboratories that design, manufacture, and test nuclear weapons is plagued by daunting problems. He said that most of the reports documenting extensive radiation leaks, accidents caused by equipment failures and carelessness have been made public by the Energy Department.

"I think our facilities are safer today than they were four years ago," said Mr. Herrington, referring to February 1985 when he assumed control of the Department. "The Department of Energy's commitment to safety has greatly improved from where it was. But much more needs to be done. That is something that we all agree with."

Richard Heckert, the chairman and chief executive officer of E.I. du Pont de Nemours & Company, which built and has operated the Savannah River Plant since 1952, said at a news conference today that he was "fed up" with accusations by the Energy Department that his company had mismanaged the plant and kept serious accidents secret.

"We're getting a bum rap," said Mr. Heckert. "My company's reputation is at stake here. We're hearing about this all over the world. We did this nation a valuable public service for 38 years at that plant. And our reputation for safety is unmatched by anyone."

Richard W. Starostecki, the Deputy Assistant Secretary for Safety, Health and Quality Assurance is one of five members of a management team that will lead the agency's program to restart the K reactor, one of three still functional of the five that were built at the Savannah River Plant in the early 1950s. Grover Smithwick, the deputy manager of the Oak Ridge Reservation in Tennessee, will be the manager at the site and will hire 12 technical engineers to help him there.

The number of shifts at the reactor will be increased to allow more time to train reactor operators. Shift engineers will be required to have degrees. All activities will be more closely monitored and reviewed. New procedures, similar to those now in use in the civilian nuclear industry, will be employed at the Savannah River reactor.

A startup program requiring Energy Department officials to review every step in the reactor's operations, has been established to make certain that if engineers experience a problem in activating the K reactor, they will immediately reverse their steps and understand what occurred. Previously, said the Energy Department, operators ignored incidents and unusual events and pushed on to achieve a nuclear chain reaction, a process that Mr. Starostecki has called potentially disastrous.

QUESTIONS ABOUT TIMETABLE

But experts in Congress and in universities wondered today whether the Energy Department's goal of activating the K reactor in late December, and achieving a nuclear chain reaction in January, was too ambitious.

The Energy Department in 1985 and 1986 discovered during visual inspections that marks and flaws marred some of the reactor vessels.

"I would be uncomfortable based on what we already know if the Energy Department started the K reactor without inspecting it for cracks," said Keith O. Fultz, a senior associate director with the General Accounting Office.

[From the Wall Street Journal, Oct. 12, 1988]

U.S. SAYS WEAPONS PLANT CLOSING MEANS TRITIUM WON'T BE PRODUCED FOR 3 MONTHS

(By Paulette Thomas)

WASHINGTON.—The closing of the three aging Savannah River nuclear reactors means it will be three months before the U.S. again produces tritium, a necessary component of nuclear weapons, the Energy Department said.

The sole source of U.S. tritium—the Savannah River production reactors in Aiken, S.C.—has been shut down for safety reasons since August.

Yesterday the department said the startup of just one reactor to partial power will take longer than the six weeks the agency estimated last month.

The shutdown—the first time that production of nuclear weapons material has been suspended for reasons other than international treaties—is only one distressing symptom of the problems confronting the U.S. nuclear-weapons program. Last week, the main plutonium-processing building within the Rocky Flats, Colo., nuclear-weapons plant was shut down after tests showed that two inspectors had been exposed to greater than normal levels of radiation there.

Meanwhile, a congressional committee heard evidence, as expected, that because advance security checks have been routinely neglected, foreign intelligence agents have been given access to the nuclear weapons laboratories.

Foreign visitors are fairly common to nonclassified areas of weapons laboratories to collaborate on research for peaceful uses of nuclear weapons. But the General Accounting Office found that during a 20-month period, the Energy Department had completed security checks on only 57 of 176 communist visitors—and only six of the checks were completed before the visits. Some of the visitors were subsequently found to be foreign intelligence agents, the GAO said.

Even when the checks were completed, security procedures were ignored. Records show, for example, that three top Soviet laser scientists had access to classified areas of Lawrence Livermore National Laboratory, even though they were authorized to visit only unclassified areas, the GAO said.

In another case, an Israeli scientist barred from classified areas gained access to the laboratory's supercomputer through the telephone lines of a worker at whose home he was staying, the GAO said.

Such troubling disclosures aren't likely to end soon, Energy Department officials say. Management of the weapons-material production reactors, some nearly 40 years old, is unlike management of the highly-regulated commercial nuclear plants. Until recently, the contractors running such weapons-material plants, such as Du Pont Co. at Savannah River, were exempt from federal safety and environmental regulations, and were shielded by the secrecy of their work from regulatory oversight. Employees of private contractors that manage the facilities have become cavalier about safety, department officials say.

"I anticipate future problems," said Joseph Salgado, Deputy Secretary of Energy, yesterday. He said that the department is intensifying its oversight of the private contractors that run the facility and that it is introducing uniform operations and safety procedures.

Du Pont, which has managed the Savannah River facility since 1950, when it sprang from the Manhattan Project, defended the plant yesterday. Richard Heckert, chief executive officer of Du Pont, said, "We are getting fed up with outright distortions and lies." Minor accidents occurred, he said. "But more often than not, we were in new territory, and we changed things, and they never happened again."

Du Pont's contract at the facility ends next spring, when Westinghouse Electric Corp. will take over.

The Rocky Flats shutdown resulted from another instance of worker complacency, the Energy Department said yesterday. The plant, managed by Rockwell International Corp., was scheduled to be closed temporarily in November, said Richard Starostecki, head of quality assurance for the department, but that closing was moved up to last week after two inspectors came upon workers who were processing plutonium without having notified others in the plant. The two inspectors weren't exposed to unsafe radiation levels, Mr. Starostecki said.

The Energy Department has said it found pervasive inadequacies in worker protection, fire protection, maintenance and repeated failure by Rockwell to address previous concerns of the agency.

Referring to the agency's concerns, according to the Associated Press, a Rockwell spokeswoman said: "Safety is the highest priority. . . . It's not that [management] is lax, but we can always stand improvement."

The shutdowns, the accidents and the costs involved are especially troubling as the Energy Department prepares to construct two new reactors, including one at the Savannah River complex.

The planned construction will take as long as 10 years and at least $6.8 billion—although one congressional study has estimated that each of 21 Energy Department projects cost an average of five times more than originally estimated. Moreover, dumping of radioactive materials in open lagoons since the 1950s at old sites has spawned environmental nightmares at many of the department's 14 plant and laboratory sites. The GAO has estimated it will cost nearly $180 billion to clean up the sites, more than the government's latest estimate—$152.3 billion—of the fiscal 1988 federal budget deficit.

Given those costs, many watchdog groups are suspicious of plants to build new reactors until current problems are resolved. "Large sums of money should not be committed until the Department of Energy gets its house in order," said Robert Alvarez, project director of the Nuclear Power and Weapons Project division of the Environmental Policy Institute, a Washington lobbying and research firm.

[From the New York Times, Oct. 11, 1988]

SECOND NUCLEAR PLANT IS ORDERED CLOSED BY ENERGY DEPARTMENT

(By Keith Schneider)

WASHINGTON, Oct. 10—Confronting the latest in a series of safety problems at the nation's nuclear weapon plants, the Department of Energy has shut down plutonium processing at the Rocky Flats Plant near Boulder, Colo.

The emergency order on Saturday to halt production at the heart of the operation at the Rocky Flats Plant, because of an accident involving radioactive contamination of employees, marks the second major suspension of nuclear weapon production in as many months, the Energy Department said. Three reactors at the Savannah River Plant in South Carolina have been shut down since August because of severe safety concerns.

PROBLEMS CALLED ENDEMIC

In interviews today, Richard W. Starostecki, the Energy Department's top safety expert, and C. Anson Franklin, the agency's

chief spokesman, said that the severe deficiencies in equipment, employee training, management, and safety that have crippled the Savannah River Plant and the Rocky Flats Plant are endemic within the nation's nuclear weapon industry. Thirteen other major production, waste and research plants in 12 states constitute the nation's nuclear weapon manufacturing system.

Congressional investigators have found evidence, for instance, that intelligence agents from Soviet bloc and other countries have routinely been allowed unsupervised access to nuclear weapon laboratories at Los Alamos and Sandia in New Mexico and Lawrence Livermore in California. [Page A24.]

"The problems are there," said Mr. Starostecki, the Deputy Assistant Secretary of Energy for Safety, Health, and Quality Assurance. "At each facility, clearly there are difficulties. The pattern is repeated. We need to upgrade standards. The problems we're having at Savannah River are typical of the kinds of problems we are having in the system."

BRINGS PRODUCTION TO HALT

The shutdown order at Rocky Flats was prompted by an incident late last month in which an Energy Department inspector and two employees of the Rockwell International Corporation, which manages the plant, were contaminated by plutonium after they unwittingly walked into an unmarked room where maintenance and cleanup work was being performed on plutonium-contaminated equipment, Mr. Starostecki said in an interview today.

Mr. Starostecki said the shutdown of Building 771, where classified work vital to the entire plant's operation is performed, essentially brings to a halt all production at the Rocky Flats plant, which shapes plutonium, a radioactive metal, into components for nuclear weapons.

The Rocky Flats Plant is now the second major weapon production installation to be shut down since August, when Mr. Starostecki and other Energy Department officials ordered engineers at the Savannah River Plant, near Aiken, S.C., to halt their efforts to restart one of three crippled reactors. All three reactors are now shut down at the Savannah River Plant and will remain so, said Mr. Starostecki, until a number of serious problems in how the reactors were being operated, managed, and maintained are solved.

Top deputies to Energy Secretary John S. Herrington met today at the agency's headquarters here to outline a public response to recent disclosures about the poor management and inadequate safety of the vast nuclear weapon production network, which was established by the Manhattan Project in World War II. The Energy Department has scheduled a news conference for Tuesday. Mr. Franklin the Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs, said he did not know if Mr. Herrington would attend the news conference.

"The Department of Energy is very much playing catchup," Mr. Franklin said. "What you're seeing is the result of a better cataloging of the problems under a program started three years ago by this Energy Secretary. There are problems. They are not isolated at the Savannah River Plant or at the Rocky Flats Plant. And we are trying to address those problems as fast as we can."

According to 22 comprehensive studies of safety and conditions at weapon facilities prepared since 1986 by the Energy Department and made available to the New York Times, the department is facing what could be the most expensive and difficult industrial rehabilitation project in history. The studies, known as Technical Safety Appraisals, document a disturbing pattern of inattentiveness to safety, an inability to conduct maintenance on equipment in an organized and timely manner, breakdowns in the ability of plant managers to organize activities and to direct employees, inadequacies in the operation of emergency safety systems, deficiencies in employee training, and repeated violations of the Energy Department's own code of operations. These have overtaken most of the plants and laboratories in the nuclear weapon production system, the studies show.

Last month Mr. Starostecki, in a memorandum analyzing safety problems at a reactor at the Savannah River Plant, suggested that laxity at the nation's largest nuclear plant could lead to disaster. He cited the underlying failure to address safety concerns at the reactor as "an institutional problem and attitudes toward safety."

"There are currently some senior managers with the Department with an attitude toward production reactor safety, which on the face seems to be similar to that which existed in the space program prior to the Challenger accident," Mr. Starostecki stated in the memorandum to his superiors, dated Sept. 16.

Indeed, the conclusions of the Energy Department reports are strikingly similar to the findings of the Report of the Presidential Commission on the Space Shuttle Challenger Accident, which was directed by former Secretary of State William P. Rogers and completed in 1986. That report concluded that the flaw in a booster rocket that caused the Challenger to explode on Jan. 28, 1986, killing all seven astronauts on board, was rooted in a long history of management shortcomings and inattention to the escalating risk of a failure of the shuttle's rockets.

Energy Department inspectors have identified these problems at the nation's nuclear weapon plants since 1986:

At the Purex Reprocessing Facility, managed by the Westinghouse Electric Corporation, a 1,000 foot-long plutonium processing building at the Hanford Reservation in eastern Washington, 18 of 80 operations that were reviewed in March of 1988 constituted "Level I hazards." Such hazards have a "significant probability of causing a severe injury or fatality, potentially life threatening occupational illness, or loss of the facility."

Among the Level I hazards was a failure to adequately monitor radioactive contamination of employees. The Energy Department said that employees have been tracking home radioactive particles because monitors were not working properly and because the employees and management were ignoring the readings. The latest incident at Hanford occurred in March, when the clothing of two crane operators was contaminated with small amounts of radioactive materials. The contamination was discovered the next morning when one of the operators reported back to work and set off a radiation alarm.

At the Feed Materials Production Facility, which processes uranium for nuclear weapons in Fernald, Ohio, workers are regularly exposed to potentially dangerous levels of radiation. In an inspection last March, the Energy Department found that while Westinghouse, which also manages this plant, had made improvements in radiation safety, the program was still inadequate.

"The appraisal has identified pervasive management conditions which may have contributed to the identified deficiencies," the report, issued in April 1988, concluded. "These conditions include inadequate resources, ill-defined programmatic performance goals in management motivation, and a need for more management involvement in monitoring, assessing, and promoting safety and requiring procedural adherence at all levels of the organization."

At Idaho National Engineering Laboratory near Idaho Falls, also managed by Westinghouse, the Energy Department inspectors found numerous violations of procedures and safety codes at a uranium chemical processing facility. The inspection at the Idaho Chemical Processing Plant, a 35-year-old facility, occurred in July 1987. The inspectors found radiation alarms were not working properly, radiation monitors were not calibrated correctly, workers were being exposed to "significant" low levels of radiation, maintenance on the old equipment was not being properly scheduled, and there was a potential for nuclear accidents to occur. The plant had already experienced at least two instances of "criticality" accidents in the 1970's, the inspectors said.

Westinghouse, which has been selected to take over the management of the Savannah River Plant on April 1, today defended its record of management of Energy Department plants. The company will be paid $2.4 billion annually by the Energy Department for managing seven facilities.

"When the Department of Energy selected us as the contractor at the Savannah River Plant, they cited our unsurpassed depth and breadth of experience in the nuclear industry," said Robert Henderson, a spokesman for Westinghouse in Pittsburgh. "They also cited Westinghouse's corporate commitment to safety in the nuclear industry."

The Rocky Flats Plant has been inspected three times since 1986, and the most recent report by the Energy Department found pervasive inadequacies in worker protection, fire protection, maintenance, and the repeated failure of Rockwell International to address the department's previous concerns. Building 771, the primary plutonium processing plant, was inspected in the fall of 1986. Building 774 was inspected earlier this year.

Both buildings along with two others, were found to have serious safety deficiencies, particularly in fire supression equipment and fire control systems. Rocky Flats has been the site of dozens of fires since its opening in 1952, including a fire in May 1969 that caused $45 million damage and was one of the worst industrial fires in the nation's history, according to the Energy Department.

A report completed in March by Energy Department inspectors, said many areas of the Rocky Flats Plant are in violation of such fire protection rules as alarms that don't function properly, a fire truck that frequently does not work, inadequate fire walls and some exit routes for employees are blocked or poorly marked.

[From the New York Times, Oct. 4, 1988]

ENERGY DEPARTMENT SAYS IT KEPT SECRET MISHAPS AT NUCLEAR WEAPON PLANT

(By Keith Schneider)

WASHINGTON, Oct. 4.—The Department of Energy said today that it was responsible, along with its predecessor, the Atomic Energy Commission, for keeping secret from the public a number of serious reactor accidents that occurred over a 28-year period at

the Savannah River Plant in South Carolina.

The Energy Department exonerated E.I. du Pont Nemours & Company, the operator of the enormous nuclear plant, from responsibility, saying the company had fulfilled its obligation to notify the Government about the incidents. The department spokesman, C. Anson Franklin, said Du Pont had notified the regional office in Aiken, S.C., near where the plant is situated, but the information apparently never made its way to the Secretary of Energy or his deputies in Washington.

PROBLEMS ARE DEEPLY ROOTED

Moreover, a memorandum written in 1985 by a Du Pont scientist to his superiors summarizing 30 "reactor incidents of greatest significance" at the Federal nuclear weapon plant, which included the melting of fuel and extensive radioactive contamination, was never acted on. The Energy Department said it was seeking to determine why nothing was done about the memorandum.

The Energy Department said the failure to disclose the problems illustrated a deeply rooted institutional practice, dating from the days of the Manhattan Project in 1942, which regarded outside disclosure of any incident at a nuclear weapons production plant as harmful to national security.

Lawmakers and top managers at the Energy Department said today that the agency was torn by conflicting views of what sorts of events at the plant should be made available to the public. The conflict is dividing Secretary of Energy John S. Herrington, an advocate of more stringent safety procedures and public candor, and many of the agency's managers stationed at field offices near the 17 laboratories and production facilities that make up the weapon production complex.

"I have no reason to doubt Du Pont's statements that they provided information on these incidents to the Department of Energy and our predecessor agencies," said Mr. Franklin, Assistant Secretary for Congressional, Intergovernmental, and Public Affairs. "I don't think it's fair or accurate to suggest that they kept these incidents secret from the Energy Department."

Mr. Franklin was responding to disclosures made in a Congressional hearing last Friday that numerous reactor accidents had occurred at the industrial complex in South Carolina from 1957 to 1985 and had not been brought to the attention of the public. The accidents, which included the melting of fuel, extensive radioactive contamination, and significant leaks of reactor core cooling water, were summarized in a memorandum written in August 1985 by a scientist to his superiors at Du Pont.

Du Pont, which built the 192.323-acre plant and has operated it for the Government since 1952, said yesterday that it had described the accidents in technical reports on the plant's operations that it sends each month to the regional field office in Aiken.

"We're the contractor here," said Clif Webb a spokeman for Du Pont. "We operate the facility because we have been asked to operate it. We do what they ask us to do. It's not appropriate for Du Pont to tell the Energy Department how to manage its internal documents."

GLENN URGES END TO SECRECY

Senator John Glenn, a Democrat of Ohio, said that the Energy Department needs to work harder to the secrecy that has dominated the weapon production plants since the start of the Manhattan Project, the supersecret Government project to develop and build the atomic bomb.

In another accident in November 1970, a radioactive rod that was a source of neutrons to start the atomic chain reaction in one reactor melted. A processing room adjacent to reactor where cooling water was filtered was thoroughly contaminated with radiation. It took 900 people three months to clean up the contaminaton.

And in December 1970, a fuel assembly melted in another reactor, Melted fuel is considered among the worst accidents that can occur in a nuclear reactor: it can lead to the meltdown of the reactor core and releases of large amounts of radiation into the environment.

Mr. Anson said it has not been determined why the memorandum that summarized the accidents was not made available to officials in Washington.

"This report was somewhere in the D.O.E. system," said Mr. Franklin. "It did not pop up to senior management. Why? We don't know. We're trying to find out. This is the type of thing that has been happening that we are trying to address. Things are not getting kicked up far enough in the system.

Mr. Franklin said that Mr. Herrington has sought to eliminate much of the secrecy since becoming Energy Secretary in February, 1982. Mr. Herrington, said Mr. Franklin, appointed an Assistant Secretary for Environmental Health and Safety to address concern about the enormous quantities of toxic and radioactive wastes that have accumulated at such laboratories and weapon production plants as Savannah River.

Mr. Herrington also established a new office to inspect safety and health conditions at the defense nuclear plants. An inspector in the office, Jerry Hulman, directed the investigation last August of another reactor incident at the Savannah River that led to the discovery of the memorandum.

Mr. Franklin said the Energy Department has complete control over whether to disclose information about accidents to the public. He said a written policy instituted when the Energy Department was established in 1978 calls for the agency to fully disclose any accident involving the release of radiation into the environment. He said that Mr. Herrington has urged agency officials in Washington and in the field offices to be more forthcoming about other incidents, particularly those as serious as the accidents that occurred at the Savannah River Plant.

"It's accepted around here that this entire program was directed out of the secrecy of the Manhattan Project," said Mr. Franklin. "The recognition that there is a responsibility for more public accountability is coming belatedly to the Department of Energy.

"We've had a major turnaround up here," Mr. Franklin continued. "Our heart is in the right place. But we're having trouble getting the message out to the field. Translating the policies developed by the Secretary into action all the way down the system is taking longer than we would like. It continues to be our biggest problem.

Representative Mike Synar, Democrat of Oklahoma who is chairman of the House Government Operations Subcommittee on Environment Energy Department damaging its image on Capitol Hill and in states in which it operates weapon plants by not acting faster to be more forthcoming about safety mishaps.

"Our hearing clearly showed for over 30 years these accidents were due to unsafe conditions and bad attitudes about safety on the part of the Government and Du Pont," Mr. Synar said. "Until this is corrected, none of these reactors should be restarted. It takes a serious investigation like this to get the Energy Department to recognize decades old problems. And we've seen this pattern time and again over the last eight years. They have a serious attitude problem with respect to the management of these plants and with respect to safety."

[From the New York Times, Oct. 1, 1988]

ACCIDENTS AT A U.S. NUCLEAR PLANT WERE KEPT SECRET UP TO 31 YEARS

(By Keith Schneider)

WASHINGTON, September 30.—The Savannah River Plant in South Carolina, an enormous Government complex that produces fuel for the nation's nuclear weapons, has experienced numerous reactor accidents that have been kept secret from the public for as long as 31 years, two Congressional committees disclosed today.

The Energy Department responded to the disclosure by saying it had been unaware of the accidents, which occurred at all five of Savannah River's reactors, until inspectors began investigating a still unexplained power surge at one of them last August.

It is unclear whether the department's predecessor agency, the Atomic Energy Commission, knew of the accidents, which included the melting of fuel and one episode that resulted in extensive radioactive contamination.

NO COMMENT BY DU PONT

"It wasn't known by headquarters safety people," said Will Callicott, a spokesman for the department. The operator of the plant, the Delaware-based E.I. du Pont de Nemours & Company, had no comment when asked whether it had notified anyone in the Government of the accidents or the existence of a memorandum, obtained by the Congressional committees, that brought them to light.

Physicists interviewed today called the accidents among the most severe ever documented at an American nuclear plant. The 19-page memorandum, written by a plant supervisor to his superiors at Du Pont, did not say whether there had been any injuries or how many workers might have been exposed to dangerous levels of radiation. But nuclear experts said some of the accidents could have threatened public health or, had they gone uncontrolled, even destroyed the reactors, creating a disaster.

The incident in August and the memo raise anew questions about the willingness of the Energy Department to correct longstanding managerial and structural problems at the aging plant, which, with the shutdown of a production reactor in Hanford, Wash., two years ago, is now the nation's only source of plutonium and tritium, the two key radioactive elements used to manufacture nuclear warheads. Last year a panel of investigators from the National Academy of Sciences criticized the Energy Department for failing to apply or even clearly specify safety requirements at Hanford and Savannah River.

SELF-REGULATING PLANTS

Hanford and Savannah River, near Aiken, S.C., operated for years in secret and were essentially self-regulated. While the Government maintained regional offices at each plant, it left to the operators the responsibility for maintaining safe operations. Last year the Energy Department began an on-

site inspection program in an effort to improve operations.

By contrast, the Nuclear Regulatory Commission has long imposed stringent regulations on operations at civilian nuclear reactors.

The memo, and several more recent ones written by Energy Department inspectors, describe a striking complacency at the Savannah River Plant. They were made public today at a joint hearing of the Senate Committee on Governmental Affairs and the House Government Operations Subcommittee on Environment, Energy and Natural Resources. Both committees have been investigating conditions in the Energy Department's nuclear weapons production program.

SYNAR ASSAILS AGENCY

"This hearing is about an institution and attitudes which are driving our nation's nuclear weapons program to the brink of disaster," said Representative Mike Synar, the Oklahoma Democrat who heads the Government Operations Subcommittee." What we have here is an admission that that plant had been out of control for over 30 years."

The Energy Department said it could not disagree. "There's still a lot of upgrading that needs to be done," said Bill Kaspar, the department's manager of operations in Aiken.

The memorandum describing the accidents that came to light today was written on Aug. 14, 1985, by G.C. Ridgely, a technical supervisor and physicist employed by Du Pont. Mr. Ridgely was one of 11 Du Pont scientists and engineers who, apparently in response to one such accident at Savannah River, looked at the history of the plant and ranked 30 "incidents of greatest significance" that occurred at the five reactors from 1957 to 1985. His memorandum summarizes each incident.

Jerry Hulman, a safety specialist with the Energy Department, said in testimony before the Congressional committees today that the department had the Du Pont team's full reports on some of the accidents but that other reports could not be found. He suggested that these "may have been destroyed" at Savannah River. Du Pont again declined comment.

Among the accidents summarized in the memorandum were these:

A melting of fuel rods in the C Reactor in December 1970. The accident occurred during an attempt by technicians to start the chain reaction inside the reactor. The reactor, however, automatically shutdown because the flow of cooling water was too low and the reactor was overheating. But instead of investigating the cause of the shutdown, the operators tried three more times, without success, to start the reactor. The heat generated during the attempts melted the fuel assembly.

Nuclear engineers said in interviews today that the melting of fuel was a serious accident that could lead to meltdowns of the reactor core, a scenario that occurred in the 1979 accident at the Three Mile Island generating station in Pennsylvania.

An accident in November 1970 that released huge amounts of radiation in a room, adjacent to the K Reactor, where cooling water is filtered. Nine hundred workers spent three months in a highly contaminated environment cleaning up the radiation, the memo says. This accident was caused by the melting of a vital reactor component known as a source rod. The rod, made of a mixture of antimony and beryllium, is a source of neutrons to start the nuclear chain reaction. The memo does not say why the rod melted but does indicate that the accident was made more severe by technicians' ignoring a radiation alarm for two hours.

During full power operation of the C Reactor on May 10, 1965, a "very significant leak" developed that spilled 2,100 gallons of cooling water on the reactor vessel floor. The level of cooling water within the reactor fell precipitously but the reactor automatically shut itself down said the memo. Cooling water is vital to regulating the temperature of reactor components and preventing meltdown. The memo said personnel were not aware of the leak until they saw it spill onto the floor of a room adjacent to the reactor. Again, said the memo, an alarm was disregarded for 15 minutes, and "operating personnel failed to take proper corrective action until reactor technology personnel reminded them to do so."

The most severe accident occurred on January 12, 1960, when technicians were attempting to restart the L Reactor after it had shut down automatically. By pulling safety rods and control rods, technicians were able to achieve a chain reaction that very nearly went out of control, said nuclear experts today. The reactor increased its power ten times faster than was considered safe. The memo does not say how technicians gained control over the reaction, but said "numerous procedure violations were made."

The events that led up to the 1960 accident appear similar to those that occurred last August at the plant when technicians tried to start the P Reactor after it had been out of service for four months. Reactions are regulated by control rods that absorb atomic particles known as neutrons. Pulling the rods from the reactor core allows neutrons from atoms of uranium to bombard other uranium atoms knocking free more neutrons. The reaction multiplies until an atomic chain reaction is achieved.

The procedure for pulling control rods from a reactor core is normally performed under rigorously controlled conditions. Calculations are made to estimate how many rods should be manipulated and how far they should be pulled. Failing to perform the activity carefully can result in a runaway reaction and in the worst case a dangerous core meltdown.

[From Newsweek Magazine, Oct. 17, 1988]

NUCLEAR FINGER-POINTING—

DU PONT VS. ENERGY DEPARTMENT

The power surge in P reactor began on Aug. 10, three days after operators at the U.S. Department of Energy's Savannah River Plant first tried to start the nuclear reaction. P reactor, which produces plutonium and tritium for use in nuclear weapons, was balky, despite attempts to manipulate its control rods, the aging atomic pile had stubbornly refused to produce a sustained chain reaction. Control-rod problems are commonplace at Savannah River, and so are balky start-ups. So when P reactor suddenly began to produce an unexpected and unexplained neutron flux, the operators just kept operating. When the control-room staff was debriefed by Energy Department officials, they had no idea what caused the mysterious event—and what was worse, one investigator later wrote in capital letters. "THEY DIDN'T CARE!" At that point, DOE officials ordered a complete shutdown, and P reactor hasn't been started since.

The August incident was neither the first nor the worst at the sprawling Savannah River Plant, a top-secret government weapons facility near Aiken, S.C., that is operated on a longstanding contract by E.I. du Pont de Nemours. Congressional investigators say that potentially serious reactor incidents have been occuring at the plant for years—though nearly all, to judge by the still unfolding investigative record, were kept secret by the Department of Energy. Stung by charges that critical safety reports written by its own engineers had been buried in the files and forgotten. Du Pont last week insisted that it had kept the Department of Energy fully informed about the Savannah River Plant's many problems. "We're the contractor here," said company spokesman Clifton Webb. "We do what they ask us to do. It's not appropriate for Du Pont to tell the Energy Department how to manage its internal documents." The company had already announced that it would not renew its operating agreement with the Energy Department when the current contract expires in 1989. Westinghouse Corp. will take over.

Complete halt: The Savannah River Plant is a telling example of the pitfalls of public-private enterprise. Du Pont has been a prime contractor on the U.S. nuclear-weapons program since the earliest days of the World War II Manhattan Project, and it serves the government on a cost-only basis. But the weapons plants—particularly the two huge plutonium-production facilities at Savannah River and Hanford, Wash.—are obsolescent and plagued by environmental and safety problems. Hanford's N reactor has been shut down, probably for good; the C, L and P reactors at Savannah River are shut down at least temporarily. As a result, U.S. plutonium and tritium production has come to a complete, though presumably temporary halt. (Experts say plutonium is still in plentiful supply. Tritium, which decays more quickly, may yet become a critical need.

None of these government reactors is shielded by a containment dome, as all commercial power reactors must be, and the Department of Energy is not regulated by the Nuclear Regulatory Commission. Now, after Three Mile Island and Chernobyl, the department is belatedly trying to raise its safety standards to those of private industry. But reforming the weapons program is likely to be a long and costly (up to $130 billion) struggle.

Item one in a long list of slip-ups and miscommunications between Du Pont and the Energy Department is the question of where G.C. Ridgely's safety report went astray. Ridgely, a Du Pont physicist, was one of 11 company supervisors who went to Savannah River in 1985 to review the plant's history of operating problems. He summarized 30 "incidents of greatest significance" dating back to 1957, including one incident in which a fuel-rod assembly melted in C reactor in December 1970. DOE officials insist their reactors are far less vulnerable to meltdowns than commercial reactors, partly because the government reactors operate at lower temperatures and pressures. Still, no nuclear expert regards even a partial meltdown as a minor event, and most agree that a large-scale meltdown at Savannah River could spread radioactive contamination over wide areas of South Carolina.

Former top government officials told The New York Times they had never been told of C reactor's fuel-rod melt-down when it happened. G.C. Ridgely's report, written 15

years after the event, also seems to have been lost. The Energy Department said Ridgely's report may have been short-stopped at the department's Savannah River office. Last week, however, a spokesman confirmed that some officials at DOE headquarters were aware of some but not all of the incidents. Who covered up the plant's problems, and why, is a question that may roil the bureaucracy for months.

The more urgent problem is to prod DOE to clean up its act. Energy Secretary John Herrington is pushing safety-consciousness by hiring additional safety experts, many from the Nuclear Regulatory Commission. Congress, which has historically been reluctant to get tough with the weapons program on national-security grounds, must appropriate the money to make the department's nuclear program safer. The House and Senate are ready to create a special oversight board to supervise reactor operations and ensure that new reactors are built from safer designs. But environmental cleanup is still a major problem, and safety experts are highly critical of the training of the department staff and plant operators. "Let's not kid ourselves, we're going to have more incidents," says Richard Starostecki, DOE's top safety official. "The real issue is training our people to cope with them so that they can probably handle them." The operative word, sad to say, is "probably."

[From Time magazine, Oct. 17, 1988]

BIG TROUBLE AT SAVANNAH RIVER

(By Dick Thompson)

The revelations were enough to curl the hair on the neck of the most seasoned nuclear engineer. Last April a reactor at the Federal Government's sprawling Savannah River Plant near Aiken, S.C., was shut down to upgrade safety systems—with partially irradiated tritium still in its core. In August technicians, oblivious to the decaying radioactive material inside, tried to restart the reactor but were unable to keep it going. The next day they tried again. Ignoring procedure, they set off an abnormal jump in nuclear fissions usually a sign of imminent trouble. Workers ignored the warning, forcing plant officials to intervene to shut down the reactor.

For decades, such incidents have been alarmingly frequent at the aging facility, which manufactures materials for nuclear bombs. Moreover, officials at the Department of Energy which oversees the plant, conceded last week that dozens of such near accidents and nuclear mishaps have gone largely unreported for more than 30 years. Admitted DOE safety chief Richard Starostecki: "If this had been a civilian plant, it would have been shut down."

Ever since it went on line in 1953, the Savannah River facility has operated behind a barrier of secrecy so impenetrable that officials in Washington were often in the dark. In recent months Government investigators have begun to turn up internal memos that are shattering the silence. The result: a congressional hearing that revealed a stunning list of nuclear incidents caused by a combination of primitive instrumentation, inadequately trained personnel and a management meltdown by both DOE and E.I. du Pont de Nemours, which runs the plant for the Federal Government. The impact on the environment is not yet fully known, but thousands of gallons of radioactive material have already leaked into the groundwater. The contamination, says a 1985 Du Pont memor, may exist "centuries or millennia into the future."

The pivotal facility is projected to consume 19% of the $8.1 billion DOE budget for weapons production next year. Some 17,900 people work on its 192,323-acre site, even though two of Savannah River's five reactors are shut down permanently, and the others are not allowed to run at full power in part because of deficiencies in their emergency cooling systems. Still, the plant is the sole supplier of plutonium and tritium, the flint and steel of nuclear warheads. While the nation probably has all the plutonium it needs, tritium, which enhances plutonium's yield, has a half-life of twelve years and must be continuously produced to maintain the nation's nuclear stockpile.

Shortly after his appointment in 1985, Secretary of Energy John Herrington established an internal DOE team, known as the "junkyard dogs," to look into safety problems at federal nuclear facilities. After the Soviet Union's Chernobyl disaster in 1986, Herrington turned to the National Academy of Sciences to assess the situation in South Carolina. An academy panel concluded last year that DOE was torn by the "conflicting responsibilities" of meeting production quotas while maintaining safety. Operation of the facilities, it said, had been left in the hands of "largely self-regulated contractors," while safety oversight was "ingrown and largely outside the scrutiny of the public."

Those conclusions were confirmed this year when congressional investigators began questioning Savannah River personnel about local press reports alleging that reactors had gone "out of control" during start-up operations. While the investigators found no evidence of disastrous accidents and only occasional danger to plant workers or the public, they were stunned by the management inadequacies. Among the most damaging evidence: a memo by Du Pont plant supervisor G.C. Ridgely that listed 30 "reactor incidents of greatest significance" between 1957 and 1985.

Another memo, prepared by Du Pont engineer Frederick Christensen when he retired in 1981, noted that one mishap in 1965 could have turned into a catastrophe when a foreman wanted to stop a coolant leak by closing off the flow of water to the reactor. The foreman was stopped by a senior supervisor who realized that the action would result in a steam buildup and a possible explosion in the reactor. Wrote Christensen: "One trained man stood between us and disaster."

Du Pont, for its part, is calling it quits at Savannah River. Early next year the company will turn over management of the facility to Westinghouse Electric. There will be plenty of work for the new operators. For starters, DOE wants to build a new reactor to make tritium. Also, Westinghouse will inherit 34 million gallons of highly radioactive liquid waste now kept in 51 aging storage tanks, which environmentalists fear may leak. "Making bombs is a dirty business," says South Carolina environmentalist Frances Close Hart. "People don't really know how to clean this stuff up." That job, according to DOE estimates, may cost as much as $1 billion over at least two decades.

Mr. EVANS. Mr. President, I yield the floor.

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. MOYNIHAN. Mr. President, I request that further proceedings under the call of the quorum be dispensed with.

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

The PRESIDING OFFICER (Mr. ADAMS). The Senator from New York.

(The remarks of Mr. MOYNIHAN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ADAMS). The minority leader is recognized.

BICENTENNIAL MINUTE

Mr. DOLE. Mr. President, from time to time I have been focusing on what I refer to as a bicentennial minute. Today, I will speak about Representative CLAUDE PEPPER, who played an important role in rescuing Social Security, as the Senator from New York [Mr. MOYNIHAN] knows.

NOVEMBER 4, 1936: CLAUDE PEPPER BECOMES A SENATOR

Mr. President, nearly 52 years ago, on November 4, 1936, CLAUDE PEPPER took his oath as a U.S. Senator. Born on an Alabama farm in 1900, he moved to Florida after graduating from Harvard Law School. As a young boy he once got into difficulty when he carved on the back of a closet door the statement that "one day CLAUDE PEPPER will be a U.S. Senator." From that time until this, he has been known as "Senator PEPPER." He fulfilled that dream in 1936 by being elected to serve the remaining 2 years of an unexpired Senate term.

CLAUDE PEPPER emerged as the Senate's most outspoken supporter of President Franklin Roosevelt. In his 1938 primary campaign for election to a full term, he vigorously supported the President's minimum wage bill, which had been bottled up in Congress because it was considered unpopular in the South. His impressive victory demonstrated to the Nation the strength of the new deal in the South, and sparked passage of the Fair Labor Standards Act. CLAUDE PEPPER remained in the Senate until 1951. In 1960 he was elected to the House of Representatives, where he serves today with great distinction.

In 1939, on the occasion of the Senate's 150th anniversary, CLAUDE PEPPER penned the following classic description of the Senate's constitutional role:

The varied and extraordinary functions and powers of the Senate make it, according to one's point of view, a hydraheaded monster or the citadel of constitutional and democractic liberties. Like democracy itself, the Senate is inefficient, unwieldy, inconsistent; it has its foibles, its vanities, its members who are great, the near great, and those who think they are great. But like de-

mocracy also, it is strong, it is sound at the core, it has survived many changes, it has saved the country many catastrophies, it is a safeguard against any form of tyranny, good or bad, which consciously or unconsciously might tend to remove the course of Government from persistent public scrutiny. In the last analysis, it is probably the price we in America have to pay for liberty.

TRIBUTE TO SENATOR PROXMIRE

Mr. CONRAD. Mr. President, with the conclusion of the 100th Congress, the Senate will see the departure of a number of distinguished leaders—people who have worked to make the Senate more accountable and more attuned to the American public. Among them is Senator WILLIAM PROXMIRE.

Senator PROXMIRE has been part of a long Wisconsin tradition of high standards and devotion to public service. He is one in a long line of strong, progressive-minded Wisconsin leaders like Bob LaFollette, Sr., Bob LaFollette, Jr., and Gaylord Nelson, just to name a few.

When BILL PROXMIRE won the seat of the late Senator Joe McCarthy, he emerged immediately as a fiercely independent legislator. He did not hesitate to take on his senior colleagues or their sacred cows when he thought it necessary.

In my lifetime, I have met few people with such absolute integrity as BILL PROXMIRE. He is beholden to no one. He has the courage of his convictions and calls things as he sees them, no matter what his colleagues might think. Nobody questions his honesty. He has never embarrassed the institution. To the contrary, he has held us all to the highest of standards—expecting the utmost from himself and from his colleagues.

Senator PROXMIRE has longstanding interests in economic affairs, and few in the Senate can match the breadth of his knowledge about the economy. Not only has he been an ardent opponent of Reaganomics, but he understands why it should be opposed, and how the administration's policies are damaging our future. Through his assignment to the Joint Economic Committee, which he chaired during the 90th and 92d Congresses, he provided Congress with lucid interpretations of economic events, and much valuable insight on the economy's performance. And as chairman of the Senate Banking Committee from 1975 to 1980 and during the 100th Congress, he has exerted substantial influence over measures dealing with such areas as financial institution reform, and the loan guarantee measures which rescued Chrysler and New York City from bankruptcy.

Only last year, BILL PROXMIRE crafted and piloted through the Senate the Competitive Equality Banking Act to provide emergency assistance for the struggling FSLIC.

BILL PROXMIRE has consistently been on the side of the little guy. He was the father of truth in lending. He fought against red lining in housing. He relentlessly fought for civil rights.

One area in particular highlights the energy and persistence of BILL PROXMIRE—his passion for human rights. His more than 3,000 speeches urging ratification of the international genocide convention are a testament to his compassion. He spoke on this issue nearly every day the Senate was in session for 20 years, until he finally won the fight only 2 years ago. Without him, that treaty might never have been ratified.

And of course, BILL PROXMIRE has always fought vigorously against Government waste. Whether it was in the Pentagon, EPA, OMB, the Department of Education, the FAA, the Social Security Administration, the Congress, or any other area of the Federal Govenment, nothing was off limits to BILL PROXMIRE.

He took on the Nixon administration, the aerospace industry, and such powerful Senate colleagues as Scoop Jackson and Warren Magnuson in his 1971 move to kill the supersonic transport plane.

In 1969, the uncovering by his subcommittee of the massive $2 billion cost overrun in production of the C-5A jumbo cargo plane, led to accountng reforms that now help the Federal Government better estimate the costs of its defense programs.

And, of course, his Golden Fleece Awards, which have focused national attention on "the biggest or most ridiculous or most ironic example of Government waste," are now legendary.

The kind of staunch independence and integrity BILL PROXMIRE demonstrates is rare. As he leaves the U.S. Senate he carries with him a distinguished record of service to the State of Wisconsin and to this country. The Senator from Wisconsin will be sorely missed, but he has left his mark. And the Senate is a better place for him having been here.

I know the current occupant of the chair will join me in wishing BILL PROXMIRE a fond farewell.

I suspect that we will be hearing from BILL PROXMIRE again in the future, because BILL PROXMIRE is not one to sit silently by while policies are made with which he disagrees.

So, Mr. President, I just want to say that BILL PROXMIRE has been a gentleman. BILL PROXMIRE has been one of those colleagues who has gone out of his way to assist me in my first term in the U.S. Senate, and I will miss him dearly.

With that, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I might just add a remark on the end of the comments of the distinguished Senator from North Dakota.

I not only share those strong feelings of BILL PROXMIRE, but I am very proud to say that he and I are related. We call each other cousin. In fact, he has a son whose middle name is Rockefeller.

UNIFIED EUROPEAN MARKET

Mr. ROCKEFELLER. Mr. President, two Sundays ago, a former distinguished colleague of ours, and, more to the point for me, my father-in-law, Senator Charles Percy, coauthored, with Douglas McMinn, an article in the New York Times on the challenges that America will face in 1992 with the unified European market. Senator Percy points out that American business has been slow to recognize these challenges, although, fortunately, our industry is now rapidly becoming aware that "Europe 1992" as they call it, which will be a single, internal market with 320 million people, represents a profound change in the way the world will do business. Finally, he provides trenchant advice about the actions American companies should take.

One critically important suggestion that former Senator Percy makes is that "non-European companies must enlist their governments' help at the highest levels". I submit, Mr. President, that this should be a rule for dealing not only with the new prospect of Europe 1992 but it must, in fact, be our standard operating procedure all across the board, and, certainly, with the Pacific rim countries as well. The era when our Government could tell businessmen that they are on their own internationally should have ended long ago. We desperately need a cooperative partnership between government and business in this country, not an adversarial relationship.

Unfortunately, though, there are still far too many people at the highest levels of our Government who are wedded to an outmoded philosophy of laissez faire. They define cooperation between government and business as "industrial policy", or "picking winners and losers", or perhaps "interference in the marketplace". They are simply wrong, and for the purposes of international trade, dangerously wrong. Cooperation between government and business should be defined as "nurturing", or "providing an environment where government can help business when problems arise", or "aggressive efforts by government to assure our exporters open markets around the world". These are the prin-

ciples underlying the trade bill that we passed into law this year, and they are a sine qua non to assure economic growth and prosperity in this country. We have given the executive branch, in the trade bill, many tools, and it is vital that they be used properly. There is strength in the trade bill. It is not just symbolic, but is there to be used in our national interest in Europe, in Japan, in the Asian NIC's, and in the developing world.

Mr. President, I hope that business and government will both follow Senator Percy's suggestions because I think they are precisely on target. I, for one, appreciate his advice and will do all I can to see that it becomes a reality.

I ask unanimous consent that this article of Senator Percy's entitled "How Companies Can Keep Europe Open" be printed in the RECORD.

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

[From the New York Times, Oct. 9, 1988]

HOW COMPANIES CAN KEEP EUROPE OPEN

(By Charles H. Percy and Douglas W. McMinn)

After a decade as the center of global trade attention, Japan has suddenly taken a back seat to the 12-nation European Community. As realization of a true European common market approaches, "Europe 1992" has become the new buzz phrase in Washington and other trade capitals.

Like their counterparts outside of Europe, American policy makers and corporate executives are scrambling to understand the process by which the community and its member governments will by 1992 eliminate internal barriers to trade, services, labor and capital flows. With a third of the directives for implementation already issued, European economic integration is rapidly taking form.

The 1992 stakes are enormous. A unified European market of more than 320 million consumers with $4 trillion of purchasing power will be the largest in the world. Non-Europeans are clearly worried that Commission directives issued during the runup to 1992 could result in a protectionist "Fortress Europe." But a second serious worry is that corporate Europe will emerge significantly strengthened from the integration process, better able to compete not only in Europe but around the globe.

Ranking American trade officials have recently fired well-publicized shots across the community's bow, warning that Europe's potential gains in 1992 must not come at the expense of American companies. But while American officials and their non-European government colleagues appear poised to tackle tough issues surrounding the community's integration, are their private sector constituencies doing enough to prepare for 1992?

Although some foreign companies have done their homework for 1992, many are just now grappling with the corporate challenges that economic integration poses. Of all the foreign competitors in Europe, American companies are probably least ready for 1992. One recent survey indicated that only about 36 percent of American business leaders were even aware of the community's economic integration plans.

But as Europe's economic integration has taken off this summer as the major international trade issue, so too has American corporate interest in and planning for 1992. Many American business leaders now grasp both the basic opportunities and dangers of the integration process. Most important, they understand that Commission directives promulgated over the next three years will shape their competitive position in Europe and in other markets.

Because the most important and controversial community rulings on 1992 have yet to be issued, non-Europeans still have time to influence the new look Europe will take. Just as European companies are working overtime to mold community directives in directions that enhance their competitiveness, non-European companies need to do likewise.

To contribute in a positive way to the 1992 process, non-community companies need to take action in three areas:

First, they must step up their strategic planning in Europe. They must determine how rulings could affect existing operations in the European, home, and third markets. Under an ideal scenario, Europe 1992 will expand market opportunities while operating costs fall; under a worst-case scenario, discriminatory barriers will be erected, reducing profitability and new commercial opportunities.

Second, business leaders outside Europe must recognize that there is strength in numbers. For maximum effectiveness, they must band together in coalitions to pursue a common European strategy.

Third, non-European companies must enlist their governments' help at the highest levels. Given the vigor with which community officials have historically pressed the bloc's interests, it is imperative for non-European multinationals to forge an alliance with their home governments. Corporations must communicate clear positions and priorities to their trade officials with access to the Commission. In turn, non-European governments need to work together to engage the community and member governments in a constructive policy dialogue. The earlier corporations and their governments plug into the directive process, the less acrimonious will be the disputes that surface after the 1992 framework is in place.

The last time the international spotlight was so prominently fixed on Europe was in 1974, when Secretary of State Henry A. Kissinger declared it "the year of Europe." After a 14-year false start, Europe has arrived at center stage. The role that the United States, Japan and other non-Europeans will carve out in "Europe 1992" is now the dominant international trade question.

Mr. ROCKEFELLER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New York.

OUR DRUG CULTURE

Mr. D'AMATO. Mr. President, last night, two New York City police officers were shot and killed. These are just the latest examples of what drugs and drug-related crime have done to our society.

Undercover Police Officer Christopher Hoban—26 years old—was shot in the chest and killed last night while attempting to buy drugs from three drug pushers so he could arrest them during an undercover operation. One of the dealers suspected that Hoban might be an officer and started shooting. Young Chris Hoban was dead by the time he arrived at the hospital.

Later last night, 24-year-old Officer Michael Buczek was on duty in a drug infested area of Upper Manhattan. He responded to a call from a woman who had trouble breathing. When the officer and his partner arrived, the woman refused treatment.

As Officer Buczek and his partner were leaving the building they spotted two suspicious men. As they approached the men, they were fired upon, with semiautomatic weapons. Young Mike Buczek died shortly thereafter at Columbia-Prebyterian Hospital.

Mr. President, these are just the latest examples of how serious our drug epidemic has become. One has to ask the question: How many more officers must die? How many more children must fall prey to drugs? How many more addicts must there be before this Nation truly galvanizes and develops a real effort to deal with this epidemic?

Mr. President, I say to the familes of these two fallen heroes that we grieve for them. We grieve too often, too many times, and too many places in this country. Too many of our citizens, and especially, to many of our children are falling victim to the violence that surrounds drugs.

Mr. President, we are currently working staffs and Members, on legislation that will alleviate the drug problem. Some say it is historic because we begin to give greater emphasis to drug treatment and rehabilitation while increasing efforts as they relates to law enforcement: In addition, the dealth penaly for drug kingpins will be part of the package. Once finished, we can pat ourselves on the back and go home, as we will, and say: "Job well done."

Mr. President, I suggest that it is not a job well done. I would suggest that if we were going to grade the effort as it relates to this drug package, it certainly would not be an honors-class paper, or effort. It would certainly not merit and A. I do not think it would receive a B. Maybe, just maybe it would rate a C minus.

We talk about $2 billion plus and we face a tidal wave in our communities. We talk about education and prevention. What kind of education are we really going to undertake with the pittance that we have provided in this bill? The $2 billion is not real. We have not appropriated it. We would not vote to increase taxes to fund a real war. But we will go home and we will tell the people we have done a wonderful job.

Mr. President, I have to wonder about January of next year, how many

of our colleagues are truly going to be committed to come up with the funding for this bill once the election pressure of 1988 is off them? Will our so-called war on drugs go into the deep-freeze until the next election in 1990? Will we be committed to galvanizing this country to undertake the tough test?

And talking about tests, what about testing? Should we believe Colombia is going to stop growing and exporting drugs? Why should they? Why should those people in remote areas of this world who can, in this way, support their economies stop producing drugs when we are willing to buy drugs and pay a king's ransom for them as they pillage our communities?

How so we bring about a reduction in demand? What about testing for first time drivers? What about testing for a whole area of occupations that are important as it relates to the safety, the health, and the well-being of our citizens? What about real, meaningful education and prevention programs? What about really getting into the area of dealing with rehabilitation, putting together the best team of minds so we can make rehabilitation work, as opposed to having a haphazard crazy quilt of treatment modalities, not knowing which of them offers the best hope and opportunity.

Mr. President, let me also suggest something else. There have been some who have characterized those of us who have pushed for the death penalty for the drug kingpins who order the assassination of someone, or the triggerman who actually commits the crime I have settled for that characterization.

If, indeed, these merchants of death who pour this poison into our society are really merchants of death, and we believe it, then there should be an appropriate punishment. Because surely, as they poison these young people who become addicted and they make this poison available, I believe that they are as guilty as those who shot down those two young men. We need not prove that they did it through the barrel of a gun, but the major traffickers of drugs should be held accountable and there should be a death penalty for them as well. I will seek exactly that kind of remedy when we come back into session in the 101st Congress, Mr. President.

In conclusion, I would like to say my heart goes out to the families of these young officers, these brave young men who have given their lives to make it possible for us to have some form of domestic tranquility. I know that the Nation grieves for their loss. Hopefully, when we come back the Senate can do the business of the people in a more responsible way. Because, to date, Mr. President, we have failed.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, there are just a few moments left before we turn to the business of the Senate. Since it will be necessary for me to fly to Seattle this evening, I may not have another opportunity before this Senate closes this session to say some things about an experience of the last 5½ years which has been, for me, one of the finest, one of the most interesting, and one of the most rewarding experiences of my life.

I have had the privilege, during that time, to serve as part of the majority and as part of the minority. I can say without any fear of contradiction that being in the majority is more fun.

I have also served under three majority leaders: Senator Howard Baker of Tennessee, Senator BOB DOLE of Kansas, Senator ROBERT BYRD of West Virginia. Each in their own way has provided this Senate with distinctive leadership. Each one different, all of them magnificent in their ability to guide this Senate, a group of 100 terribly individualistic people who guard ferociously their individual rights, and yet who ultimately, by the time the session comes to a close, as this one is about to do, ends up doing the Nation's business.

That job of leadership is terribly difficult. I am just grateful that I had the privilege in a little over 5 years to see three of them as leaders, understand their differences, and through each of them to learn a little bit more about the history and the tradition of this great body.

I came to the Senate first as an appointee after the tragic death of Senator Scoop Jackson from the State of Washington. I remember vividly being appointed to the Senate on September 8th, sworn in on the 12th, and expected during that short period of time of 60 days from that moment to run a special election, to create an office and to staff it, to attempt to understand all that was going on in the Senate during the critical budgetary times that come in September and early October.

I am grateful to many of my colleagues to whom I turned in those early, lonely days. They lent me staff to answer the letters that came in even on the very first days in my first appearance in Washington, DC. That staff stayed with us until we could build our own staff. Colleagues were quick to offer advice and help, and many on both sides of the aisle gave me sustenance during a time of real difficulty. I am grateful to all of them.

Mr. President, the walls of this Chamber and the walls of the Old Senate Chamber down the Hall are embedded somehow with the echoes of years of debate. Those speeches, some of them vital, some of them not so vital, all go into making up the history of this body and the traditions under which it operates.

I wish sometime we could press a button and have those walls disgorge some of the best of the speeches which are captured there. We cannot. But I do know that in the future we will be adding to those echoes. We will be adding through debate, some good, some bad, to the history and the tradition of this body.

I do not know what will come next in my own career but I do know that this might well be the close of 32 years of public service, that started the day I took office in January 1957, as a young State legislator in the State of Washington. I enjoyed very much the privileges I have had in the succeeding years, as a legislator, as a Governor, as a college president, and as a Senator.

Jim Dolliver, who was the chief of staff in my office during much of the time I was Governor, consulted with me, along with a number of others, when it came time to make a decision as to whether I would run for a fourth term as Governor after having served 12 years. I thought that I still had ideas. There were still things to do. It was a fascinating job and one which still had challenge left to it.

He said something very wise. He said that you will always have an unfinished agenda. Do not believe that you have to stay in office simply to finish an agenda which is in front of you. Four years from now there will be an unfinished agenda and 8 years from now there will be an unfinished agenda.

As I leave the Senate, I find that there is an unfinished agenda for me personally and, obviously, an unfinished agenda for the Senate and, most particularly, an unfinished agenda for the United States of America. Because that is the important story of America. There is always an unfinished agenda. We are always attempting to do something better. We are always crafting a freer society, hopefully a kinder society, one which will give better opportunities to our children than those we enjoy.

But let me for a moment speak in more direct terms about my own unfinished agenda, things which I hoped we would have done but did not have time to do. I trust that other colleagues, other Members, in the 101st Congress and in the Congresses beyond that, will attach themselves to some of these elements of an unfinished agenda.

A few weeks ago, I attempted to bring a study for pay equity in front of this body. Approximately 80 Members support the concept and, I believe, support the end result that would come from a true study of pay equity.

But in the true traditions of the Senate, sometimes it takes only a few who are devoted in opposition to a bill

to keep it from passing. And that is in the true tradition of the Senate, to slow things down, to let us take another look.

But I am confident this is an issue whose time has come and I hope that in the 101st Congress we will take effective action on that bill.

I have served for the last 4 years on the Foreign Relations Committee, and I hope that with the new administration and with the new Congress we are able to join together and reconstitute the bipartisanship in foreign policy which has been the hallmark of every successful period of American foreign policy.

I hope, Mr. President, that we will quit our ideas on budgets, of posturing for the people, calling for balanced budgets without knowing really what a balanced budget means, and, instead, let us try to work seriously toward an honest assessment of our budgets, to realize that what is off budget and what is on budget is not just a game but it is a move toward a better and more realistic accounting system.

We need to have a capital budget which is inherent in virtually every State and in almost every private enterprise. We need to change our accounting system so we really know what we are talking about when we speak of a balanced budget.

And to achieve a balanced budget, it would help if we moved toward a 2-year budget plan which probably in a small way was responsible for the success we had this year in 13 separate appropriations bills.

Of course, it does not hurt for all of us and each of us to attempt to work more closely toward a quality of life in the Senate. The joy and the fevocity of debate is important. I just think that joy and ferocity of debate more often occurred with a full rather than an empty Senate because then the liveliness of debate would expand, the exchange of ideas would occur more frequently, and we might end up even with better legislation as a result.

One thing does disturb me, and at the risk of being something of a scold, I will say that debate is one thing, decorum is another. I would hope that at least in some small way this Senate does return to the decorum which calls for courtesy when one is speaking and others should be listening, the decorum of people in their seats rather than straggling in the aisles when debate is going on.

Let me refer to another time in the Senate through a short review of the Senate in 1796 when a visitor wrote these words about the Senate:

> Among the thirty senators of that day there was observed constantly during the debate the most delightful silence, the most beautiful order, gravity, and personal dignity of manner. They all appeared every morning full-powdered and dressed, as age or fancy might suggest, in the richest material. The very atmosphere of the place seemed to inspire wisdom, mildness, and condescension. Should any of them so far forget for a moment as to be the cause of a protracted whisper while another was addressing the Vice-President, three gentle taps with his silver pencil case upon the table by Mr. Adams immediately restored everything to repose and the most respectful attention, presenting in their courtesy a most striking contrast to the independent loquacity of the Representatives below stairs. . . .

Perhaps we are not quite ready to return to that level of decorum, Mr. President, but I hope that lively debate does not mean debate when no one is listening.

Finally, Mr. President, let me just thank in every way I can a staff which has been an extraordinary staff. They have worked hard and long. At times when the need was there they have even worked through the night without sleep on legislation and ideas that were important to this Senator and I hope to my State and occasionally even to the country. They have made me look good. There are no greater accolades to staff than that.

And, of course, my family, and particularly my wife Nancy, who never knows from one day to the next when or if I am coming home for dinner. She has been a true partner in everything I have done for most of those 32 years. I say most because I started my political career as a bachelor and Nancy married into politics, but not knowing just how far and how long this road would carry.

So I do leave with absolutely no regrets. As I get close to the end of the session with some deep feelings of not remorse but the fact that I will miss my colleagues, I will miss the Senate, while at the same time look forward with great expectation to whatever the next career might be.

Let me leave you with a short Latin phrase, Gaudeamus Igitur, which, for those of you who may be slightly rusty in your Latin, means let us then be joyful—it has ended.

Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. ADAMS. Will the Senator yield?

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. PROXMIRE. Mr. President, the majority leader has asked that we extend the morning business until 2:30.

The PRESIDING OFFICER. Without objection, morning business is extended until 2:30 p.m.

Mr. ADAMS. Mr. President, while the Senator from Washington is still on the floor, I wanted to take the opportunity to state to him and his family and the wonderful members of his staff the gratitude and appreciation which I personally, Betty my wife, and all the members of my staff and those of us associated in the State of Washington in the business of both politics and government, express as a feeling of congratulations and warmth to him as he leaves his Senate career. We have appreciated his great integrity, his willingness to work with us through the years, his many kindnesses, and, above all, the warmth and the dedication that he has given his job as United States Senator.

Our State, Mr. President, is the better for it. We shall miss him. We know we shall see him from time to time as he visists us.

So it is both with a personal wish and that of the people of the State of Washington that we want to bid DAN a bon voyage. We know he will be leaving here today, and we will be missing him. We wish him every good turn and may the wind be always at his back.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I thank my colleague from Washington for his remarks. We have been friends and colleagues for 35 years or more, starting together in the Seattle Chamber of Commerce. I appreciate deeply those remarks.

As I leave, I guess I can bequeath, by my leaving, to my colleague, the junior Senator of Washington, the title next January of the senior Senator from the State of Washington.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, the distinguished Republican leader and I have some work that we can do for a period of 10 minutes, some unanimous-consent items, and if our two friends, Senator PROXMIRE and Senator D'AMATO, would indulge us just for a few minutes, I would like to extend morning business not to exceed 15 minutes and get this other work done. Some of it has to go back to the House, probably. I thank both Senators.

Mr. President, I ask unanimous consent that morning business be extended for 15 minutes and that Senators may speak therein.

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

Mr. D'AMATO. Mr. President, I am wondering if I might prevail upon the majority leader just to make maybe 3 or 4 minutes' worth of remarks or until the majority leader is ready.

Mr. BYRD. Yes, Sure. I yield the floor.

OPPOSITION TO S. 2653

Mr. D'AMATO. Mr. President, I ask for this opportunity, and I thank the majority leader, who has been so gracious, so that I might have an opportunity to put forth on the RECORD exactly why I have taken the position I have in opposition to the amendment of my good friend, Senator PROXMIRE. It is not certainly intended to thwart just for the sake of stopping progress but, rather, to protect a rather important feature this amendment fails to address.

No. 1, let me suggest that I think we do have important business, banking business, that should be attended to. We have a bill as it relates to insider trading that was passed overwhelmingly in the House of Representatives, 410 to 0. I think we should act on that legislation, but we should not use that legislation, as amended, to accomplish other goals. Let us have a good piece of insider trading legislation. This Senator is willing to work to accomplish that legislative passage. We should pass it today, now. It is a good bill. It accomplishes a very important thing. It increases criminal penalties to a maximum of 10 years, over a million dollars in fines an individual can be held to, $2.5 million for corporations. It provides for liability of a firm which controls a person who trades on insider information. It permits the Securities and Exchange Commission to pay a bounty for information of those people.

Now, that is what we should pass; I dare say we could pass that within a matter of minutes, but not a bill which has not been the product of hearings, and that is what the Senator from Wisconsin is proposing we do.

Let me also suggest that it is not the same bill that was passed overwhelmingly by the Senate. There are very important distinctions. Let me refer to the letter from the Securities and Exchange Commission—I ask the Senate to bear with me—of October 4, 1988 written to Senator WILLIAM PROXMIRE, chairman, Senate Committee on Banking, written by David Ruder, Chairman of the SEC. He says:

> This letter confirms our conversation of yesterday in which I expessed my great concern about the proposal to incorporate certain provisions of S. 1886 into the Proxmire Financial Modernization Act of 1988 and H.R. 176, the Truth in Savings Act. The proposal as transmitted to me would exclude titles 3 and 4, the key provisions to protect securities investments.

It goes on to say—in the interest of time I am not going to read the rest of the letter—he opposes and the SEC opposes this legislation. I will tell you why. You give to banks securities power and the SEC has no regulatory authority whatsover.

Now, that is not the same bill that the Senator indicated, S. 1886, we had hearings on, and it is a radical departure and it is wrong. That is why this Senator will do everything necessary to prevent it from coming on to the floor for a vote. I serve notice again—I served it last night—we will stay here until 2 o'clock in the morning, we will stay here until tomorrow, we will stay here until the next day. I am prepared to vigorously assert what is an absolute obligation on the part of this Senator. I am going to tell you something. If my colleagues knew about this, they would be here in full support. This is a grievous departure from S. 1886.

I thank the majority leader and I yield the floor.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if two Calendar Orders, No. 978 and 1134, have been cleared?

Mr. DOLE. They have been cleared on this side.

Mr. BYRD. Very well. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of those two measures en bloc and that if there are amendments shown either to the measures or to the preambles or titles they be agreed to; that the measures be agreed to; and the motion to reconsider en bloc laid on the table.

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

ADDITIONAL FUNDING FOR THE SELECT COMMITTEE ON INDIAN AFFAIRS

The resolution (S. Res. 473) to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations, was considered, and agreed to; as follows:

S. RES. 473

Resolved, That S. Res. 381, One Hundredth Congress (agreed to February 26, 1988), is amended—

(a) in section 2(a), by striking out "$47,856,813" and inserting in lieu thereof "$47,964,813"; and

(b) in section 21(b), by striking out "$1,770,746" and inserting in lieu thereof "$1,878,746."

NATIONAL OCEAN POLLUTION PLANNING ACT AUTHORIZATION

The bill (H.R. 4211) to reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that calendar orders numbered 960, 974, 1006, 1010, and 1038 be indefinitely postponed.

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

AWARDS TO FEDERAL EMPLOYEES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 4574 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 4574) to provide awards to Federal employees for superior accomplishments or cost-saving disclosures, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3740

(Purpose: To amend title 5, United States Code, with respect to the expiration date of certain programs under which awards may be made to Federal employees for superior accomplishments or cost-savings disclosures, and for other purposes)

Mr. BYRD. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of Senators GLENN and ROTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for Mr. GLENN, for himself and Mr. ROTH, proposes an amendment numbered 3740:
>
> Strike out all after the enacting clause and insert in lieu thereof the following:
>
> SEC. 1. EXPIRATION DATE OF PROGRAM.
>
> (a) Section 4514 of title 5, United States Code, is amended to read as follows:
>
> "§ 4514. Expiration of authority
>
> "No award may be made under this subchapter after September 30, 1990.".
>
> (b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:
>
> "4514. Expiration of authority.".

Mr. GLENN. Mr. President, I commend my colleagues' passage of the substitute amendment to H.R. 4574, which is being offered by Senator ROTH and me on behalf of the Committee on Governmental Affairs.

H.R. 4574, a bill to amend title 5, United States Code, with respect to certain programs under which incentive awards may be made to Federal employees, was introduced on May 11, 1988, and referred to the Committee on Post Office and Civil Service. That committee held one hearing on the bill and received testimony from the General Accounting Office, the Office of Personnel Management, several in-

spectors general, and employees who had received awards under the programs. H.R. 4574 was called up by the House of Representatives on July 26 under suspension of the rules and adopted by voice vote. No report to accompany the bill was filed by the Committee on Post Office and Civil Service.

As passed by the House, H.R. 4574 seeks to revitalize two existing awards programs for Federal employees. One is the Awards for Cost Savings Disclosures Program, which authorizes inspectors general and the President to pay cash awards to employees who disclose fraud, waste, or mismanagement in the Government. This awards program, in existence since 1981, expired on September 30, 1988. According to a December 1987 GAO report (GGD-88-22), the Department of Defense has been the most frequent user of this program to recognize individuals who disclose waste, fraud, and mismanagement over the IG's hotline. The Department of Defense reported that it granted 25 cash awards totaling over $30,000 between May 1984 and March 1987. The 25 disclosures reportedly resulted in savings of $29 million and $14 million in cost avoidance.

In addition to permanently establishing the Cost Savings Disclosures Program, H.R. 4574 would expand the program, for example, by allowing inspectors general to make awards to Government contract employees and to former Federal employees and allowing awards for disclosures which are made indirectly to the IG via Congress or the GAO fraud hotline. The bill would also increase the amounts of monetary awards allowable under this program.

The second awards program for Federal employees is the Superior Accomplishments Awards Program, which authorizes agencies and the President to recognize and reward employees for their suggestions or achievements that contribute to the efficiency, economy, or improvement of Government operations. This permanently established program, in existence since 1954, would be strengthened under the bill by provisions intended to increase the allowable monetary awards and force greater utilization of the program by imposing a reporting requirement on each agency.

The Governmental Affairs Committee received the bill for consideration on August 2, 1988. At this late hour the committee has not had time to examine the merits of the proposed sweeping changes to the operations of both Federal employee incentive awards programs. In light of this situation, Senator ROTH and I, on behalf of the committee, propose a substitute amendment to H.R. 4574 which merely reauthorizes the temporary Cost Savings Disclosures Program for a 2-year period. This would allow the committee additional time to review the efficacy of this program under current law and to examine the wisdom of expanding it.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 3740) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4574), as amended, was passed.

LEASE OF CERTAIN REAL PROPERTY TO THE AMERICAN RED CROSS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2496.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2496) entitled "An Act to provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements", do pass with the following amendment:

Page 4, after line 2, insert:

SEC. 2. The General Services Administration is authorized to lease, on a long-term basis as determined by the Administrator of General Services, approximately 200,000 square feet of office space located in the area north of 96th Street in the County of New York, New York, at a lease rate not to exceed comparable rates for equivalent space in such area or comparable rates within the building to be occupied, subject to the approval of the Committee on Public Works and Transportation.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SETTLEMENT OF CERTAIN INDIAN WATER RIGHTS CLAIMS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 795.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 795) entitled "An act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" mean the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890's and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either through participation in the lining of the previously unlined portions of the All American Canal or through contract with the Metropolitan Water District of Southern California.

To accomplish the requirements of this section, the Secretary is authorized to enter into such agreements or contracts as are necessary for the construction, operation and funding of the works required to develop such supplemental water. Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to subsection (a)(1) of this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the

United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The execution of the settlement agreement shall not be withheld or delayed for any reason associated with providing the supplemental water supply. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this Act.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is Now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and the Secretary has entered into water delivery contracts with public agencies in California.

(4) The available supply of Colorado River water in California is over-allocated because—

(A) under the terms of the decision and decree in *Arizona* v. *California*, 373 U.S. 546, and section 301(b) of the Colorado River Basin Project Act (43 U.S.C. 1521(b)), California is limited to a dependable supply of 4.4 million acre-feet of water per year,

(B) the California contractors' entitlement under their water delivery contracts with the Secretary is in excess of 4.4 million acre-feet per year, and

(C) actual use under these contracts has been considerably in excess of 4.4 million acre-feet per year for all but two years since 1964.

(5) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(6) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions of the United States Supreme Court.

(7) The Secretary has promulgated regulations pursuant to this authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(8) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractor.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures to mitigate resulting impacts on fish and wildlife resources. Mitigation for fish and wildlife resource losses in or adjacent to the canals incurred as a result of the construction of the works shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with or prior to construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife mitigation purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or finding of all or a portion of the works authorized in subsection (a) of this section. Such agreement or agreements shall set forth, in a manner acceptable to the Secretary—

(1) the responsibilities of the parties to the agreement for finding and assisting with implementing all the duties of the Secretary

identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional cost identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirements for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation of impacts on fish and wildlife resources, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights of the United States to the waters of the Colorado River, or would inhibit the Secretary's ability of fulfill his responsibility under the Project Act.

(e) AUTHORIZATION OF APPROPRIATIONS

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise each determination at reasonable intervals based on such information as the Secretary finds appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

(a) EFFECTIVE DATE.—The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to * * *

* * * * *

various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall make a finding, and publish such finding, that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implemenation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which would be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (P.L. 97-293, 96 Stat. 1263).

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment with an amendment on behalf of Senators CRANSTON and WILSON.

AMENDMENT NO. 3741

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. CRANSTON, for himself and Mr. WILSON, proposes an amendment numbered 3741.

Mr. BYRD. 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:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, and

intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgements or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested from time to time by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside of the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in Title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable :

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval

may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided,* That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920, (16 U.S.C. 791a et seq.), commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617–617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canal foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public

lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsection (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractors other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to

the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) described current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Amend the amendment of the House to the title so as to read: "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes."

Mr. CRANSTON. Mr. President, I rise in support of an amendment in the form of a substitute to S. 795, a bill to provide for the settlement of a longstanding dispute over Indian water rights on the San Luis Rey River in southern California.

As my colleagues will recall, the Senate passed S. 795 last December. The House recently passed an amended version of S. 795, returning the bill to the Senate.

The bill before us today differs from the earlier bill in several important ways. The water for the settlement will come from the lining of the All-American Canal or from a ground water recharge/recovery program in southern California, rather than from the Federal central valley project. In addition, the bill authorizes a $30 million trust fund to finance construction of water facilities on the Indian reservations, rather than permitting use of revenues from water sales for this purpose. Finally, it authorizes the relining of the All-American Canal in southern California at no cost to the Federal Government.

The amendment I am offering today makes technical corrections and resolves a number of inconsistencies in the House text. It reflects changes recommended by the Select Committee on Indian Affairs and the Energy and Natural Resources Committee.

Mr. President, I believe this is a good bill and a fair settlement for all the parties in the dispute. However, it is important that the Secretary of the Interior continue to fulfill his trust responsibility to the Mission Bands as the settlement is implemented. Particularly critical is the need to secure a permanent water supply for the Mission Bands and appropriations for the trust fund before the Indians' rights are released in the settlement agreement. I urge the Secretary to include the necessary appropriations for the trust fund in the administration's fiscal year 1989 budget request.

And I urge my colleagues to adopt this bill, with the amendment.

Mr. WILSON. Mr. President, I rise in support of what I consider to be the most important California water legislation for this Congress. S. 795 is a bill that will serve to resolve years of Indian water rights litigation on the San Luis Rey River in northern San Diego County and will also authorize the lining of the All-American Canal.

This latter provision is especially significant because it signals the arrival of a new era in our seemingly never-ending battle to provide for California's water needs. Instead of authorizing the construction of a new dam—something that has long been California's answer to water shortages—we are instead authorizing new conservation measures that will allow us to more efficiently use the water resources that have already been developed.

It is estimated that the lining of the All-American Canal will conserve approximately 100,000 acre-feet of water per year. In a State where we fight over the allocation of as little as 1,000 acre-feet, these savings are truly significant.

The All-American Canal was built early this century to divert Colorado River water to the fertile Imperial Valley. It is because of this canal that this valley has become one of the major agricultural areas of this Nation.

Back in the days when this canal was built, however, water was plentiful and canal construction was expensive. There was no need to conserve water then and no money to put concrete lining in what is really nothing more than a large dirt ditch.

Today is a different story. California continues to grow at a pace that is threatening to outstrip our efforts to maintain a quality of life that we have all become used to. If we don't continue to develop new water resources—or better yet, make better use of what water projects we already have—then California will soon be in trouble.

One aspect of this project that is especially appealing to me is that even though the All-American Canal is a Federal project, the lining of this canal will be financed by non-Federal interests. That is as it should be. After all, the benefits from this project in terms of water conserved will flow to southern California consumers, and they are the ones who will be footing the bill for this project.

I can only hope that the lining of this canal will set the precedent for future action by this body to assist in other worthwhile projects that have as their goal the conservation and efficient utilization of our scarce water resources.

The other part of the bill before us today relates to the settlement of the San Luis Rey River Indian water rights dispute. This provision has previously been approved by the Senate in an earlier form that has since been modified by the House.

I support the changes that the House has made and am informed that the parties to the underlying water rights litigation are satisfied with the manner in which this bill resolves their dispute.

This particular agreement has been a long time coming. I first introduced San Luis Rey legislation in the 99th Congress, and it is only now 4 years later that we have a bill ready to go to the President for his signature.

For any of my colleagues that know of the difficulties inherent in resolving water rights issues, you will understand the commendations that I have for all parties that have been involved in crafting this agreement.

In closing, Mr. President, I thank the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs, and the leadership shown by my senior colleague from California, Senator CRANSTON, for the hard work that has been required to successfully put this package together in time for consideration prior to adjournment. I think that we can all be justifiably proud of this important legislation.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

SSG CHARLES F. PREVEDEL FEDERAL BUILDING

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1476.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1476) entitled "An Act to designate the Federal Record Center at 9700 Page Boulevard, Overland, Missouri, as the 'SSG Charles F. Prevedel Building' ", do pass the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION.

The building under construction in Overland Missouri, known as the Federal Records Center Extension Building 109", shall be known and designated as the "Charles F. Prevedel Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Charles F. Prevedel Federal Building".

Amend the title so as to read: "An Act to designate the Federal Records Center Extension Building 109 under construction in Overland, Missouri, as the 'Charles F. Prevedel Federal Building'.".

Mr. DANFORTH. Mr. President, today the Congress is taking final action on a bill I introduced to name the Army Personnel and Record Center in Overland, MO after S. Sgt. Charles F. Prevedel.

Sergeant Prevedel, a native of Florissant, MO, fought valiantly for the United States during the Vietnam war. He never came home. On April 14, 1969, Sergeant Prevedel parachuted into a forest in Quang Nam Province, as a member of a reconnaissance patrol. He has not been seen since, save for a 1969 Christmas photo that made its way to the outside world from a prisoner of war camp.

Sergeant Prevedel is one of more than 2,400 servicemen who are listed officially as "missing in action" in Southeast Asia. In Missouri, as many as 51 people may be alive today in Vietnam. We must not forget these brave Americans. We must press for an accounting of their fate for as long as it takes to secure an accounting.

In the naming the Army Personnel and Record Center for Sergeant Prevedel, it is my hope to create a remembrance of the sacrifices made by the service members who are listed as missing in action.

Naming a building will not ease the pain of loss for Sergeant Prevedel's family. Nor will it affect the Government of Vietnam, from which a full accounting of MIA's is long past due.

Naming a building is an important symbol. It is a statement that we remember what a brave man from Florissant, MO, was willing to give for America, for freedom, and for the people of Southeast Asia. It is a statement that we will pursue an accounting of our people until an accounting is given.

A personal note: I am advised that Sergeant Prevedel's father, Charles, Sr., passed away recently. I am told he was proud of the prospect the Army center would be named for his son. I am proud the Senate is according to Mr. Prevedel's son the recognition that his bravery deserves.

America will be secure in her freedom as long as people like Sergeant Prevedel step forward to answer the Nation's call. I am proud to sponsor this legislation. I believe that all Missourians share my pride in Sergeant Prevedel's service to the United States, and share my appreciation of the Senate's action today.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

LABELING OF HAZARDOUS ART MATERIALS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4847.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4847), to amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous materials, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I am pleased today to support H.R. 4847, the art materials labeling bill, which will require the labeling of art materials that pose potential chronic hazards to consumers.

This legislation is the result of the arduous efforts of representatives from the art materials industry, consumer groups and professonal artists. As a result of their efforts, art materials now will be required to bear prominent, easily understandable labels disclosing chronic health hazards that may result if the product is not used in the appropriate manner and with the proper precautions.

This legislation would mandate that art and craft materials be labeled with the warning signals adopted by the American Society for Testing and Materials in a standard commonly known as ASTM D-4236. That standard was first issued in 1983 with the input of manufacturers, consumers, health professionals, and artists. Currently, more than half of the manufacturing industry complies voluntarily with the standard. With the enactment of this bill, compliance will be mandatory.

According to consumer representatives, enactment of this legislation will ensure that the public will receive the information they need to use art materials safely. This will benefit professional artists as well as hobbyists and school officials who are concerned about exposure to the materials covered by this legislation.

H.R. 4847 is truly a consensus measure. The bill is supported by the American Public Health Association, National Education Association, National Parents and Teachers Association, American Association of School Administrators, and the American Academy of Pediatrics. Much credit for this legislation goes to the Art Supplies Labeling Coalition composed of the Art and Craft Materials Institute, Inc.; Artists Equity; Hobby Industry Association of America; National Art Materials Trade Association, Inc.; Pencil Makers Association, Inc.; and Writing Instrument Manufacturers Association, Inc. The Public Interest Research Group likewise deserves much credit for its focus on the chronic health hazards issues and its meaningful input into the legislation.

I urge my colleagues to support the bill.

Mr. GORE. Mr. President, the bill now before the Senate, H.R. 4847, addresses the very real problem of potential harms caused by some art and craft materials.

Some commonly used art and craft products contain substances that are linked with chronic illnesses, which may not become apparent until months or years after exposure. For example, supplies such as solvents in cements and permanent markers, lead in paints, clay and glazes, and cadmium-containing silver solders can cause a variety of different illnesses. Cancer, lung, and kidney damage, and heart disease have been associated with exposure to these elements.

The Consumer Subcommittee has learned of tragic stories associated with the use of art products. Jon Glowacki was a young boy who enjoyed spending much of his free time engaging in art and craft activities. He died suddenly in February 1985 when he was 13 years old from using rubber cement. The medical examiner listed his cause of death as "sudden death associated with inhalation of volatile hydrocarbons." Judith Sinclair, a commercial artist and graphic designer, had to terminate her career after experiencing dizziness, nausea, chest and stomach pains and lack of coordination. Her symptoms were attributed to exposure to solvents in permanent markers, acetates, and various inks.

This exposure to harmful art products is occurring every day, at least in part because artists, hobbyists, educators and others do not know of their potential dangers or of the proper ways to use the products so as to avoid their harmful effects. It is important to note that children are particularly at risk. Exposure to the same amount of a substance as an adult results in a

higher concentration in a child's body, because of the differences in body size. Also, children, have a higher metabolic rate and so they absorb toxic chemicals more quickly.

One possible solution to this situation is to require labeling of art supplies. Art material manufacturers, artists, government officials and scientists, in cooperation with the American Society for Testing and Materials [ASTM], have engaged in a process to develop a voluntary consensus standard for labeling of chronically toxic ingredients in art supplies. ASTM adopted this standard, number D-4236, in March 1983, and labels began to appear on art and craft products in 1985. The greatest problem with the voluntary standard is that not all manufacturers have agreed to utilize the standard, and there is even some suggestion that those who do not use the standard are being rewarded by higher sales because consumers often will choose a product that they think is safe because it does not contain a label rather than one which contains warnings about its harmful contents.

The use of chronically hazardous substances in the workplace is subject to Federal regulations that are enforced by the Occupational Safety and Health Administration. However, since these art supplies are consumer products, they do not come under these regulations. As consumer products, most art and craft materials are subject to the labeling requirements of the Federal Hazardous Substances Act [FHSA], and the CPSC could adopt regulations for their labeling. However, the CPSC has not conducted a regulatory proceeding to determine whether a specific art and craft material should be labeled or banned because it poses chronic hazards. It has, however, made hazards determinations for specific substances which may be contained in art products.

This bill would adopt the ASTM standard as if it had been developed in a rulemaking by the CPSC. It would require manufacturers of art and craft materials to submit to the CPSC criteria used to determine whether their products have the potential to cause chronic adverse health effects and to place labels on potentially harmful products. Further, the CPSC would be required to develop guidelines specifying criteria for determining when use of an art material can result in a chronic hazard, and to provide educational materials on art supplies. Finally, the CPSC would be given the authority to enjoin the purchase for use by children younger than those in grade 6 of any art supply that was required to be labeled.

This bill was worked out by representatives of consumer organizations and art supply manufacturers. It is supported by consumer, health and school organizations, and a coalition of national trade associations representing art materials manufacturers, dealers, health professionals and artists.

I am pleased that the Senate is considering this bill to set in place some protection for hobbyists, professional artists, educators, and children who are unwittingly exposed to harmful products every day.

Mr. McCAIN. Mr. President, I am pleased to support H.R. 4847, legislation to require the labeling of chronically hazardous art and craft materials.

Artists, hobbyists, schoolchildren, and retirees are some of the many people who make extensive use of art and craft supplies. Among hobbyists alone, a 1984 Harris poll found that 50 million Americans paint or draw as a hobby, 29 million make pottery or ceramics, and 15 million sculpt or work with clay.

Unfortunately, some commonly used art and craft products contain chemicals which can pose a hazard if handled improperly. Some of these chemical ingredients pose an acute hazard, meaning that a single incidence of misuse could have immediate harmful consequences such as burns, eye damage, skin irritation, or poisoning. Such hazards have been addressed through Federal labeling legislation.

Other chemicals contained in art and craft materials present a chronic health hazard, meaning that repeated exposure could be harmful. For example, miscarriage, heart attacks, nerve damage, and respiratory diseases have been associated with exposure to the solvents used in oil painting and silk screening. Solders used for working with stained glass have caused lead poisoning. Lead, which is also found in paints and ceramics, can also poison the renal and nervous systems. Some talcs and clays contain asbestos, which has been linked to lung cancer and mesothelioma. A 1981 study by the National Cancer Institute found that artists with long-term exposure to pigments and solvents have significantly elevated risks of contracting heart disease, leukemia, and cancers of the bladder, colon, rectum, kidney, and brain.

Most art and craft supplies, even those containing substances which present chronic health hazards, are safe when used properly. However, since consumers of art supplies are often not professionals but amateurs, a real danger exists that products will be used incorrectly. In addition, even some professional artists and art instructors are not fully aware of the chronic health hazards posed by the misuse of some products.

Studies conducted in 1986 and 1987 by the U.S. Public Interest Research Group USPIRG of art materials used in public schools in the Washington, DC area, illustrate one aspect of the problem—lack of knowledge about chronically hazardous products. The 1986 study found at least 47 hazardous art and craft supplies on the procurement lists of area schools. In addition, the study concluded that, in most area school districts, children were being routinely exposed to chronically hazardous substances. Many of these products were being used despite the existence of safe alternatives. The 1987 study, conducted in the wake of the publicity generated by the 1986 study, found that most of the area schools had eliminated the chronically hazardous art supplies from their procurement lists.

The problem of inadequate information about health hazards associated with art and craft supplies has not gone unnoticed, and several efforts have been made to correct the problem. However, none of these solutions are entirely adequate.

At the Federal level, the Federal Hazardous Substances Act [FHSA], administered by the Consumer Product Safety Commission CPSC, requires labeling on consumer products that pose acute hazards, that is, hazards that cause immediate adverse effects such as burns, eye damage or poisoning. The FHSA, however, does not require labeling on products that contain substances that pose "chronic" hazards, that is, substances whose dangerous effects are not apparent until years after exposure.

In 1983, an industry and artist task force, working under the auspices of the American Society for Testing and Materials, ASTM, developed a voluntary standard on chronic hazard labeling of art and craft materials. The standard, which has since been amended several times, establishes definitions of chronic hazard and art and craft material and suggests actual label wording. The standard also provides for a certification process involving product-by-product evaluation by a toxicologist.

Compliance with the ASTM standard is voluntary and although many companies producing art and craft materials have chosen to participate, some have not. Moreover, those companies producing art materials posing the most danger with regard to chronic health hazards seem to have the lowest levels of participation in the voluntary standard process. Such nonparticipation only exacerbates the problem of providing adequate and reliable information to consumers about art and craft materials. For example, a consumer will be more likely to purchase a product that does not contain a warning of a cancer hazard than a product with such a warning, thinking that the absence of a warning signifies no potential danger. However, the product without the warning may be as hazardous or more hazardous than a product with a label.

Responding to the voluntary nature of the industry labeling effort, laws mandating the labeling of chronic hazard art products have been enacted in California, Florida, Illinois, Oregon, Virginia, and Tennessee. With some differences and additional requirements, the laws provide for labeling similar to that required under the ASTM standard on all art and craft materials that cause chronic illness. The laws also provide that compliance with the ASTM standard will be deemed to be in compliance with the law, unless the commissioner of the enforcing agency determines that the label does not satisfy the purposes of the law.

As effective as these laws may be, they only apply to art and craft materials marketed within six States. In addition, they are not identical and the difference between them, as well as differences with the ASTM standard, create compliance difficulties for manufacturers of art and craft materials and may result in nonuniform warning labels.

As a result of problems with the FHSA, the ASTM standard, and the State laws, art and craft product manufacturers, represented by the Art Supplies Labeling Coalition, have expressed an interest in national labeling legislation. In addition, such national legislation has been endorsed by the U.S. Public Interest Research Group [USPIRG], the consumer group which has been most active in developing art materials labeling laws.

The legislation now before the Senate, H.R. 4847, is the result of the efforts of the Art Supplies Labeling Coalition and [USPIRG] and it has the support of both groups. H.R. 4847 requires the labeling of chronic hazard art supplies by deeming the ASTM standard developed by the art and craft industry to be a mandatory standard issued by the CPSC under the FHSA. The legislation permits the CPSC to make revisions in the standard if appropriate and it requires the CPSC to issue criteria for determining when use of an art material can result in a chronic hazard. Also, the CPSC is required to develop informational and educational materials about art and craft supplies.

Mr. President, I commend the art supplies industry and the consumer community for their expeditious and cooperative resolution of this problem. I hope their responsible approach to this issue will serve as a model for resolution of other consumer issues, and I encourage my colleagues to join with me in supporting H.R. 4847.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed and the motion to reconsider laid on the table.

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

So the bill (H.R. 4847) was passed.

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the following measures—Senate Joint Resolution 344, House Joint Resolution 572, and House Joint Resolution 629; that the Senate proceed to the immediate consideration of the three measures en bloc; that they be advanced to third reading en bloc, passed en bloc, and the motion to reconsider en bloc be laid on the table.

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

NATIONAL FAMILY WEEK

The joint resolution (S.J. Res. 344) was considered and passed, as follows:

S.J. RES. 344

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 20, 1988, through November 26, 1988, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

VOCATIONAL-TECHNICAL EDUCATION WEEK

The joint resolution (H.J. Res. 572) was considered and passed.

NATIONAL CHESTER F. CARLSON RECOGNITION DAY

The joint resolution (H.J. Res. 629) was considered and passed.

NATIONAL VOLUNTARY REUNION REGISTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of S. 2010 and that the Senate proceed to the immediate consideration of that bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2010) to establish a National Voluntary Reunion Registration Program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3742

Mr. BYRD. Mr. President, on behalf of Mr. LEVIN, I send a substitute amendment to the desk, and I ask unanimous consent that reading of the amendment be dispensed with.

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

The substitute amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry with the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted parents, birth siblings, or other birth parents.

(3) The number of inquires ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National Voluntary Reunion Registry authorized under this Act shall provide centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)(1) The registry authorized under this Act shall provide that—

(A) a birth parent, or an adopted person over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, to the maximum extent feasible, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with

any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(c) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and such sums as may be necessary for each of the final years 1990 and 1991.

Mr. LEVIN. Mr. President, after years of research, consultation, assessment, reassessment, recommendation, comments, and hearings, the Senate has cleared the way for the long-awaited passage of the national Voluntary Reunion Registry—legislation which will help reduce the anguish of birth relatives who are seeking one another.

The registry will facilitate voluntary, mutually requested reunions between adult adopted persons, their birth parents, and birth siblings separated by adoption. The bill authorizes the Secretary of Health and Human Services to establish the registry within the Department of Health and Human Services, authorizes funding, and requires the Secretary to report annually to Congress. The measure also contains specific provisions governing confidentiality and privacy interests, and specifically states that no match would be made unless both parties voluntarily applied to the registry to initiate the matching process.

An enormous amount of work has gone into this substitute proposal. A number of individuals, agencies, and organizations worked with me and my staff to achieve a consensus on this important legislation.

The discussions included meetings with the administration and with a number of my colleagues in both the House and Senate relative to my proposal. I have met with President Reagan, OMB Director Jim Miller, and HHS Secretary Otis Bowen who have indicated their support for a national registry. I am also most grateful to the continuing cosponsorship of longtime supporters of the National Voluntary Reunion Registry, Senators CRANSTON, COHEN, DODD, MOYNIHAN, and DURENBERGER. And, I would like to thank Senators DOLE, HATCH, and HUMPHREY for their input.

Most importantly, I would like to thank Ina Portney of Michigan, parent of an adopted son and daughter, who first sparked my interest in the idea of a National Voluntary Reunion Registry.

I also want to warmly commend the tremendous efforts of Michael Reagan. Without his great skill and leadership, this bill would not be before us today. In fact, at no time was I more convinced of the need for a national registry than when Michael shared his own personal story with me during a visit to my home in the spring of this year. I would like to share with my colleagues the letter I received from Michael prior to our meeting in April. It reads as follows:

DEAR SENATOR LEVIN: As you may know, I am an adoptee who has recently had the great privilege of meeting by birth brother and learning about the life-time of loving and caring by my deceased birth mother. You should also know that my adoptive father, Ronald Reagan, supported my desire for a reunion with my birth mother and helped me in my early efforts. When my father helped me, it was the greatest gift he ever gave me.

I believe wholeheartedly in your bill establishing a national registry for adoptees, birth parents and separated siblings. And I support your efforts to make this a reality. I would have used such a registry myself, and it has become apparent to me that my birth mother would have also.

I look forward to meeting you and actively assisting in your efforts to gain enactment of this compassionate legislation.

With all good wishes.

Sincerely,

MICHAEL E. REAGAN.

Had this legislation been signed into law, Michael Reagan might have met his birth mother before her death. A March 31, 1988, Washington Post article about Michael's recently published autobiography—"On the Outside Looking In"—revealed the efforts of Michael's birth mother to keep tabs on him.

According to the Washington Post article:

It was through a meeting with Barry Lange, the birth brother he was previously unaware of that Michael Reagan realized the efforts his birth mother took to keep tabs on him. Barry "had brought along a photo album bulging with clips from magazines and newspapers. They were pictures of Michael—often with his father, Ronald Reagan—lovingly collected through the years by his birth mother. She had been tracing his steps throughout his life. Barry revealed that "my mother wanted to have contact with Michael, but she didn't want to initiate it. You don't go knocking on the door and say, "I'm the mother who gave you up for adoption. Aren't you going to invite me in to tea?" Michael Reagan's birth mother dies in 1985, never having met her first child.

Mr. President, there are other individuals and organizations, without whose compassion and tireless efforts this much-needed legislation would not have come this far. All expressed support for my unrestricted substitute proposal. Emma Mae Vilardi of ISRR in Carson City, NV, and Jean Paton, founder of Orphans Voyage of Cedaredge, CO, are two early supporters who have worked with my office continuously over the years on this issue. Others who have helped along the way are:

Kate Burke.

Charlotte Hood.

Laura Lewis, Adoptee and Birthmother.

Margaret Hutchison-Betts of Vermont.

Dawn Smith-Pliner of Vermont.

Patricia Martinez Dorner, M.A., LPC of Lutheran Social Service of Texas.

Linda Brown of Providence, Rhode Island.

Carol Cramer, Adoptee.

Susan Darke, Massachusetts Adoption Connection.

Betty Jean Lifton, Author.

Annette Baran, Social Worker and Author.

Libbi Campbell, CUB.

Kate Pijanowski of Houston, Texas.

Professor Thomas J. Bouchard, Jr., Director, Minnesota Study of Twins.

Edward Branca of New York.

Dr. Dirck Brown, family therapist and coauthor of Clinical Practice in Adoption.

Clyde Worley of Columbia, MO.

Mary Jo Rillera, TRIADOPTION, Westminster, CALIFORNMAI.

Penny Partridge of Pennsylvania.

Lee Cambell of New Hampshire.

John Ryan of NOBAR.

Linda Burgess of Cambridge, Massachusetts.

Amy Blanchard of PACER.

Alison Ward of Bound Brook, New Jersey.

Children's Home Society of Washington.

Washington Adoption Rights Movement.

Finders Keepers.

Florida United Methodist Children's Home.

American Adoption Congress, a national organization of adoption agencies, birth par-

ents, adoptive parents, adoptees and adoption professionals. Membership includes:

International Soundex Reunion Registry, Concerned United Birthparents.

Adoptee-Birthparent Support Network.

Adoptees Seeking Kinfolk.

The Adoption Connection.

Grand Rapids Adoption Identity Movement.

Adoption Heritage Parenting Resources.

Orphan Voyage of Florida.

The Barker Foundation.

Roots and Reunions.

Expectant Adoptive Parent Class.

Adoption Information Exchange.

Adoption Circle.

Operation Identity.

Adoptive Parents for Open Records.

Catholic Charities.

Child Placement Services Inc.

Yesterday's Children.

Finally, I must also say a word about my legislative assistant, Jackie Parker. She stood steadfast in this cause, year after year. Tenacity is rewarded in this body. She is the embodiment of it. Nine years of effort now bears fruit. And, I would like to thank my legislative director, Chuck Cutolo, for his help in making sure that the bill did not die on the second yard line of the 100th Congress. Hopefully the House of Representatives will concur so that we may get on with recognizing the humanity of this straightforward effort to facilitate the mutual voluntary reunion of adults who seek, often desparately and poignantly, to find each other.

Mr. President, this proposal also enjoys the support of many adoptive parents, and adoptive parent support groups. As I reflect on the numerous meetings I have held, and letters of support I have received from adoptive parent groups on the issue of a national registry, there are a number that stand out vividly in my mind. One such letter comes from Carol F. Gustavson, founder of an adoptive families organization based in Long Valley, NJ. Her letter reads as follows:

ORGANIZATION OF ADOPTIVE FAMILIES,
Long Valley, NJ, April 18, 1988.

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

DEAR SENATOR LEVIN: It is with utmost sincerity and urgency that I send you this letter in support of your bill to establish an unrestrictive National Voluntary Reunion Registry through the Department of Health and Human Services.

The organization of adoptive parents is a non-profit all volunteer organization of adoptive families who seek humane adoption reform. The organization networks with other reform groups on a national level and feel strongly that our sons and daughters deserve the dignity of their heritage. We acknowledge the birth-families of our children through the shared desire to support all efforts towards reconciliation between them and their original family, should they choose to meet.

Many years ago we pledged before the courts to love our children to the best of our ability. Over the years we sadly discovered we could not love away their special needs through adoption. They needed truth and reality beyond what we were capable of giving them.

We need to impress upon those making legal decisions for us the importance and value of our personal knowledge, having been directly involved in adoption. Birthparents and adoptive parents share a mutual love and concern for their children. We hear our sons and daughters speaking out. We support them in their efforts to be accepted as citizens sharing in the same rights so many take for granted. As parents, we resent being placed in the position of keeping our adult sons and daughters locked into needing our permission in making important personal decisions regarding the reality of their heritage. We reject any registry that demands our approval for reunion or access to information. We also reject any registry that would *in any way* restrict the reconciliation of the adopted person should only one birth parent enter into the registry. We have facilitated one parent reunions and have not experienced any problems with the second parent.

A well publicized unrestricted National Voluntary Reunion Registry through HHS can provide the opportunity for a healthier approach to the adoption experience.

We appreciate your continued efforts, and intend to actively participate in the efforts to gain enactment of your proposal.

Sincerely,

CAROL F. GUSTAVSON,
Founder.

A recent survey conducted by my staff revealed that more and more adoptive parents support efforts of adopted sons and daughters who seek to connect with their roots. The organization, Roots and Reunions in L'Anse, MI, recently reported that 75 percent of all requests for reunion assistance last year came from adoptive parents. Not only are these adoptive parents seeking to meet the needs of their sons and daughters, "Our adoptive parents want to set at ease the hearts of their childrens' birth mothers, but are unable to do so," says Mrs. J. A. Swanson, director of the organization.

According to Emma May Vilardi of the International Soundex Reunion Registry [ISRR], "20 percent of ISRR's registry applicants for adoptees under the age of 18 have been made by adoptive parents. Mrs. Vilardi says she has received application requests from prospective adoptive parents "who want to register their newly acquired children for future reunion with their birthparents."

Mr. President, a preliminary Los Angeles study determined that 89 percent of the birthparents they surveyed wanted reunion with their relinquished children when grown, if the offspring so desired. Many who have sought and succeeded in locating each other, find many troublesome events might have been avoided had their struggle been aided at an earlier time. One of the many such examples brought to my attention, by a birthmother from Michigan is outlined in the following letter:

I am a birthmother who surrendered to adoption in 1960. I was pleased and encouraged when Michigan instituted a mutual consent registry in 1980, but was disappointed that no effort was made to notify adoptive parties of its existence. After six years of searching, and the expenditure of over $3,000, I finally located my daughter shortly before her 24th birthday. Because she no longer lived in Michigan, she was unaware of the mutual consent registry, so had not filed. However, she had made a preliminary contact with a Detroit search and support group in 1981, taking the first steps toward finding me. She did not feel comfortable about conducting an all-out search for me at that time, because she feared my rejection of her. Had she attended a support group meeting, she might have learned about the Michigan registry, where I had filed a consent waiver years ago. My daughter was one of two adopted children raised in an unfortunate home situation.

The mother's alcoholism led to her death at the age of 52, leaving the two girls motherless at ages 12 and 14. My daughter left home without finishing high school at age 17, and was totally on her own thereafter. One year later, I had begun to search for her, yet we were kept apart by the current adoption system. Because of that system, I also lost my first grandchild to abortion. I have learned that, at age 20, my daughter became pregnant out of wedlock. Being her own sole means of support, and having no family to back her up, she saw abortion as the only realistic alternative open to her. It breaks my heart to realize that at the time she was going through this excruciating decisionmaking process, I was searching frantically for her. If only I could have found her in time, I could have offered her the loving support she needed to bring her child to term and parent it. You will be interested to know that at the present time I am helping a number of adoptive parents in search of their children's birthparents.

Sincerely,

MICHIGAN BIRTHMOTHER.

I would also like to bring to the attention of my colleagues excerpts from an August 21, 1985, Pittsburgh Press story, and a letter from Kate Pijanowski of Houston, TX.

I ask unanimous consent that they be printed in the RECORD.

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

[From the Pittsburgh (PA) Press, Aug. 21, 1985]

SHE FINALLY MET MOM, BUT THEY ONLY HAD 5 HOURS

(By Douglas Heuck)

Put up for adoption moments after being born out of wedlock, Judy Van Ryn wanted to see her real mother just once:

"God, just give me five minutes of her time," she says she prayed time and time again. "Is that too much to ask?"

The 39-year-old McCandless woman received her wish. But instead of five minutes, fate allowed Mrs. Van Ryn and her mother five hours together before her mother died on the operating table during open heart surgery.

On July 31, Mrs. Van Ryn received word from an Amarillo, Texas, hospital that her biological mother, Mary Bergman, would undergo open heart surgery early the next morning.

Mrs. Van Ryn immediately drove from her McCandless home to the airport and found

the last seat on the last jet with connections to Amarillo that night.

In her Amarillo hotel room that evening, Mrs. Van Ryn slowly began to realize that the long search for her mother would end in a few hours. She couldn't sleep.

"My brain was going a mile a minute. I got dressed, then changed my clothes again, I guess it was a little silly, but after 39 years, I was worried about looking good for my mother."

Mrs. Van Ryn and her twin brother, Jimmy, were adopted and raised together.

In the last letter she sent to her daughter, June 30, 1985, Mrs. Bergman, living alone, reminisced: "I got to see you and Jimmy twice, once when you were born and once on the day you left the home. I worked in the kitchen before and after you were born, and I was coming up from the kitchen one day when I saw a couple with two babies, one in blue, and one in pink.

"I remember going upstairs and finding your beds empty. I cried and cried, thinking I'd never see you again."

Although the possibility of a reunion was often present in the letters, the last letter suggested an unusual urgency. "We have so much to talk about, and I know we must meet face to face. Lately I have the feeling that it must be soon, as you never know what the future holds."

The future held an 11th-hour reunion.

When Judy walked into the hospital room at 7 a.m., her mother laughed and said "You don't look like anybody I'm related to."

Above all, Mrs. Van Ryn remembers "her eyes, I'll never forget them, real dark brown. She stared and stared, never blinking as she looked at me—and nobody had ever stared at me the way she did.

"I just let her stare," Judy recalled with a laugh "but it was driving me wild. She must have been soaking up those 39 years."

Mary Bergman was weak, and after a few sentences, she would fall asleep. Her daughter just waited for her to wake up, and conversation resumed.

By chance, the operation was postponed from 9 a.m. until 1 p.m. And by the time they wheeled Mary out of the room shortly after noon, Judy said the two "felt like we'd known each other for all those years."

After the operation, Mrs. Van Ryn walked down the hospital corridor toward the doctor and two nurses, still in their surgical gowns and gloves. But although she is a nurse of anaesthesiology at Allegheny General Hospital, she said she never expected to hear what the doctor told her:

"I'm sorry, but your Mama didn't make it offpass."

Judy listened and then cried.

"Even though I had just met her, I cried; but I wasn't crying because she died. I cried from the joy of the reunion. It meant a heaviness had left my heart.

"But for my mother, the reunion was even something more. For all those years, she lived with tremendous guilt. For her, the reunion meant inner peace at last—she died a healed woman."

Senator CARL LEVIN,
Russell Office Building,
Washington, DC 20510.

DEAR SENATOR LEVIN: My search for birth family began in 1962 when my oldest son was diagnosed with Rheumatoid arthritis and suffered a kidney condition (nephritis) from which he bled from the kidneys for three months. At the time I was pregnant with my third child and became alert to the importance of having genetic information. Doctor after doctor asked what our past family history was—"I don't know," I answered, "I'm adopted."

My search was unorganized. There were no support groups to help. I thought I was the only one who suffered these feelings of helplessness and lack of power over my own life—it seemed no one would help me or could help me.

In 1972 I was diagnosed as having cystic kidneys. My doctor suggested I write Canton Catholic Charities and try to get medical background. Catholic Charities said I needed a lawyer—I got a lawyer. They could not release anything to the lawyer, then they said my doctor would need to write—my doctor wrote. They were not too quick to produce any files to the doctor so I wrote again and pleaded that they send him the files out of Christian Charity. They finally sent what they had, which was not much.

Even if agencies do give out old files it is a given fact that birth families develop illnesses over the decades through the years. We need more than one generation of genetic information and we require updating. My third son has a ventricle heart prolapse condition, and my fourth son (also my first-born son) have chronic upper respiratory bronchial conditions.

In January of 1985, after 23 years of searching, I found my brother, now named Pat Simon, a broadcaster for the past 25 years, living in Lynchburg, VA. Three months later I found our maternal family. I managed to contact my grandfather's second wife who was still living, and also found some cousins living in the Washington area . . . one cousin is Mary Starrs Brown who does P.R. work for Wolf Trap. Other than these few all my maternal relatives are dead.

We missed meeting our mother by a year and half. George Washington University released our mother's ashes late in 1985. I met my brother in Washington for our mother's funeral. I was literally her pallbearer. I carried her ashes to her grave. My brother, who became a minister in 1984, gave the funeral service and afterward we both took a shovel and literally buried our mother, committing her body to the earth. The death certificates I have managed to acquire of the maternal side show that a definite upper respiratory weakness runs through that branch of the Broderick family. Even though two of my sons suffer upper respiratory problems we are fortunate that the boys never smoked—this would have worsened their condition. What are the chances of having four boys and not having one pick up on smoking? This is genetic information that should have been passed on to us.

Our little granddaughter who is now three years old was diagnosed with rheumatoid arthritis before she took her first step. The story continues into the third generation.

Sincerely,

KATE PIJANOWSKI.

Mr. LEVIN. Mr. President, a CRS report touches upon the frustration felt by adopted persons, many of whom meet obstacle after obstacle in their pursuit of reunion with their blood relatives. According to the report:

To adoptees searching for their birth parents, the facts are simple and straightforward: they are being denied access to information on their backgrounds and identity which is readily available to the non-adopted. One adoptee recently appealed to a State legislature considering a right to access proposal to "give me the same right to know my roots that you give to those who are not adopted," adding, "How can you deny me my identity by locking away my heritage?" Another noted at the same hearing, "It's really very difficult to communicate to one who is not adopted what it is like to be without the same basic information that the rest of society takes for granted.

Mr. President, I would like to share the sentiments expressed by Lorraine Dusky, a young woman who relinquished her daughter at birth. The young woman's remarks are from an article which appeared in Newsweek magazine. Ms. Dusky is the author of "Birthmark" and is a member of the Adoptees' Liberty Movement Association. I quote:

Somewhere out there is a 13 year-old daughter of mine. Actually, she's another woman's daughter, too: I gave her up for adoption at birth. I must assume—and I underscore the word must for it is the only way I can live with some sort of equanimity—that she has a mother and a father who love her and give her all the things that daughters need. Now, many people imagine that what happens to the woman who gave away a child is that she has a rather gloomy existence, ashamed and alone in her hometown, where there's often a whisper after she leaves the room. Or she is well-adjusted and living in suburbia with 1.4 children and a husband who pitches in around the house. Or she left town and went to some big city like New York or L.A. or Chicago and drowned her sorrows in a career. In any event, she has gone on to make a new life and most probably doesn't think too often of her child, and most likely doesn't want to be reminded of that painful time in her life by a stranger come knocking on her door. Well, it doesn't work out that way. Yes, we do make new lives for ourselves, we work for the telephone company and we win beauty pageants. We write for magazines like this and we produce television shows. We teach school and we run for public office. We get married or we don't. We are ne'er-do-wells and we are the pillars of the community. There are approximately 5 million of us, and we are your neighbors. But we do not forget. And whatever we do with our lives, yesterday's children live in our hearts. I worry that the birth-control pills mistakenly prescribed for me during the first four months of pregnancy are somehow harmful to my child today. The American Cancer Society agrees.

Why did I do it? It's a familiar story. At 23, I was unmarried and terrified. I didn't see how I could give my child a good life. Adoption seemed like the best solution for both of us. I can hear some of you thinking—it's been said to my face and behind my back—I made my bed and now I must lie in it. Play with fire and you get burned. OK. You have a point there; I won't argue. But what do you say to my daughter if, when she's grown up—say 18 or so—she wants to find out who her natural parents are, what her story is, if she has brothers and sisters and grandparents other than the ones she grew up knowing?

Why can't my grown-up daughter decide for herself? Having spoken to a great many natural mothers over the last eight years, I believe that the desire to find out what happens to our children is universal, or nearly

so. The available data bear this out. The bond of birth is in our genes. The decision I made was a painful one but I made it. If my daughter wants to know why, I owe her an explanation.

It seems that the psychological connection to one's roots is critical. That there is something missing from my life is beside the point. I was told I loved my daughter enough to give her up to two parents with an income better than my own; in fact, in 1966—when the world seemed quite a different place—I was practically congratulated for my generosity. I cannot change the past, I did what I did. But I imagine my grown-up daughter having questions without answers one day.

The least I can do is give her the right to decide whether she wants to know me.

Mr. President, let me also share the remarks of a young woman who wrote to me and whom my staff interviewed relative to the proposed National Voluntary Reunion Registry. She is a 49-year-old professor, formerly of a university in Connecticut, and she has been searching for her birth mother for 12 years:

Had I surrendered a child for adoption, I know I would always secretly wonder what had happened to her, if she were alive, if she were well, if she had found a good home. I would wonder what she looked like, what sort of person she had become. I would wonder if she wondered about me. Sociological research done over the last ten years indicates that my projections were not unfounded. The overwhelming majority of women who give up children for adoption are disturbed by these questions all their lives. Many are even haunted by guilt. This is a chapter in their lives that never has an ending. They can never put their thoughts to rest. If only I could speak to the woman who gave me life I could tell her how happy I am; I could tell her about the wonderful people who adopted me and the joy she brought into their lives. And for my part, I could see her, discover the secret of my origin, know the country from which my ancestors came, the story that is my history. I could reenter the bond of life that links all other people. I would see a blood relative—until my daughter was born. I could never discern my features in the face of another, and again and again since my son's birth people have asked me "who does he look like?" I want to know the answer. For twelve years I have been searching. Under our present laws, the search is difficult, frustrating and time consuming. It is often expensive, as well. I worked for two years with a young man searching for his biological parents and when he finally found them, learned that his birth mother and he had both gone to the same adoption agency for information within months of each other and were denied help. Each was assured that the other would not want to know and would suffer from knowledge or contact! We cannot but question why this myth is being perpetuated in the face of direct refutation, personally in this case or more broadly in the face of sociological studies of hundreds of involved parties.

I would also like to bring to the attention of our colleagues excerpts from a letter I received from Thomas J. Bouchard, Jr., professor of psychology, director, Minnesota Study of Twins Reared Apart:

Because of my work with twins reared apart conducted at the University of Minnesota, I have been contacted by parties interested in the passage of the national reunion registry proposed by Senator Levin.

I have, over the last 7 years, worked with a large number of twins who were separated early in life and who have experienced adult reunions. The vast majority of these reunions have been monumentally positive experiences for the individuals involved, and in no case has a pair of twins reported that they wish the reunion had not happened. This is not to say that there has never been any emotional turmoil; there has been in some cases. I should mention that my own experience with these twins has resulted in a dramatic change in attitude on my part regarding the ethics of facilitating such reunions. Prior to carrying out research, I would have, at best, been more neutral to the idea.

There is no doubt in my mind about the great value of this registry. As Senator Levin points out, a national registry operated by the Department of Health and Human Services would be far more effective and would be a sensible and humane solution to a difficult problem.

I strongly support the passage of this bill. It strikes me as just the kind of activity in which the federal government should participate. It involves an activity that neither individuals nor individual states can carry out in any effective manner. Participation in this activity is voluntary, and reasonable fees for the service should cover most of the expenses. In addition, such a registry would meet a real human need.

In closing, I would like to have printed in the RECORD the following letters which I received from Linda Cannon Burgess, former director of two District of Columbia adoption agencies; D.A. Hodgson, a birthfather from Gaithersburg, MD; John R. Ryan, president of the National Organization for Birthfathers and Adoption Reform; and Reuben Pannor, noted author, Clinician and Lecturer on Adoption. I ask unanimous consent that they be printed in the RECORD at this point.

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

MAY 23, 1988.

Senator CARL LEVIN,
Russell Building,
Washington, DC.

I support a National Volunteer Reunion Registry in which birth kin may be aided in reuniting. I am particularly concerned about the separation that comes through adoption.

During my active career as director of two adoption agencies in the District of Columbia (The Barker Foundation and The Peirce-Warwick adoption Service) I was responsible for over 900 adoptions. In the 1950s and 1960s, it was a time when the shame of having a baby out of wedlock was great, when raising a bastard child was inconceivable. I witnessed the anguish and sacrifice of these mothers in releasing their infants for adoption. These same mothers now seek their grown children. They do not ask for the privacy we think they want. Over 90% of them welcome the reunion of their adult offspring lost through adoption. Adopted adults, separated siblings, birthfathers and grandparents are also seeking each other.

Through my research in adoption I have recorded in two books, the "Art of Adoption" (1976 WW Norton) and "Adoption in Transition" about to be published the plight of adopted persons growing up without knowledge of genetic origins. I am convinced that as human beings and United States citizens, they are being denied their civil rights. A reunion registry makes it possible for these adopted adults to gain the knowledge they need, the genetic facts they must pass on to their children.

It is evident that state reunion registries cannot function effectively in our distinctly mobile society. Only a national registry can reach all searching persons. A National Volunteer Reunion Registry makes sense and and can act to humanize and reconstruct our broken family trees.

Respectfully submitted

LINDA CANNON BURGESS.

GAITHERSBURG, MD,
September 28, 1988.

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

DEAR SENATOR LEVIN: I was extremely interested to read the Washington Post article regarding your bill to establish a voluntary national clearinghouse for adopted children and their natural parents. I would like to tell you my story and express my feelings as to why I think this is so very much needed.

In 1967, I was sent on an assignment to Vietnam and let me just say I could not be contacted. Unbeknownst to me, my close friend at the time was pregnant with my child. I really think she did not tell me because of the nature of my assignment. When I "came out", I learned I had a daughter. By the time I arrived back, the mother had done the best thing she thought possible and had her adopted. I do not blame the mother for she did what she thought was best for the child at the time, given the circumstances. While I tried to fight it, it was too late and the situation was compounded because I was single at the time.

I have agonized for years. While I would never want to interrupt my child's life, the question keeps coming back to me: "What if she ever wanted to find out who her daddy was?"

The best I have been able to accomplish is that I was able to talk with a very sympathetic social worker in the California Department of Social Services who was able to tell me my daughter was adopted by a fine family and that her case record is empty since the adoption—a sign there have been no problems. The social worker was also kind enough to allow me to place a letter from me to the now young lady in the file so that should she ever want to contact me, she will know she will be welcomed with open arms. Because I am licensed with the California Board of Medical Quality Assurance, this agency will always know my address.

This approach was rather unique but, out of desperation, it has been all I have been able to do. You don't know how troubled I have been at times. How much easier it would have been to have a national mechanism that was widely publicized such as your bill proposes.

I heartly endorse your bill and if there is anything I can do to support you, please do not hesitate to have Ms. Parker contact me.

Respectfully,

D.A. HODGSON, Ph.D.

GAITHERSBURG, MD,
December 1982.

MY BELOVED DAUGHTER: I just wanted to let you know a few things about me should you ever wonder who I am and what you mean to me.

First of all, let me assure you that you were conceived and born of love. When you were born, I was in Vietnam and could not be reached because I was on a classified mission. Your mother made a decision which, under the circumstances, was probably best for you in the long run. I understand you are with a very loving family, and for this, I thank God.

When I returned, you were one month old and had been adopted. I tried desperately to stop the proceedings but lost the battle because I was single and lived in another state. Even your Grandmother in New Zealand wanted to raise you if she had the chance.

You are my first born—I have loved you all these years although I have not had the opportunity to lay my eyes upon you. I can't tell you how many times I have cried because I cannot know you.

Since you were born, I married and you have two beautiful brothers; John David and Michael. At the time of this writing, they are seven and eleven and unfortunately, they live in Seattle because their mother and I are divorced. She knows about you. As a matter of fact, while we were in Hawaii in 1970, we coincidentally met your mother. I introduced them to one another and we talked niceities. As we left, my wife said to me: "That is your daughter's mother—to which I proudly responded "yes."

Little one—let me get to the crux of the matter. I have tried for years to make some kind of contact with you. Recently, I received some assistance from the Department of Social Services. Current laws do not permit them to disclose your whereabouts—that is fair. They have been very helpful. This letter is being placed on file should you ever try to locate me.

Please remember—I have no wish to disrupt your life. I have every reason to believe your adoptive parents have given you a loving life. However, should you ever choose to seek me out—which means you get this letter—I can only assure you that you are my daughter and regardless of my personal situation at that time, my home is yours and you will be welcomed with open and loving arms.

If I move, you can always get my address from the Board of Medical Quality Assurance in Sacramento—my psychologist license is PN 003788.

Princess, it is somewhat strange. We hear all about how adopted children want to identify their mothers. I hope some day you may want to find your father. This is the reason for this letter.

Your loving father,

D.A. HODGSON, Ph.D.

NATIONAL ORGANIZATION FOR BIRTHFATHERS AND ADOPTION REFORM (NOBAR),
Rochester, NH, April 20, 1988.

Senator CARL LEVIN,
U.S. Senate, Russell 459, Washington, DC 20510.

DEAR SENATOR LEVIN: I am writing to you on behalf of the National Organization for Birthfathers and Adoption Reform (NOBAR) to express the support of birthfathers all across the country for the Unrestricted Voluntary Reunion Registry. This Registry would allow birthmothers AND birthfathers to register for reunion with an adult son or daughter. I understand that the Registry will be administered by HHS. NOBAR supports this change to the status of the original bill in 1980.

Your sponsorship and support of this legislation is greatly appreciated by the many birthfathers, birthmothers, and adoptees in NOBAR.

NOBAR is a resource and advocacy organization for birthfathers—fathers who have been separated from their children by adoption. As a resource, we are involved with many birthfathers across the country who have come forward to acknowledge, search for, and reunite with their surrendered sons and daughters. NOBAR's advocacy work is to promote adoption social policies and laws that protect all involved parties.

In 1986, research was conducted with birthfathers who had been separated from their children at birth by adoption. The results of this first-ever research on birthfathers were published earlier this month in a paper titled "Fathers of Adopted Children: A Study of the Impact of Child Surrender on Birthfathers" (Amer. J. Orthopsychiat. 58(2), April 1988). Enclosed is a copy of this paper. I am one of the co-authors.

The results of this research indicate that, contrary to popular opinion, many birthfathers care deeply about their surrendered children. The loss of a child to adoption under a secret system often remains an unresolved issue for many birthfathers—many grieve as much as birthmothers. Most of the birthfathers in the study (96 percent) had considered searching for their children—the same percentage found in a similar study of birthmothers that was published four years ago. Actual searchers were started by 67 percent of the birthfathers who responded.

In my work with NOBAR, adoption agencies, mental health professionals, other adoption support/reform organizations, and the research study, I have interacted with hundreds of birthfathers. All the birthfathers whom I have met don't view contact with their children as a problem, but rather welcome it. These birthfathers have stated that they do not need to be protected from their grown son or daughter, especially 20 to 30 years later.

As birthfathers, we do not want restrictions on either birthparent who seeks a reunion. Please serve our best interests and enact this legislation.

Sincerely,

JON R. RYAN,
President.

APRIL 20, 1988.

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

DEAR SENATOR LEVIN: I am in complete support of the Adoption Registry Bill you have introduced. It has the overwhelming support of adoption professionals, adoptees, and birth parents, as well as adoptive parents, who now realize that your bill is in the best interest of their adopted children.

I have been the director of a nationally recognized adoption agency in Los Angeles, California for 32 years. After years of experience with all the parties involved in adoption, I have no question but that a National Registry is necessary.

Professionals now recognize that reunions represent closure in adoption, that they bring together the missing pieces from the past for all the parties involved in the adoption, and most importantly that they end the distortions and fantasies that have plagued adoptions.

Finally, they prevent the pain and suffering that thousands of adoptees and birth parents are forced to endure in a search that is often fruitless.

The mental health profession strongly supports the need for the Levin Bill. The time is here for Congress to grant adoptees, birth parents, and adoptive parents the same rights enjoyed by those of us who are not adopted.

The time is now to humanize adoption.

Sincerely,

REUBEN PANNOR.

FOR MANY, SEARCH HITS A DEAD END

(By Linda Hilbun)

Gladys House vividly remembers the day she, her two sisters and her brother were taken from their mother.

"They came and woke us up about 5 in the morning and took us to the jail," Mrs. House said. "I was screaming and kicking and crying. They just came and got us out of bed."

That was in 1941. Her mother was widowed and the family's sole source of income was the grandfather's government paycheck.

Welfare officials in Macon County, Tenn., separated the children from their mother and claimed the children were being neglected.

Mrs. House, now 48, has spent the last 30 years looking for her brothers and sisters.

"I've gone through every channel that I know of," she said.

Mrs. House, who lived in the Raleigh-Bartlett area, was 6 years old when her family was broken up. Her brother, Edward D. Crook, was 13 days old, and her two sisters, Lamon Elizabeth and Lorene Cora Crook, were 4 and 5. An older half-brother, Willard Coley Clanahan, was not removed from the home.

Mrs. House was placed in a foster home in McKenzie, Tenn., but that family never adopted her.

When she was 18, Mrs. House acted on the assumption that her mother and half-brother still lived in Middle Tennessee, in Macon County. She was correct. Her mother, Beadie Coley Crook, had no idea where her children were until Mrs. House found her in December 1954.

For the next 14 years, until her mother's death, Mrs. House and her mother searched for the other children. They found out all were adopted through the Tennessee Children's Home in Nashville.

In a letter from the children's home, written April 22, 1952, Mrs. House was told that her two sisters were adopted together and the younger brother separately. Edward's name had been changed to Jerry Lee and all were said to be in good health.

Although the Tennessee Legislature passed a new law in April allowing adoptees to obtain nonidentifiable information about their families, Mrs. House cannot get that information. The refusal is based on the legal point that her foster family never adopted her; so she is not considered an adoptee.

"Because I wasn't adopted, I can't find out," she said. "I've been told that the only other thing I can do is get a court order for the information. But you have to know the court of jurisdiction to do that, and they're not allowed to give that information out. So I'm barred again."

"They've barred me forever from finding out."

[From the Las Vegas Review-Journal, Nov. 27, 1987]

LONG-LOST SIBLINGS REUNITE FOR THANKSGIVING AFTER 58 YEARS

FREMONT, CALIF.—A Thanksgiving reunion that brought together five children who were put up for adoption 58 years ago was "at least an 11" on a scale of one to 10, according to one sibling, Ed Maddox.

But it was far from complete. Two brothers are dead, one sister is in a nursing home suffering from Alzheimer's disease and three others are still missing.

"It was nice to bring each other up to date about what's happened in our lives," Maddox said Thursday. "We hope next time, there will be three more with us."

Maddox, 62, of Sunland near Los Angeles, was put up for adoption along with his 10 siblings by their poverty-stricken parents, Agnus and Harry Bunan, in 1929.

The Bunans and their children had camped all summer on the bank of a creek in what is now Fremont, about 40 miles southeast of San Francisco, on the eve of the Great Depression.

Alameda County authorities at first refused to take responsibility for the children of transients. Unable to feed the youngsters, the couple gave 10 of them to well-wishers attracted by newspaper accounts of their plight.

The county later reconsidered, took custody and offered all the children for adoption. No one knows for sure what became of the elder Bunans, although it is believed they moved to Arizona.

Born Edward Birdsel Bunan, Maddox was adopted by an Oakland streetcar motorman and his wife.

When he decided to look into his past, The Associated Press was contacted. Less than three weeks after a story on his search appeared, seven of his 10 siblings had been accounted for.

The siblings found included:

Agnes Durand, 69, of Citrus Heights, Calif. She told Maddox their eldest sibling, Harry, died in 1972 at the age of 56.

Lillian Stong, 67, now lives in a Castro Valley nursing home and suffers from Alzheimer's disease. Her sister, Marie Peterson, lives in Minneapolis. From them, Maddox learned another brother, Ernest Bunan, died of appendicitis in 1931 at the age of 12.

Walter Berman, 65, of Hamilton, Ohio.

Lloyd Lindberg, 63, of Springfield, Mass.

Still missing are Marion Fenton, who was last known to be living in Petaluma, Calif., and had her name changed from Viola; Leonard Loftus Bunan, last seen in 1942 when he was 15 and was adopted by a family named Wilson; and Harold Bunan, adopted when he was 10 months old and his name changed to James.

A reunion was held at Holy Spirit Parish church hall in Fremont with Maddox, Berman, Lindberg, Durand, Peterson and about 44 other relatives from across the United States.

And they found they have more in common besides similar noses, mouths, smiles and eyes.

"The whole group likes jigsaw puzzles, reading and gardening," said Maddox, standing in a hall, surrounded by leftovers, half empty paper plates and a family tree on the wall.

"It was a marvelous day," said Peterson adding they were to visit their sister, Lillan, later in the day. "I didn't believe it would ever happen. It has and I'm so glad I was alive to be here."

About the three who are still missing, she said, "We hope they'll see this in the paper or television and get in touch with us."

Berman said he always thought he would see his family again. He said he was sure of it when a fellow Pentacostal minister told him he would someday minister side-by-side with a brother. Maddox is a Christian missionary.

"It was a wonderful time," he said. "We'll be keeping in touch."

Lindberg, sitting in a wheelchair, described the reunion as "breathtaking." He said that when he worked as a service manager for a clock company and traveled around the country, he would always look for the Bunan name.

[From the Rockland (NY) Journal-News, July 21, 1983]

TRIPLETS SEPARATED AT BIRTH REUNITED AFTER 57 YEARS

WICHITA, KS.—Nearly 40 years ago, John E. Jones discovered he strongly resembled a boy who worked in a nearby town. But it was many years before Jones found that the stranger was his brother—from a set of identical triplets.

The triplets, separated shortly after their birth in 1926, gathered for the first time Wednesday, a joyous meeting punctuated by jokes and wisecracks.

"I've seen enough," said James Hahn of Cape Girardeau, MO. "I got off the plane and saw these two jokers and they looked so much like me, I could hardly stand it."

"I feel like I've been in an electric chair all afternoon," cracked Jones, of Santa Pablo, Calif., after meeting Hahn and John Clay Burch of Warren, Ark. "I just kept getting shocked."

Aside from the jokes and gentle ribbing, the reunion raised other emotions among the brothers.

"I've had so many feelings that are so varied and mixed," said Jones, the security director for the University of California at Berkeley. "I don't know where to start thinking about our relationship and where it's going to lead. It's going to take sometime for us to be together, to sit down and really start feeling that closeness that I think is bound to follow from this meeting."

The triplets were born Feb. 2, 1926. Abandoned by her husband and struggling financially, the mother gave her three babies to a St. Louis orphange shortly after their birth.

The mother kept her 5-year-old son, eventually remarried and had a daughter. She died in 1978 without seeing her triplets again.

None of the brothers was told by their adoptive parents they were triplets. All were raised by different families in different cities.

Once, Jones, who lived in Kennett, Mo., happened to walk into a drug store in Poplar Bluff, a Missouri town about 40 miles northwest of his home. The store's owner was struck by Jones' resemblance to a boy working for him.

Hahn, too, was surprised to find someone who looked just like him. The boys discovered they had the same birthday, but had no idea they were brothers. Thinking the resemblance was just a quirk, they never met again until Wednesday.

In 1971, Burch was reading some documents belonging to his father. He discovered at that time he was adopted, but didn't know until last year he was a triplet. The revelation came when he asked the Children's Home Society of Missouri for a birth certificate.

Burch found Hahn by using a phone number supplied by the orphanage. The brothers then found Jones by using clues provided by children's home officials who didn't have his address or phone number, but knew his adopted name and where he worked.

Two months ago they contacted each other by phone. After many long-distance calls, the brothers decided to meet in Wichita, the home of their older brother and half-sister.

"We just grabbed one another and put our arms around each other," Jones said.

[From the Daily News, June 15, 1986]

LOST MOM'S KIDNEY GIFT

BOSTON.—A 20-year-old woman given up for adoption at birth has received a life-saving kidney transplant from her natural mother, who was tracked down by the woman's adoptive parents.

Alicia Sferrino met her mother, Ruth Foisy, 37, last week for the first time. The transplant operation was performed Thursday, said Martin Bander, a spokesman at Massachusetts General Hospital. Both women were reported in good condition.

Sferrino's adoptive parents wanted to donate a kidney, but tests ruled them out, Bander said. Efforts were then made to locate her natural mother.

Darlene MacDonald, Foisy's cousin, said Sferrino's adoptive parents wrote Foisy in Florida asking if she would consider the transplant.

"Right away she decided she would do it," said MacDonald. "Ruth was very nervous about seeing her daughter. After all, it had been 20 years. But they hit it off immediately. Alicia is not shy at all. She's a very bubbly, happy person. She hit Ruth on the arm and said, Hi, how've you been?"

AMENDMENT NO. 3743

Mr. DOLE. Mr. President, I send to the desk an amendment to the amendment, on behalf of Senator HUMPHREY, and ask unanimous consent that reading be dispensed with.

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

The amendment is as follows:

On page 3, strike out lines 3 through 6 and insert in lieu thereof the following:

(A) the birth mother, or birth father (with the written consent of the birth mother), or an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

On page 3, line 24, strike out ", to the maximum extent feasible,".

On page 5, at the end of the page, insert the following new sections:

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

On page 6, line 1, strike out "5" and insert in lieu thereof "7".

On page 6, strike out lines 7 through 11 and insert in lieu thereof the following new section:

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

Mr. HUMPHREY. Mr. President, during a hearing last April, the Congressional Coalition on Adoption heard moving testimony from Faith Daniels, the coanchor of the CBS Morning News.

Daniels, who was adopted at 8 months, said the first thing people ask when they learn she is adopted is whether she knows who her real parents are. Miss Daniels answered:

Of course I know who my real parents are. Why wouldn't I? They raised me. They were the ones who held my hand when I was scared, held my forehead when I was sick, held me in their arms when I was hurt. They brushed me off when I fell, cheered me from the sidelines when I needed support, and gave me a good swift kick when I needed that, as well. Can there be parents any more real?

As an adoptive parent I can tell you that parenting has little to do with the birth process. It has everything to do with love. Yet, for many, finding out about one's genealogical and medical history is more than idle curiosity. It is imperative. During the April adoption hearing we heard of one case where an adopted woman had strong suspicions that she was a carrier of hemophilia. After many months of administrative stonewalling, she decided to petition the court for release of her sealed medical records. The judge refused. S. 2010 is designed to help persons in just that situation as well as the thousands of others who are looking for each other.

The purpose of S. 2010 is to establish a National Reunion Registry Program to facilitate voluntary, mutually requested reunions between adult adoptees, their birth parents, and birth siblings and birth grandparents under certain limited circumstances. No reunion would be facilitated unless both parties voluntarily applied to the registry to initiate the matching process, and the registry would be forbidden from contacting any individual not already entered into or participating in the registry program.

Currently, 22 States operate adoption registries. While these State registries play an important role in facilitating reunions between birth relatives and adoptees, most agree that a Federal registry will be able to go a step further. A National Reunion Registry will assure that persons in all 50 States, not just the 22 that currently operate a registry, will have an opportunity to meet birth relatives who are also interested in having a reunion.

While I have always been supportive of the concept of voluntary reunions, I have not always been supportive of the Levin proposal. Frankly, I had significant reservations about this bill as originally constructed. Specifically, I had concerns about the constitutionality of certain provisions, especially with respect to ensuring the confidentiality of parties involved in adoptions. The Humphrey amendment is intended to address these concerns.

First, the amendment will guarantee that women who place their children for adoption and who expect their privacy to be protected will not become victims of unwarranted intrusion. A young woman with an unplanned pregnancy faces many obstacles. In choosing adoption, she will very likely seek assurances about anonymity and confidentiality. My amendment will require that the birth mother consent to the initiation of a reunion, thus protecting her right to confidentiality.

While insuring that the birth mother is afforded maximum protection, the amendment allows the Secretary flexibility to grant waivers where extenuating circumstances or emergencies exist. It is my intent that this waiver authority be used only in the most limited circumstances. For example, in cases where the birth mother is deceased the Secretary may waive the requirement that he secure the birthmother's written consent.

Second, I was concerned about how S. 2010 might affect State laws on adoption. Eighteen States have laws concerning confidentiality of records, 9 have search and consent procedures, and 21 already operate registries. I wanted to make absolutely sure that those States would not be forced to change their laws and procedures in order to participate in the Federal Registry.

Therefore, the amendment I am offering makes it clear that this legislation is confined to authorizing the creation of an agency within the Department of Health and Human Services. The amendment ensures continued deference to applicable State law regarding the maintenance and sealing of adoption records. I want to make clear that S. 2010, as amended, will not, in any way, override, replace, or affect any existing State laws.

Finally, I was concerned that those States which have closed adoption records be protected and the Secretary be forbidden to interfere with that legitimate exercise of State power. All but three States fall into this category. My amendment specifically prohibits the Secretary from either initiating or engaging in legal or administrative actions to open closed or sealed adoption records, unamended birth certificates, or other sealed documents.

Mr. President, I believe that my amendment will enhance the pending legislation. With the amendment, I believe S. 2010 will be a fair and compassionate response to a need experienced by hundreds of adoptees and their respective birth families. I urge its adoption.

Mr. LEVIN. Mr. President, Senator HUMPHREY has offered an amendment to my substitute bill which he feels further ensures the birthmother's privacy rights. Because he was willing to modify his amendment to include a provision allowing the Secretary waiver authority of that provision, and because I do not want to complicate passage of the bill, I will not oppose the amendment.

The amendment (No. 3743) was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the substitute amendment (No. 3742), as amended, be agreed to, that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table.

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

The bill (S. 2010), as amended, was passed, as follows:

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary mutual request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry within the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted persons, birth siblings, or other birth grandparents.

(3) The number of inquiries ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National voluntary Reunion Registry authorized under this Act shall provide a centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)((1) The registry authorized under this Act shall provide that—

(A) the birth mother, or birth father (with the written consent of the birth mother), of an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(o) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

THE CALENDAR

Mr. BYRD. Mr President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of the following measures—House Concurrent Resolution 369, Senate Concurrent Resolution 131, and Senate Resolution 487; that the Senate proceed to the immediate consideration of the three measures en bloc; that they be passed; and that the motion to reconsider be laid on the table.

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

COMMENDING DEPARTMENT OF STATE'S SCIENCE AND TECHNOLOGY OFFICERS

The concurrent resolution (H. Con. Res. 369) was considered and agreed to.

UNITED STATES DECADE FOR NATURAL DISASTER REDUCTION

The concurrent resolution (S. Con. Res. 131) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 131

Whereas the natural hazards of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires have caused great loss of life, enormous property damage, and untold suffering in the United States and throughout the world;

Whereas the risk from natural hazards continues to increase due to increasing population concentration in urban areas, increasing capital investment projects worldwide, the interdependence of people in local, national, and global communities, and the existence of large numbers of unsafe buildings, vulnerable critical facilities, and fragile lifeline systems;

Whereas on December 11, 1987, the General Assembly of the United Nations established an International Decade for Natural Disaster Reduction beginning in 1990;

Whereas the goal of the International Decade for Natural Disaster Reduction is to promote cooperative efforts between nations to reduce the ravages of all types of natural hazards through the international exchange of data, the identification of gaps in knowledge, cooperative research projects, implementation of mitigation measures, preparedness planning and hazard awareness, and the timely and effective transfer of information and knowledge;

Whereas the International Decade for Natural Disaster Reduction requires the cooperation of all nations to successfully meet its goal;

Whereas the United States suffers from the destructive occurrences of earthquakes, tsunamis, volcanoes, floods, hurricanes, typhoons, tornadoes, landslides, and wildfires with attendant loss of life and property;

Whereas in 1977, Congress passed the Earthquake Hazards Reduction Act (Public Law 95-124) mandating the Federal Emergency Management Agency, United States Geological Survey, National Science Foundation, the National Bureau of Standards, and the other Federal agencies to develop a comprehensive national program to reduce the risks to and losses of life and property from future earthquakes and to contribute to earthquake hazards reduction through programs undertaken as part of the basic missions of these agencies; and

Whereas Congress, recognizing that natural and technological hazards may not be independent of one another in any given disaster and that planning for and responding to different hazards have certain common elements, establishing the Multihazard Research, Planning, and Mitigation Program, a program with goals similar to those of the International Decade for Natural Disaster Reduction, in the 1980 reauthorization of the Earthquake Hazards Reduction Act (Public Law 96-472): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress strongly endorses the establishment of a United States Decade for Natural Disaster Reduction as a means of supporting the goal of the International Decade for Natural Disaster Reduction to enhance existing cooperative efforts and promote cooperative efforts to reduce the devastating impact of natural hazards in the United States and throughout the world.

LIMITING SALE OF ARMS TO NATIONS IN THE MIDEAST

The resolution (S. Res. 487) was considered and agreed to, as follows:

S. RES. 487

Resolved, That it is the sense of the Senate that the President be urged to undertake discussions and negotiations with other nations which are principal suppliers of arms in the Mideast for the purpose of limiting, to the maximum extent possible, the sale of arms to nations in the Mideast.

C. CLIFTON YOUNG FEDERAL BUILDING

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1827.

The PRESIDING OFFICER laid before the Senate the following mes-

sage from the House of Representatives:

Resolved, That the bill from the Senate (S. 1827) entitled "An Act to designate the Federal Building located at 330 Booth Street in Reno, Nevada, as the 'C. Clifton Young Federal Building' ", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1: DESIGNATION.

The Federal building and United States courthouse located at 330 Booth Street in Reno, Nevada, shall be known and designated as the "C. Clifton Young Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building and United States Courthouse".

Amend the title so as to read "An Act to designate the Federal building and United States courthouse located at 300 Booth Steet in Reno, Nevada, as the 'C. Clifton Young Federal Building and United States Courthouse'.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CONGRESSIONAL AWARD ACT AMENDMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 5315, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5315) to amend the Congressional Award Act to extend the congressional program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GLENN. Mr. President, I would like to take a few moments to comment on H.R. 5315, the Congressional Award Act Amendments of 1988. This bill extends the reauthorization of the Congressional Award Program until November 15, 1989. The legislation also imposes strict operating conditions on this program, which, if met by the Congressional Award Board, will allow it to operate through September 30, 1990.

The Congressional Award Program represents the only award given by Congress to recognize the achievements of our Nation's youth in the areas of community service, personal development, and physical fitness. The program is administered on a national level by the Board which is responsible for promoting this program, developing new State and local councils and raising scholarships for the best student achievers.

In many respects, the success of the program is dependent upon the concerted efforts of the State and local volunteer councils which supervise and assist participating youth in these activities. By and large, these 48 councils have done an admirable job in encouraging our teenagers to strive not only to better themselves, but their communities as well.

Unfortunately, the national Board has not performed satisfactorily to date. It has been plagued by administrative, financial, and managerial difficulties. These organizational problems were recently documented in a report prepared by the General Accounting Office [GAO]. Indeed, due to these shortcomings, the Board last year was forced to seek help from Congress and the U.S. Treasury, in the form of a specific appropriation to keep it operational. This action was completely contrary to the program's authorizing legislation.

The Board has also fallen short in its mission to promote the Congressional Award Program and encourage the establishment of State and local district councils. The Board was created in 1979. Since then, some 48 councils in 22 States have been created. That is not an enviable track record for such a program.

Now, I will acknowledge there have been some positive changes on the national Board in recent months. It has new members who have pledged to make it an active, self-sustaining, and vigorous body. More program activities, including fundraising, have been initiated. And finally, a substantial portion of the program's outstanding debt has been forgiven, due in large part to the generosity of a former Board member.

In consideration of these encouraging signs on the national level, and in recognition of the success of the programs that have been established on the State and local levels, I have decided to support the measure before us. I do note that the House, wisely in my opinion, attached strict conditions to the Congressional Award Program's reauthorization.

The bill mandates strict accounting for the Board's expenditures and management by requiring that quarterly reports be submitted to Congress. The reports must include a description of fundraising activities, a financial balance statement, and a list of new councils established. The Board must also certify to Congress no later than September 30, 1939, that it has no outstanding debt and has met the requirements of the quarterly reports. GAO will verify the information contained in the reports and the certification.

If the Board complies with these requirements, its reauthorization, unless changed by Congress, will continue for another year, until September 30, 1990. However, should the Board fail to meet the prescribed conditions, the reauthorization will cease to exist 30 days after the date on which the report or certification was to have been made.

Let me be absolutely clear. I want to give the Board, and the program, a second chance to move forward. I hope it can be vigorous and viable. However, should the Board fail to meet these conditions, or otherwise gives evidence of stagnation, I will strongly oppose any additional authorizations of taxpayer money being used for bailout, as was done before. We should not forget that this organization uses the name and the seal of Congress, and we must ensure, therefore, that it operates in a manner befitting this institution. Most certainly, the participants and volunteers deserve nothing less than active, visible, and strong leadership on the national level.

So I will hope for the best, because I do feel this program has a great potential to do a fine job in encouraging the youth of our Nation—more potential than it has realized so far.

I can assure my colleagues that I will be closely monitoring the Board, its program activities, and its financial status.

Mr. HATFIELD. Mr. President, it is my pleasure to rise today to speak in favor of H.R. 5315, the Congressional Award Act Amendments of 1988. In this difficult time for our youth, where temptations of substance abuse and violence abound, this award recognizes and encourages the alternative of giving to one's community, developing individual goals and talents, and striving to become a physically and mentally healthful young person.

The Congressional Award was created by Congress in 1979 to recognize the efforts of youth ages 14 through 23 in three areas: voluntary public service, personal development, and physical fitness. The only award given to youth which bears the official imprimatur of the U.S. Congress, this program aims to inspire the setting of goals and the motivation of others by providing highly visible recognition to all socioeconomic classes of youth in this Nation.

Since the creation of the Award Program, over 2,200 Bronze, Silver, and Gold Awards have been earned and presented to young people in over 40 States. Requirements to earn a Congressional Award are defined in terms of hours of effort in three areas and age categories. Bronze Award recipients must be 14 years of age and have devoted over 200 hours to their goals in the three areas. Silver Award recipients must be over 16 or have earned

the bronze medal, and have devoted 400 hours in the program. Gold Award recipients must be over 18 and have contributed over 800 hours. Many Gold Award recipients have previously achieved both the Bronze and Silver Awards.

This program, unlike the many others which glorify the highest achievers in our land, is noncompetitive and has the potential to reach any young person who sets and achieves goals in the three areas. Awards given each year are unlimited, dependent only upon the number of interested and qualified youth who apply. Furthermore, this legislation calls for no Federal dollars. This program was never intended to receive Federal funding, but was expected that the private sector would join Congress in supporting and encouraging the Nation's youth.

Another important component of this recognition vehicle is the many dedicated volunteers who are appointed by their Members of Congress to serve on State and local congressional award councils across the country. These individuals oversee the program's development, communicate directly with potential recipients, and raise funds in order to hold award ceremonies to recognize our youth. Congressional Members participate by awarding the Bronze, Silver, and Gold Award medals and by meeting with recipients to encourage the continuance of their efforts.

The Congressional Award clearly serves a beneficial purpose and vital role in my State. In Oregon, the response has been gratifying: Over 60 prominent leaders in the State's business and educational communities serve as active members of the Oregon Congressional Award Council, and over 65 young Oregonians have received Congressional Award medals since the council's inception in 1986. Based on the number of applications received to date, we expect a significant increase in the number of youth who will be eligible for recognition this year.

I had the unique opportunity last April to join my colleagues from Oregon in presenting 27 Congressional Award medals to young Oregonians. One particular example of the strength of this program remains in my mind. Fourteen-year-old Todd Nelson of North Bend, a young man in a wheelchair due to his lifetime affliction of muscular dystrophy, received a bronze medal for his activities in surveying for a handicapped parking lot in his hometown, serving on his school's student council and bowling in a junior league. Todd demonstrated to all attending the ceremony that he was committed to making a difference. He was eager to meet the challenges of his world and I know, the Congressional Award made an impact on his young life.

There are many reasons for the success of the Congressional Award in Oregon. My State was the first to create a statewide council incorporating membership from five congressional districts. With the active support of each member of Oregon's congressional delegation, the council has built a strong reputation for fiscal integrity and a strong commitment to the goals of the program as defined in the Congressional Award Act.

The legislation before us today reauthorizes this valuable program for an additional year. While, it encourages the national board of directors to maintain stringent control over their resources over the next year, it leaves intact the autonomy of the State and local councils. The legislation also maintains the public-private partnership originally intended, and serves as a strong enticement for those in the private sector who wish to join the Nation's effort to commend its youth.

The Congressional Award Act is worthy of reauthorization today. I am confident that its success in Oregon provides every indication that it will become a vital national force for the recognition and encouragement of the fine achievements of our youth. I look forward to continued involvement with the Congressional Award Program and urge my colleagues to support this legislation and to investigate the possibility of establishing congressional award councils in their States.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed, and a motion to reconsider be laid on the table.

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

So the bill (H.R. 5315) was passed.

PANAMA CANAL COMMISSION COMPENSATION FUND

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5287, that the title be considered as having been read, that the bill be advanced to third reading and passed, and that the motion to reconsider be laid on the table.

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

So the bill (H.R. 5287) was passed.

OFFICE OF FEDERAL PROCUREMENT REAUTHORIZATION ACT

Mr. BYRD. Mr. President, is the Senate-passed bill S. 2215, the Office of Federal Procurement reauthorization bill, still at the desk?

The PRESIDING OFFICER. It is.

Mr. BYRD. I ask unanimous consent that the Senate's request for a conference on this bill be vitiated.

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

Mr. BYRD. I move that the Senate concur in the amendment of the House with the following amendment which I send to the desk on behalf of Senator CHILES.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. CHILES proposes an amendment No. 3744.

(The text of the amendment (No. 3744) is printed in today's RECORD under "Amendments Submitted.")

Mr. CHILES. Mr. President, I am delighted to announce my belief that the Senate and House will pass S. 2215, the Office of Federal Procurement Policy Act Amendments of 1988, before the session ends.

On August 11 of this year the Senate passed S. 2215 and sent the measure to the House. On September 13, the House substituted the language of H.R. 3345, their companion bill, and sent the measure back to the Senate. Since that action, an informal conference of representatives from both bodies has been working to come to an agreement on this legislation which both the Senate and the House can support.

On the Senate side, Chairman GLENN of the Committee on Governmental Affairs, Senators NUNN, ROTH, LEVIN, RUDMAN, COHEN, BINGAMAN, STEVENS, and myself have been represented in a working group with staff from Chairman BROOKS and Congressman HORTON of the House Government Operations Committee.

Success has been achieved. I am pleased to present the Senate with an amendment to S. 2215 which amounts to a substitute bill which reflects the agreement among Members from both Houses.

Mr. President, before I provide a summary of the bill and explanatory notes on the consensus amendment, permit me a couple of prefatory remarks.

This legislation to continue the Office of Federal Procurement Policy and further improve the Government's procurement practices will be the last major bill I sponsor here in the Senate. Back in 1974, during my first term, one of my first bills was the legislation which initially created this office, the Office of Federal Procurement Policy Act of 1974.

I am reminded of an essay by Ralph Waldo Emerson entitled "Circles." In this essay Emerson muses over the character of the universe and how much of a man's relationship to nature can be explained in terms of concentric circles that build upon one another. He begins by asserting that the circle is the "* * * highest emblem

in the cipher of the world."; he observes that "life is a series of surprises."; and he concludes that, "The one thing we seek with insatiable desire, is to forget ourselves, to be surprised out of our propriety, to lose our sempiternal memory, and to do something without knowing how or why; in short, to draw a new circle."

I believe a lot of life is spent drawing those "circles" Emerson talked about. They must begin with enthusiasm and never really end. Certainly, as I look back at that first bill on procurement, I kind of believe procurement reform has been one of the "circles" of my time here in the Senate.

Scoop Jackson sponsored the Commission on Government Procurement when I first got here in 1970. Sam Ervin, the chairman of Governmental Affairs then asked me to sit on the Commission when Scoop got busy handling his new chairmanship of the Energy Committee. For over a year I banged my head trying to meet the people and learn the nuts and bolts of Government contracting.

Senator Ervin then created for me my first chairmanship of a subcommittee to carry out the Commissions recommendations. Federal procurement was then some $57.5 billion. Today it is some $200 billion. Governmentwide procurement policy has become a major and permanent item in the Committee on Governmental Affair's jurisdiction.

The first thing we did was put into law the Commission's first recommendation to create a strong central manager for procurement policy within the executive branch. Then we moved to consolidate the statutory base for procurement practices within the agencies, simplify the regulatory system with a single set of regulations, and encourage upfront competitive forces in Government contracting as the best answer to prevent waste and fraud in the Government's procurement programs.

There has been a lot of water over the dam since those days in the early and midseventies. The Office of Federal Procurement Policy was reauthorized in 1979 and 1983. A major policy circular, A-109, designed to change the way we buy major weapon systems took root; the Competition in Contracting Act was passed; and the Federal acquisition regulation was established. Just like todays' times, there were a number of investigations, like the military beef scandals, the Small Business Administration's 8(a) Program, and the General Services Administration's difficulties which highlighted the need to streamline and simplify the regulatory system and to encourage a competitive supply base and competitive selection procedures to prevent fraud, corruption, and waste.

While there has been progress, my firm conviction is the need to emphasize those principles that were focused upon by the Procurement Commission are as great or greater now than they were then. For example, the conclusions of the more recent Packard Commission are remarkably similar. Moreover, as I mentioned, Government procurement is now a $200 billion a year program.

The procurement scandals of today will reveal some of the same lessons that we have learned before. Sustained, high level management attention is a requisite to solve the problems associated with administering the Government's procurement system.

Many observers estimate that streamlining the procurement process and eliminating unnecessary paperwork and administrative costs could result in a 5-percent reduction in the overall costs of the present procurement system. That is an objective worth shooting for—it would amount to some $10 billion in savings.

The bill we will pass today once again recognizes the need for strong central leadership within the executive branch, responsive to the President, and responsive to the Congress. This bill builds on the understanding there needs to be a partnership between the Executive and Congress if the Government is to meet the goal of an effective and efficient procurement system which operates with integrity.

There is also the recognition that this legislation is designed and presented as an opportunity for the next administration, no matter which candidates win in the election. The relative success of the Office of Federal Procurement Policy has always depended on the attention, interest, and support of the President and the Director of the Office of Management and Budget. This bill represents an offer from the Congress that this office presents a strong mechanism to attack the procurement problems the country faces today. My fervent hope is that this opportunity will be exploited and not squandered.

Finally, Mr. President, I want to thank some of the folks who have made this legislation possible. Special thanks go to Chairman GLENN, Senators NUNN, ROTH, LEVIN, COHEN, and BINGAMAN who were the cosponsors to this bill.

I want to thank Chairman JACK BROOKS and Congressman HORTON. FRANK HORTON served on the Procurement Commission with me. And he and JACK BROOKS have been the House sponsors to a lot of the legislation I had the good fortune to author as a Senator—the Sunshine Act, the Grant and Cooperative Agreement Act, the several OFPP Reauthorization Acts, the Paperwork Reduction Act of 1980 and of 1986. We have done a lot of work together. This bill is a nice way to cross the "t" and dot the "i".

I want to particularly thank Chairman BROOKS. Now that he is moving on to a new chairmanship, I suspect this will be one of his last bills on procurement as well. He, too, will be drawing a new circle. I have enjoyed all the work I have done with JACK BROOKS. He is a good friend. I thank him for all his support. I think it should be said there would be no OFPP today if JACK BROOKS did not think it was good Government. I hope he will keep the flame lit when those other laws we worked on come up for congressional review.

There are a number of staff persons who should be thanked for the extra hours on this bill. I know how hard they worked and very much appreciate their efforts. Bill Jones and Jim Lewin of Chairman BROOKS, staff. I want to thank them for their efforts on more than just this bill. Steve Ryan of Chairman GLENN's staff. Mike Mitchell, Linda Gustitus, Peter Levine, Larry Uhlfelder, Jeff Landry, Sean McAvoy, and Rich Ashooh of the Governmental Affairs Committee staff. Andy Effron of Senator NUNN's staff. Thanks to all of you.

Last, I want to thank the former Administrators of OFPP and the present and former staff directors of my Subcommittee on Federal Spending. They all know.

I ask unanimous consent to have pertinent material printed in the RECORD.

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

SUMMARY OF S. 2215 AS AMENDED—THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS OF 1988

Clarifies the role of the Administrator of OFPP to initiate government-wide procurement policy and prescribe regulations, procedures and forms relating to procurement.

Places authority with the Administrator of OFPP to rescind or deny promulgation of procurement regulations inconsistent with the policies of the Act.

Provides permanent authority for appropriations.

Establishes a Federal Acquisition Regulatory Council to help manage and coordinate a government-wide procurement regulation called the Federal Acquisition Regulation.

Reestablishes a 5 member Cost Accounting Standards Board which shall be chaired by the Administrator of OFPP and shall be responsible for promulgating and maintaining government-wide cost accounting standards.

Establishes certain prohibited behavior on the part of competing contractors and government officials to ensure "Procurement Integrity" for the procurement system. Contractural, administrative, civil, and criminal penalties are provided for if violations of prohibited behavior on the part of contractors or government officials occur. Certification and training requirements as well as unauthorized disclosure and revolving door prohibitions are established to further

ensure integrity for the Government's procurement system.

Requires OFPP to conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by certain contractors.

Clarifies the definition of architectural and engineering services for the "Brooks Act".

Creates a Commercial Products Advocate position within OFPP.

Mandates the Administrator of OFPP shall study and submit to Congress a report on what improvements can be made to the Federal Procurement Data System.

Elevates the Administrator of OFPP, the Administrator of the Office of Information and Regulatory Affairs, the Deputy Director of OMB, and the Director of OMB one level in the executive schedule.

Clarifies that the term "contract" in section 24 of the OFPP Act which deals with allowable travel expenses, is not to be applied to federally sponsored research at state and nonprofit institutions. Federal regulations which do apply to federally sponsored research are set forth.

Corrects an oversight in the FERS technical corrections bill (P.L. 100-238) and restores health and life insurance and retirement benefits to certain individuals.

EXPLANATORY NOTES TO THE CONSENSUS AMENDMENT TO S. 2215

SECTION 1

Section 1 states the title of the Act, the "Office of Federal Procurement Policy Act Amendments of 1988."

SECTION 2

Section 2 makes one change to the Declaration of Policy section (41 U.S.C. 401) and one change to the Findings and Purpose section (41 U.S.C. 402) of the Office of Federal Procurement Policy Act. This language was contained in the House bill, (H.R. 3345, Report 100-911). The term "United States Government" replaces the term "the Congress" in the Declaration of Policy section, and the word "Government-wide" is inserted before the word "procurement" in the Findings and Purpose section of the Office of Federal Procurement Policy Act.

SECTION 3

Section 3(a) makes changes to section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405). The Senate language amending section 6(b) of the OFPP Act (41 U.S.C. 405 (b)) is agreed to. This language, which inserts the clause, "including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a)," after the term "timely matter" is intended to clarify the authority of the Administrator of OFPP to initiate policy and prescribe the needed regulations, procedures and forms if the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration are unable to agree on or fail to issue Government-wide regulations, procedures and forms in a timely manner.

Subsection 6(f) of the OFPP Act (41 U.S.C. 405(f)) is amended to allow the Administrator of OFPP, instead of the Director of the Office of Management and Budget (OMB), to deny the promulgation of or rescind regulations relating to procurement. The Administrator may assert this authority only with the concurrence of the Director of OMB and consultation with the head of the agency or agencies concerned.

Section 32(b) provides permanent authorization of appropriations for the Office of Federal Procurement Policy.

SECTION 4

Section 4 establishes a Federal Acquisition Regulatory Council, constitutes the membership of the Council, and declares what the functions and responsibilities of the Council and Council members will be.

The House language constituting the membership of the Council was agreed to. The Council shall consist of the Administrator of OFPP, the Secretary of Defense, the Administrator of National Aeronautics and Space, and the Administrator of General Services. Other than the Administrator of OFPP, these officials may designate to serve on the Council the official assigned by statute with the responsibility for acquisition policy or if no official is assigned by statute, the official designated pursuant to section 16(3) of the OFPP Act (41 U.S.C. 414(3)). No other official may be designated to serve on the Council.

The intent of establishing clearly who will serve on the Council is to pinpoint accountability for carrying out the responsibilities assigned to Council members by the provisions of Section 4. In the case of the Department of Defense, the Under Secretary of Defense for Acquisition is statutorily assigned responsibility for acquisition policy. By law, (Section 133a of Title 10), the Deputy Under Secretary of Defense for Acquisition is specifically assigned responsibility to ". . . assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled." The Senate views this explicit statutory language detailing the duties of the Deputy Under Secretary as permitting the Deputy to assist the Under Secretary by serving on the Council. This is consistent with the intent of establishing clear accountability for carrying out the responsibilities assigned to Council members by Section 4.

The Senate language detailing what authorities were to be used in the joint issuance and maintenance of the Federal Acquisition Regulation was agreed to and is contained in section 25(c)(1) of the OFPP Act. Use of the Administrator of OFPP's authority under section 6 of the OFPP Act (41 U.S.C. 405) will not be required for the three other members of the Council to jointly issue a change to the Federal Acquisition Regulation. The intent is to maintain an appropriate balance between the authority of the OFPP Administrator to oversee and direct procurement policy and the authority and responsibility of the three line agencies who serve on the Council to exercise the primary responsibility for procurement policy. The Administrator of OFPP's role to initiate and stimulate procurement reform in further streamlining and maintaining the FAR without diminishing the authority of the three respective agencies is thereby affirmed.

Under "Functions" of the Council, section 25(c)(3) declares the Administrator, with appropriate consultation, is to ensure procurement regulations promulgated by the executive agencies are consistent with the FAR and policies set forth pursuant to the Act. Section 25(c)(4)-(6) establishes a procedural mechanism whereby interested parties either outside or within government may request the Administrator to review a regulation to determine whether it is consistent with the FAR or could be changed to improve compliance with the policies set forth pursuant to the Act. The Administrator is required to provide a written review of a reasonable request and is to take appropriate action to remove inconsistencies or improve compliance.

This procedural mechanism was agreed to in order to provide a way for interested parties to seek resolution of inconsistencies in procurement regulations with the FAR. The intent is to ensure that any issue of consistency between an agency rule and the FAR is a matter that will be resolved between the Administrator of OFPP and the respective agency, and not through litigation involving the underlying validity of agency rules.

In addition, the language agreed to in section 25(c)(4)-(6) is intended to ensure that actions undertaken by the Administrator to remove inconsistencies or improve compliance are prospective in effect, and do not affect the validity of any agency action taken under an otherwise authorized agency regulation.

This language further provides that the decisions of the Administrator in response to requests to review be in writing and publicly available. A listing of such decisions is to be provided in an annual report to Congress.

Section 25(d) of the OFPP Act sets forth "Additional Responsibilities of Membership" on the Council. A Council member is to approve or disapprove all future regulations relating to procurement promulgated or otherwise made effective by the member's agency before they are made effective in final form. This section is intended to cover regulations subject to section 22 of the OFPP Act (41 U.S.C.) which concerns public comment requirements for regulations relating to procurement.

Language was agreed to which allows a Council member to grant an interim approval, without review, for not more than 60 days in urgent and compelling circumstances. The intent is to establish a point of accountability for ensuring consistency with government-wide procurement regulations within the member agencies while permitting the needed flexibility to issue regulations for urgent and compelling circumstances. The member may authorize the issuance of such interim regulations without prior approval in each specific case.

In addition, language was agreed to which states the authority to review agency regulations may be delegated to a person within the office of the official who serves on the Council but may not be delegated outside that office.

SECTION 5

Section 5 reestablished a Cost Accounting Standards Board. It was agreed that the Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to procurement contracts with the United States.

The Board established in Section 5 adopts the Senate approach of constituting 5 Board members, and the House approach to establishing the authority of the Board. The Administrator of OFPP is to chair the Board. The Secretary of Defense is to appoint a member; the Administrator of the General Services Administration is to appoint a member; and the Administrator is to appoint two members, one from industry and one who is particularly knowledgeable

about cost accounting problems. The term of office for members other than the Administrator is to be four years.

The Board is to act by majority vote. The Administrator is to consult with the Board and prescribe rules and procedures governing actions of the Board no later than 180 days after enactment of the legislation. Among other considerations, an intent of this responsibility assigned to the Administrator is to enable the Administrator to take care that the Board properly consider its responsibilities under other applicable laws, such as the requirements of the Paperwork Reduction Act (44 U.S.C. 35), in promulgating cost accounting standards.

The Senate version of the CAS Board authorized the Board to establish procedures pursuant to which an agency head could waive CAS standards. The language adopted in the consensus amendment simply authorizes the CAS Board to establish procedures for the waiver of CAS standards. The Board itself shall determine appropriate procedures for waiver, including the appropriate officials for granting waivers. Waivers of "classes of contracts" may be granted only by the Board itself.

Section 26(h) declares that regulations promulgated by the Board shall be incorporated in the Federal Acquisition Regulation. The authority of the Administrator of OFPP to rescind, deny or take other appropriate action under section 6 of the OFPP Act is not restricted by the Board's authority.

SECTION 6

Section 6 is entitled the Procurement Integrity Section. Explanatory notes on this Section will be provided later in the record by the Government Affairs Committee.

SECTION 7

Section 7 mandates the Administrator of OFPP to conduct a profit methodology study. The House language "which executive agencies should use" was agreed to in lieu of the Senate language "may use". No substantive difference is intended. The Senate view of this Section can be found in the Senate Report accompanying S. 2215. (Senate Report 100-424)

SECTION 8

Section 8 concerns the definition of Architectural and engineering services. The Senate agreed to the House language which is explained in the House Report. (House Report 100-911)

SECTION 9

Section 9 establishes a Commercial Products Advocate. The Senate accepted the House language. Additional language mandating the Advocate to study the applicability of the requirements of the Procurement Integrity Section of the Act to the acquisition of commercial products was agreed to.

SECTION 10

Section 10 mandates a study by the Administrator of OFPP to assess needed improvements for the Federal Procurement Data System and report to the Congress.

SECTION 11

Section 11 concerns the elevation of Presidential appointees within the Office of Management and Budget. The Administrator of OFPP, the Administrator of the Office of Information and Regulatory Affairs, the Deputy Director, and the Director are all raised one level on the executive schedule. This becomes effective January 20, 1989.

SECTION 12

Section 12 clarifies the term "contract" as it is employed in section 24 of the OFPP Act. The term is not intended to cover "sponsored research" agreements to state or nonprofit institutions. The regulatory requirements appropriate to those entities for travel funded by federally sponsored research is set forth by the section.

SECTION 13

Section 13 concerns federal employee benefits for certain employees of Former Presidents and Vice Presidents. In January of this year, the Congress passed a FERS technical corrections bill (P.L. 100-238) which, among other things, terminated health and life insurance and retirement benefits for various non-federal boards, commissions, and other entities which had these benefits by virtue of authorizations in laws other than title 5 of the U.S. Code. Among the various groups that are affected by this blanket termination are new employees (hired after October 1, 1988) of Presidential transitions. The law also terminated health insurance benefits for new employees of Former Presidents.

This amendment contained in Section 13 would restore health and life insurance and retirement benefits for individuals appointed to the transition team of the outgoing Administration, only if such individuals were federal employees immediately prior to their appointment to the transition. In addition, the amendment would restore health insurance benefits for new employees of Former Presidents.

Mr. NUNN. Mr. President, this is the last major bill that will be managed by my good friend, Senator LAWTON CHILES. He has been an innovator and a leader in promoting simplification of the procurement process. His ability to develop a consensus bill reflecting diverse interests in the Senate is typical of the skill and leadership that he has brought to the legislative process throughout his career in the U.S. Senate.

This bill reaffirms the intent of Congress that the Office of Federal Procurement Policy serve as a major player in the procurement reform process. The bill makes it clear that the Administrator for Federal Procurement Policy can initiate Governmentwide procurement policy and issue implementing regulations if DOD, NASA, and GSA have failed to do so in a timely manner, but it does not detract from the primary responsibility of the procuring agencies to issue such rules. As we noted with regard to a similar provision in an earlier version of this bill:

[T]he clarification of the Administrator's authority is not intended to relieve the procuring agencies of their responsibility to develop and implement policies and rules to improve the procurement process. The magnitude of governmental contracting activities is such that responsibility for procurement policy must be exercised primarily by the agencies. While OFPP can provide an effective stimulus to agency actions, the Committee looks to the individual agencies to initiate and execute meaningful procurement reform. (S. Rep. No. 100-424).

The legislation now before us maintains the balance we achieved in the earlier Senate bill. The responsibility for overall Governmentwide policy is vested in the Administrator for Federal Procurement Policy. The responsibility for developing and issuing rules rests with the three major procuring agencies, the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration.

To bridge the relationship between the Administrator and the three major agencies, this bill creates a Federal Acquisition Regulatory Council, consisting of the Administrator and the heads of the three agencies or their designees. Section 25(a) specifically provides that the Council is being established "to assist in the direction and coordination of Governmentwide procurement policy and Governmentwide procurement regulatory activities in the Federal Government." This will ensure that the Administrator, in exercising authority under section 6 of the act, will first consult with the Council to ensure that the Administrator's actions take into account the needs of the agencies.

At this point, I would like to comment on some of the more technical aspects of the bill. Section 4(4) of the current act defines the relationship between the Federal Acquisition Regulation and agency rules. This bill sets forth a similar provision in section 25(c) and makes a conforming change by deleting section 4(4). This provision does not make any substantive change in the law.

Section 25(b) governs service on the Federal Acquisition Regulatory Council. Under section 25(b)(2), either the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition may be designated to serve on the Council because they have statutory responsibilities that meet the criteria for service on the Council.

Under section 25(c) (4)-(6), members of the public can raise issues regarding alleged inconsistency between the FAR and agency rules. If the Administrator contemplates rescinding an agency rule in response to such an application, he must consult with the specific agency under subsection 6(f) before he takes any action to rescind an agency rule.

It is important to emphasize that section 25(c) (4)-(6) is intended solely to enhance the internal management of the Government's regulatory process, and it does not establish a mechanism for invalidating agency action under agency rules. In particular, a decision by the Administrator to rescind a rule will not constitute a determination that the agency's rule and action thereunder was unlawful. Action by the Administrator under this section is

intended to be prospective only in its effect, and will not have the effect of invalidating any agency action.

Under section 25(d), subordinate component may issue interim rules in urgent and compelling circumstances for 60 days without review of the proposed rule by the designated agency official. The agency concerned may permit the agency to authorize subordinate components to issue such interim rules without case-by-case approval for issuance of each interim rule.

The agency concerned can authorize subordinate components to issue interim rules in urgent and compelling circumstances without case-by-case approval for such issuances, but all such rules must be reviewed and approved by the designated official within 60 days.

This legislation also establishes a Cost Accounting Standards Board. In Senate Report 100-424, on the earlier version of this bill, we said:

> In considering the functions and responsibilities of the Board, the Committee concluded that the agencies, rather than the Board, should be responsible for determining the allowability of specific costs.

The bill now before us embodies the same policy.

Section 26(f)(4)(B) authorizes the Board to establish waiver procedures. The Board should use this authority to permit agency waiver of the procedures when there are urgent and compelling circumstances requiring immediate agency action.

I want to again commend Senator CHILES for his thoughtful leadership on this issue, and I would like to express my appreciation to Bob Coakley and Steve Ryan of the staff of the Governmental Affairs Committee for their hard work on this bill. I am also grateful to Senator GLENN, the chairman of the Governmental Affairs Committee, and to Senators LEVIN, BINGAMAN, ROTH, RUDMAN, COHEN, and STEVENS for their important contributions to the development of this consensus bill.

Mr. LEVIN. Mr. President, I rise in support of this compromise bill reauthorizing the Office of Federal Procurement Policy. The negotiations with the House on this bill have been long and intense, because the issues the bill addresses are complicated and in the area of procurement integrity, ground breaking.

Let me salute, at this time, the father of the Office of Federal Procurement Policy, or OFPP as it is called, my good friend from Florida, Senator CHILES. He has been committed, during the course of his time in the Senate, to a strong, fair, and efficient procurement system, and he has been at the center of many of our major reforms in this area, including the creation and strengthening of OFPP. It is appropriate that in these last few days of Senator CHILES' service in this body, we are taking the step of permanently authorizing this office.

At the same time we are making OFPP a permanent office within OMB, we are also enhancing its authority as well as addressing a number of important Governmentwide procurement issues.

The bill creates a Federal Acquisition Regulatory Council for assisting in the coordination of Governmentwide procurement policy and regulation, reestablishes a Cost Accounting Standards Board, directs the OFPP Administrator to conduct a study on profit methodology and the usefulness of our Federal procurement data system, defines architectural and engineering services, and establishes an Advocate for the Acquisition of Commercial Products within OFPP. These are all provisions which I support and on which I believe productive compromises with the House were reached.

I would like to address in greater detail the section we call procurement integrity. The original Senate-passed OFPP bill did not include a procurement integrity section; the House bill contained extensive language. The Senate had to decide whether or not to accept any legislation in this area at this time, and if so, to what extent, given the absence of any legislative hearings or committee review of the House-passed provisions in the Senate. We ended up accepting some of what the House had proposed, but substantially redrafting those provisions. Given the seriousness of the offenses which we have created, I would have preferred to have extensive agency and public comment on the final language. But, we were not able to avail ourselves of such input, given the limited time constraints we faced in reauthorizing this office prior to our adjournment.

This section of the bill would prohibit any contractor—or contractor employee or agent—during the course of a procurement from knowingly making an offer of future employment or a gratuity to a procurement official or soliciting proprietary or source selection information from an agency official. It prohibits any procurement official during the course of a procurement from knowingly soliciting an offer for future employment or gratuity from a contractor employee or representative or disclosing proprietary or source selection information to unauthorized persons. It also prohibits anyone during the course of a procurement, who has received source selection or proprietary information from knowingly disclosing it to any unauthorized person.

The possible penalties for such conduct include contractual penalties against the contractor to be established by regulation, a personnel action against a Federal employee, possible suspension and debarment against the contractor, and a civil fine of up to $100,000 in the case of an individual and $1 million in the case of a contractor. A criminal penalty of up to 5 years in prison could be imposed on an individual who knowingly and willfully discloses proprietary or source selection information to a competing contractor—that is, a contractor who may be a bidder on a particular Federal procurement.

In addition to the penalties, the bill imposes a number of certification requirements on both contractor and agency employees in order to ensure compliance with the statute. Each contractor who is awarded a contract with the Federal Government in an amount in excess of $100,000, with certain exceptions, will be required to have the employee responsible for the offer or bid to either disclose any information that he or she may have relative to violations of this statute or to certify that he or she has no such knowledge of such violations. The agency contacting officer on each such contract will be required to disclose and certify in a similar manner.

The bill specifically authorizes Federal agencies to require additional certifications from both Federal and contractor employees during the conduct of the procurement. This does not give an agency authority to seek certifications directly from the employees of a competing contractor, however, as the original House bill would have permitted. The Senate rejected that proposal. It only restates existing law and is not intended to create any new or additional authority to demand certifications in any case where current law precludes the exercise of such authority.

The certifications are to be maintained in a file held by the contracting officer. In addition, the contracting officer will now be required to maintain a list of each person who has access to the proprietary and source selection information regarding each contract. The House has originally proposed that each contracting officer also maintain a list of each procurment official working on each contract, but that was wisely deleted as overly and unnecessarily burdensome.

The bill also establishes a Governmentwide revolving door ban for all Federal officials who have participated personally and substantially in a particular contract. The bill would bar these individuals from working on such contract for a competing contractor or a contractor who has been awarded the subject contract for 2 years. I think this is a reasonable approach to solving what remains to be a pressing appearance problem in the area of Government procurement, particularly with regard to the Department of Defense.

The certifications required in this bill by the employee of the contractor responsible for the offer or bid on a contract and the Federal contracting officer on the contract are limited to only the information that individual has at the time of such certification. There is no requirement imposed by this bill that such individual seek out additional information for purposes of the certification.

The certifications required by this bill in subsection (d)(1)(B) as to individual employees of Federal contractors are general certifications which can be made on a one-time basis at the beginning of an individual's employment with the contractor. They are not intended to be made on a contract-by-contract basis for each Federal contract. That is why we used the word "any" to modify "contract" in (ii).

In establishing the revolving door restriction, the bill uses the words "Government official," a term that is not defined in the bill. We intentionally did not use the term "procurement official" since to do so, by the definition of that term, would have included private persons hired as consultants and advisers by Federal agencies. Only Federal civilian and military employees or officials are covered by the 2-year postemployment ban and only those personally and substantially involved in a procurement. It does not include agency officials who merely have responsibility for reviewing or approving a procurement and do not actively participate in the procurement by attending meetings, discussing the procurement with subordinates or competing contractors or similar activities.

The bill requires Governmentwide regulations establishing clauses to be included in Federal contracts which provide for penalties for violations of subsection (a) of the bill. Caution must be exercised in carrying out this responsibility. While the bill seems to permit misconduct by one employee of a contractor to trigger a contractual penalty, such a result would in many cases be unwise and unfair. The penalty must fit the scope of the prohibited conduct, so that constructive or actual knowledge by the contractor itself should be required for the more serious penalties, such as termination for default or loss of profit. It is not intended by this section that a lone employee's misconduct can trigger a complete default on the contract.

In the section of the bill that addresses administrative sanctions, the option of "removal" is specifically mentioned as to Federal employees. We do not intend to in any way suggest that removal is a preferred sanction or even that it is an appropriate sanction in any given case. This is left to a case-by-case determination by the agency. The only purpose for mentioning removal is to give notice to employees that violations of the prohibitions of this section may carry serious consequences.

Also in the "administrative actions" section, the bill provides that the agency shall make a determination as to what action is appropriate. This is not intended to require a written finding or determination in each case. It is also not intended to create any new right of review that does not exist under current law.

The definition in the bill of "proprietary information" is limited to that information designated as proprietary by law or regulation. It is not any information a contractor or agency head or contracting officer chooses to deem "proprietary". In order to be included within the definition in this statute, information would have to be proprietary by law or regulation.

Mr. President, I am hopeful that this bill will be the final step we take to make the Office of Federal Procurement Policy a strong force in establishing a uniform—to the extent possible—and manageable Governmentwide procurement system. I hope the next administration will nominate a person with a strong background in procurement law and policy as well as one who can be a forceful advocate for reason and uniformity in the area of procurement.

In closing, Mr. President, I would be remiss if I did not thank and commend the persistent and hard-working staff people who spent countless hours hammering out the technical details of this bill. They did a solid job.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 2215, the Office of Federal Procurement Policy Act Amendments of 1988. This important Office has existed without a reauthorization for far too long, and I believe that this legislation includes a series of measures necessary to strengthen the Office of Federal Procurement Policy [OFPP] and to improve the management of the Federal procurement process.

In 1972, Congress established the Office of Federal Procurement Policy within the Office of Management and Budget for 5 years to provide overall direction and leadership in Federal procurement policymaking. Prior to that time, procurement policies and procedures were needlessly diverse; there was no central office in the executive branch prepared to provide the Congress with the recommendations for improving the procurement process, and there was no arbiter to reconcile agency disagreements on procurement policy.

For these reasons, the OFPP was established—independent of any agency having procurement responsibility, empowered with directive rather than merely advisory authority, responsive to Congress, and consisting of a small, highly competent cadre of seasoned procurement experts—to fill this void. The Administrator for Federal Procurement Policy, who is subject to Senate confirmation, was authorized under the 1974 act to prescribe policies, regulations, procedures, and forms which the executive agencies were required to follow. The OFPP was statutorily prohibited, however, from interfering in the daily management of an agency's procurement operations, which properly is the responsibility of an agency's procurement officials.

In 1979, the OFPP was reauthorized for an additional 4 years (Public Law 96-83). While Congress maintained the OFPP's fundamental responsibility to promote economy, efficiency, and effectiveness in the Federal procurement process, the authority which the Administrator had to discharge this responsibility was substantially weakened. Public Law 96-83 revoked the OFPP's regulatory authority, thereby restricting its authority to issue Governmentwide policy directives. As a supplement to this more limited authority, the Director of the OMB was authorized to deny the promulgation of or rescind any agency rule or regulation which was inconsistent with any OFPP policy directive.

In 1983, as chairman of the Subcommittee on the Oversight of Government Mangement, I sponsored S. 1001, which once again strengthened the authority of the Administrator for Federal Procurement Policy by restoring regulatory authority and by specifying a leadership role for the Administrator in the establishment, development, and maintenance of the Federal Acquisition Regulatory [FAR] System. By creating the Administrator's current modified regulatory authority, the 1983 bill created a balance whereby OFPP would not supercede the responsibility of the DOD, GSA, and NASA for promulgating and maintaining the soon to be enacted FAR. Rather, S. 1001 preserved the existing regulatory framework—with the DOD, GSA, and NASA directed by the President under Executive Order 12352 to continue their joint efforts to consolidate their common procurement regulations into a single, simplified FAR—while providing the OFPP with regulatory authority to be used in those situations when these agencies are unable to agree or fail to act.

The need for a central procurement policy office is even greater today than when the Commission on Government Procurement recommended that such an office be established over 15 years ago. The value of Government contracts has gone from $57.5 billion in fiscal 1972 to $158.9 billion in fiscal 1982, to roughly $200 billion today. The magnitude and budgetary significance of Government contract-

ing, alone, mandate the existence of a strong procurement policy office.

Today, in considering S. 2215, we are faced with an analogous situation to that experienced in 1983. In short, although the FAR has not been established for 4 years, the effort to both simplify and consolidate the Federal-Government's procurement regulation remains ongoing. And once again there is the recognition that, although significant gains have been made, the OFPP in conjuction with DOD, NASA, and GSA have much left to accomplish.

This 1988 reauthorization represents our continued resolve to insure that strong, central leadership within the executive branch, embodied in the OFPP, is further refined and that the continuing and recurrent challenges of the Federal Government's procurement function are addresed in the most efficient and forthright manner possible. The OFPP remains emblematic of our recognition that both the legislative and executive branches must cooperate to ensure that the advances made in recent years are safeguarded and that the myriad of problems still extant in the procurement system are acknowledged and dealt with.

S. 2215 makes a number of important changes in the existing structure of the OFPP while reasserting the primacy of its basic mission to at once consolidate and simplify Governmentwide procurement regulations, encourage the efforts to promote competitive processes within the Government's procurement function and actively provide clear and consistent leadership that successfully defines the salient priorities of Governmentwide procurement policy.

Importantly, S. 2215 maintains the existing modified regulatory authority established for OFPP during the last reauthorization process in 1983. Indeed, the bill clarifies this authority and reiterates the current balance between the Administrator's oversight and directive function and the agencies' primary responsibility for procurement policy. The Administrator thus maintains the important authority to initiate and proscribe needed regulations when and if the DOD, NASA, and GSA are unable or unwilling to issue needed Governmentwide regulations in a timely manner. I believe that this authority, coupled with the provision to allow the Administrator of OFPP, instead of the Director of OMB, to deny promulgation of or rescind regulations relating to procurement, and the permanent reauthorization of the Office, contribute markedly to our shared goal of a vital and active OFPP.

This legislation, by creating a high level Federal Acquisition Regulatory Council, reviving the Cost Accounting Standards Board, and creating a series of initiatives designed to foster procurement integrity on a Governmentwide basis, goes a long way toward insuring our twin efforts to promote efficiency and honesty within the procurement system.

The Federal Acquisition Regulatory Council that will be established by this legislation will serve to assist the coordination and overall management of procurement regulations by creating a mechanism wherein the Administrator and the representatives of DOD, NASA, and GSA will be encouraged to work cooperatively with the intent that the efficiency of the FAR process be enhanced. I firmly believe that by focusing responsibility for maintenance and management of the FAR at the highest practicable levels of DOD, NASA, and GSA, this legislation makes an important contribution to the effort to foster consistency within the FAR while, at the same time, aiding attempts to address the problem of proliferating agency supplemental regulations.

Likewise, the final version of the procurement integrity section contained in this bill represents a measured response to perceived inadequacies in current law governing prohibited and unlawful practices in the procurement process. In light of the latest procurement scandal, the mechanisms of certification, training, and additional "revolving door" provisions contained in this bill will help restore and maintain the integrity of our purchasing system. I believe that the reforms promulgated by this legislation will help deter similar behavior in the future and I look forward to monitoring their effectiveness during the coming Congress.

In short, the bill before us represents the sum total of a number of dedicated individual's efforts over the course of not only this Congress but also, as illustrated above, dating back at least to the early 1970's. While there is, and I presume there will always be, a need for vigilance in this area, our efforts up to this point have, without doubt, created further opportunities for improvement in the future.

I would also like to take this opportunity to commend the original sponsor of this bill, Senator CHILES, both for producing a fine product in this regard and for his tireless dedication during his many years in the Senate to the problematic and at times thankless task of reforming procurement policy. This bill represents the culmination of that effort and is, I believe, a fitting milestone to mark both Senator CHILE's and this body's achievements in improving and refining the administration and management of the Federal Government's procurement function.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY SERVICES ACT OF 1988 AMENDMENTS

Mr. BYRD. Mr. President, on behalf of Mr. DODD, I call up a bill and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2915) to make certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. Mr. President, I ask for your consideration of this package consisting primarily of technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act. As part of the reauthorization of this act passed earlier this year, a comprehensive revision of title I—child abuse prevention and treatment—was undertaken. As a result of this comprehensive revision of title I, it has been deemed appropriate to make the technical corrections contained in this package in order to be consistent with the intent of the original child abuse prevention statute.

Additionally, Mr. President, this package contains a clarification of the bipartisan agreement reached during conference on the child abuse reauthorization that priority should be given to discretionary research and demonstration projects which focus on identification and prevention of child abuse. The need for this priority on identification and prevention of child abuse is unfortunately dramatically called for in the face of the skyrocketing reports of abuse and neglect occurring all across this country over the past decade.

Finally, Mr. President, this package also contains a revision of the requirements for grants going to family violence shelters. The funding cap of $150,000 is being raised in order to give those States with a limited number of shelters the flexibility to continue funding those shelters rather than cut off Federal support. In States with limited family violence shelter capacity, the evidence available suggests that such services may have to be discontinued altogether if Federal support were to be cut off. Although the funding support through the family violence prevention and services program is also limited, we cannot sit by and give spouses and their children fleeing abusive home environments no place to turn in times of often life-

threatening crises. We already know that even with the combined Federal, State, and local funding capacities, we are still only helping every other woman seeking shelter.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table.

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

So the bill (S. 2915) was passed, as follows:

S. 2915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) Section 6(e)(1)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 510(e)(1)(B)) (hereafter in this section referred to as the "Act") is amended by striking "the Office of Human Development Services" and inserting "the Office of the Assistant Secretary of the Department responsible for administration of the program under this Act".

(b) Section 7 of the Act (42 U.S.C. 5106) is amended—

(1) in the caption by striking "grants to" and inserting "grants to and contracts with";

(2) in paragraphs (1) through (6) of subsection (c), by striking the periods at the ends and inserting semicolons;

(3) in subsection (c)(2), by striking "Such other innovative programs and projects as the Secretary may approve, including programs" and inserting "Programs";

(4) in subsection (c)(6)(C) by striking "as determined as appropriate" and inserting "as determined to be appropriate"; and

(5) in subsection (c)(6)(D)(i), by striking "is in a combination with—" and inserting "proposes to provide services under a grant under this paragraph through formal arrangements with—".

(c) Section 8(b) of the Act (42 U.S.C. 5106a(b)) is amended—

(1) in paragraph (1)(B) by striking "provisions for immunity" and all that follows and inserting "provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;"; and

(2) in clause (E) of paragraph (3), by striking "such".

(d) Section 8(c) of the Act (42 U.S.C. 510a(c)) is amended to read as follows:

"(c) WAIVER EXTENSION.—Any State which on the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 had a waiver of requirements under subsection (b) (other than requirements under subsection (b)(10)) may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirements—

"(1) through the end of fiscal year 1988; or

"(2) in the case of a State the legislature of which meets biennially, through the end of fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.".

(e) Section 8(d) of the Act (42 U.S.C. 5106a(d)) is amended by striking "equal of the amount" and inserting "equal to the amount".

(f)(1) The caption of section 9 of the Act (42 U.S.C. 5106b) is amended to read as follows:

"SEC. 9. GRANTS AND TECHNICAL ASSISTANCE TO STATES FOR PROGRAMS FOR DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS".

(2) Subsections (a) and (b) of section 9 are redesignated as subsection (b) and (c), respectively.

(3) Subsection (f) of section 8 of the Act (42 U.S.C. 5106a(f) is redesignated as subsection (a) of section 9 of the Act (42 U.S.C. 5106b(a)).

(4) Section 9(b) of the Act (42 U.S.C. 5106b(b)), as redesignated, is amended—

(A) in the caption, by inserting "and clearing-house" after "technical assistance"; and

(B) in paragraph (2)(A), by striking "phone" and inserting "telephone".

(5) Section 9(c) of the Act (42 U.S.C. 5106b(c)), as redesignated, is amended by striking "this section" and inserting "subsection (b)".

(6) The table of contents of the Act (42 U.S.C. 5101 [note]) is amended by striking "Sec. 9. Technical assistance to States for child abuse prevention and treatment programs." and inserting "Sec. 9. Grants and technical assistance to States for programs addressing need of disabled infants with life-threatening conditions.".

(g) Section 11(c) of the Act (42 U.S.C. 5106d(c)) is amended by striking "is available" through the period and inserting "for discretionary research and demonstration grants is available for activities related to the identification and prevention of child abuse and neglect.".

(h) Section 14 of the Act (42 U.S.C. 5106g) is amended—

(1) in paragraph (4), by inserting "(including any employee of a residential facility, or any staff person providing out-of-home care)" after "who is responsible for the child's welfare";

(2) by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) the term 'Department' means the Department of Health and Human Services;".

(i) Section 15(a) of the Act (42 U.S.C. 5106h) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, there shall be available in each such year, except as provided in the succeeding sentence—

"(1)(A) $11,000,000 for activities under sections 5, 6, and 7, and

"(B) $9,000,000 for activities under section 8(a) and 9(b) giving special consideration to continued funding of child abuse or neglect programs or projects (previously funded by the Department) of national or regional scope and demonstrated effectiveness,

"(2) $5,000,000 for grants and contracts under section 7(a) for identification, treatment, and prevention of sexual abuse, and

"(3) $5,000,000 for grants to states under section 9(a).

With respect to any fiscal year for which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of such funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence, and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) of such sentence.".

SEC. 2. EXTENSION OF TIME PERIOD FOR CERTAIN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED TO SUBMIT PLANS OF CORRECTION OR REDUCTION.

(a) IN GENERAL.—Section 1922 of the Social Security Act (42 U.S.C. 1396r-3) is amended—

(1) in the first sentence by striking "residents" and inserting in lieu thereof "residents (including failure to provide active treatment),";

(2) in subsection (c)(5) by inserting ", and to provide active treatment," after "safty of"; and

(3) in subsection (f) by striking "within 3 years" and all that follows through the period and by inserting in lieu thereof "by January 1, 1990".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act, and shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of enactment of this Act.

SEC. 3. AMENDMENTS TO TITLE II OF THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

(a) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.) (hereafter in this section referred to as the "Act") is amended by adding before section 201 the following new section:

"SHORT TITLE

"Sec. 200. This title may be cited as the 'Adoption Opportunities Act'.".

(b) Section 203(b)(8) of the Act (42 U.S.C. 5113(b)(8)), in the matter preceding subparagraph (A), is amended by striking "the provision of ".

(c) Section 203(c)(1) of the Act (42 U.S.C. 5113(c)(1)) is amended by striking out "the provision of".

SEC. 4. AMENDMENT TO THE FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking "$150,000" and inserting "$200,000."

(b) Section 311(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended—

(1) by striking "(b)" and inserting "(b)(1)";

(2) in paragraph (2)(A)(i), in the matter preceding clause (I), by striking "spouse" and inserting "family member"; and

(3) in paragraph (2)(A)(II), by striking "phone" and inserting "telephone".

PRINTING OF A SENATE DOCUMENT

Mr. BYRD. Mr. President, I send to the desk a resolution authorizing the printing of additional copies of a Senate document and ask unanimous consent that the Senate resolution be agreed to and the motion to reconsider laid on the table.

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

The resolution (S. Res. 505) as agreed to, reads as follows:

S. RES. 505

Resolved, that there shall be printed as a Senate document "Accomplishments of the 100th Congress—Report by the Senate Democratic Policy Committee," and that an additional 500 copies be printed for distribution to the Members of the Senate as an official document.

AUTHORIZING THE PRINTING OF TRIBUTES TO SENATOR ROBERT C. BYRD

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 506) authorizing the printing of tributes to Senator Robert C. Byrd.

Resolved, That the statements of Senators appearing in the Congressional Record, as well as other related remarks, in tribute to Senator Robert C. Byrd upon his departure from the position of Majority Leader of the Senate to be printed as a Senate Document.

SEC. 2. Such document shall be such style, form, manner, and binding, and shall include such other related remarks as directed by the Secretary of the Senate.

SEC. 3. There shall be printed 300 copies for use of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his graciousness and his courtesy, which is always so characteristic of him.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 506) was agreed to.

CHILDREN'S TELEVISION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3966, the children's television bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3966) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, we are about to achieve a milestone. For the first time since the Communications Act was passed in 1934, we are going to amend the statute to recognize that television broadcasters should give children special treatment. This has been a longtime coming. It is a goal that I along with the chairman of the Communications Subcommittee, Senator INOUYE, have long sought.

This legislation is especially important because the Federal Communications Commission has completely fallen down on the job. Until the early 1980's, the Commission had recognized that television broadcasters had special programming obligations for children. That just made common sense. But, the Commission of the 1980's relaxed these requirements believing that the free marketplace could meet children's programming needs. That is just nonsense. People vote in the marketplace by spending money, but everyone knows that children are incapable of this activity. And, while parents exercise some control over what children watch, this control is limited. Moreover, it is irrelevant if there are no decent children's programs to watch.

H.R. 3966 will not solve all the problems there are with the state of children's programming, but it is a good step forward. It will require television broadcasters to demonstrate that they have met the educational and informational needs of children in their overall programming. It also establishes ceilings on the duration of advertising on children's programs.

I want to congratulate the House for initiating this legislation. I want to especially thank Senator WIRTH for his efforts to improve this bill. It is well recognized that Senator WIRTH is a leader on these issues. As an effort to continue to improve children's programming, Senator WIRTH and I have agreed upon a future plan of action.

Next Congress, the Commerce Committee will initiate a series of hearings on a host of children's television issues. First, we will examine the advertising ceilings in this legislation to determine whether they can be improved through a closer examination of the costs and benefits. Second, we will explore related advertising issues that impinge upon the "separation principle" between children's programming and the accompanying advertisements. Third, the committee will determine how to increase the supply of children's programming available to broadcasters, commercial and public, and other program distributors. Finally, toward the end of 1990, the committee will conduct a study to determine whether the renewal standard contained in this legislation is having the intended effect of increasing the quality and quantity of children's programming. These comprehensive hearings will produce the record required to determine how we should next proceed to improve children's programming.

In closing, I want to thank everyone who has been involved with the legislation. Through a spirit of good faith and compromise, we have produced a measure that is important for this country's children. It deserves our support.

Mr. INOUYE. Mr. President, I rise in support of H.R. 3966, the Children's Television Act of 1988, which is designed to ensure that television programming aimed at our children is responsive to the needs and interest of the children in this country. Specifically, this legislation requires the Federal Communications Commission conduct a rulemaking and adopt standards establishing the maximum amount of commercial time permissible during children's programs. The FCC cannot permit more than 10.5 minutes of commercials during children's programs broadcast on the weekends and 12 minutes during the weekdays. In addition, prior to renewing the license of a television station, the FCC is required to ascertain whether the license has complied with the new commercial limitations and whether it has provided programming serving the educational and information needs of children.

For the past 2 years, the Communications Subcommittee, which I chair, has been working on legislation similar to H.R. 3966. S. 1277, the Broadcasting Improvements Act of 1987, included a provision which would have required the FCC to ascertain whether a television broadcaster's nonentertainment programming and programming directed toward children—was meritorious and responds to the interests and concerns of the local community before renewing its license. Hearings on this legislation were held on July 17 and 20, 1987. Several of the witnesses who testified at this hearing expressed strong support for the reimposition of regulations to ensure that the programming of television licensees is responsive to the needs of children and limiting the amount of time that can be devoted to commercials during children's programming.

There is no question that children under certain ages, unlike adults, are not capable of distinguishing programs from commercials. In addition, it is clear that television can be a very effective instructional tool. In view of the importance of educating our youth and the ever rising costs of education, it is imperative that we take advantage of every tool possible to expand the knowledge of our children. Television has proven to be a very effective instructional tool. It is important that we take advantage of every tool available to educate and inform the youth of this country.

This legislation takes a big step toward achieving this goal. The need for this legislation is the direct result

of the FCC's decision to eliminate the commercial guidelines for children's programming in 1984 in its efforts to deregulate the broadcast industry. However, broadcast licenses are not like other commodities: they are given exclusive use of a limited public resource and they are not subject to full competition. Accordingly, they have an obligation to serve as public trustees to ensure that the larger interests of the American public can be served. After seeing the effects of deregulation, it is clear that there are problems. H.R. 3966 is designed to address one area where problems have resulted from deregulation.

Mr. METZENBAUM. Mr. President, as the sponsor of the Senate bill to limit commercials aired on children's television, I am pleased that the Senate is adopting the House-passed bill which includes a similar provision.

This legislation is necessary because children's television has become grossly overcommercialized.

The problem of overcommercialization was exacerbated in 1984 when the FCC threw out its guidelines limiting the amount of television advertising allowable per hour and included children's television in this decision.

The FCC's hands-off approach to children's television has created an intolerable situation. More commercials—hence more sales pitches—are being aired than before. And in something that is unprecedented in adult television, entire programs have been built around products simply to spur demand for these products in the marketplace.

All you have to do is flip the dial on your television set some early morning and you will find toys like Lady Lovely Locks, Teddy Ruxpin, Jem, and GI Joe starring in their own television shows.

These "characters" are sending children a not-so-subtle message. Buy me. Buy me.

Unlike my bill, the legislation we are about to pass today does not contain any provisions dealing with these program-length commercials.

However, it will limit the length of permissible commercials which can be aired during children's television programming. Advertisements will be limited to 10½ minutes per hour during children's prime time—Saturday and Sunday mornings—and to 12 minutes per hour on weekdays.

This bill is an important first step. It should send a strong message to broadcasters that children should not be bombarded with commercials or subjected to the "hard sell."

Let's make way for better programming—not more commercials. The bill before us, by also including a provision requiring the FCC to consider a television station's efforts to inform and educate children during the license renewal process, will move us closer to this important goal.

Television should entertain and enlighten children, not just push them to buy. I urge my colleagues to enact the bill before us. It is about time we did something to help improve the quality of children's television.

Mr. WIRTH. Mr. President, I think it is clear to just about every parent and thinking adult in this society that something is deeply wrong with the state of children's television in the United States.

I have been saying that ever since I was first elected to Congress in 1974. Back then, broadcasters' service to children was merely considered unsatisfactory. Today it it little short of a national disgrace. Our colleagues in the House of Representatives have recognized the growing seriousness of this problem and recently approved legislation, the Children's Television Act of 1988 (H.R. 3966).

I share the concern demonstrated in the House that television broadcasters, who are licensed to serve the public interest, have failed to meet that obligation as it pertains to children. I also share the belief that Congress must now do the job that the Federal Communications Commission [FCC] has refused to undertake, establishing policies to ensure that the unique needs of children are met by each television licensee.

Mr. President, what is wrong with the current state of children's television? First, there is virtually no programming offered to serve the educational or informational needs and interests of youngsters. Children spend more time watching television—an estimated 1,500 hours each year—than they do attending school or engaging in any single activity except sleeping. However, with the notable exception of some very good public broadcasting programs such as the now legendary "Sesame Street," the medium of broadcast television has largely failed to deliver any worthwhile educational content for youngsters. As a result of the FCC's neglect of this problem, a troublesome situation has grown much worse. Commercial stations today present less programming specifically designed for children than at any other point in the history of the medium.

The paucity of programming specifically designed for children has been documented in numerous studies and surveys, including one conducted during my tenure as chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance. This survey, conducted by the Congressional Research Service, found that the average commercial broadcast station provided less than 4½ hours each week of programs for children. This figure contrasts with the average level of children's viewing of about 4 hours a day. And of the programming that was provided, more than one-half was cartoons and less than a quarter was considered educational or informational. Things have not improved very much. The lastest trend in children's programming, which some have suggested adds new diversity to children's television, is the arrival of game shows in which child contestants who do not know the answer to a question can instead score points by sliding around in mountains of whipped cream.

Should we be satisfied with this weak attempt by broadcasters to fulfill their public service obligations to children? Can we afford to be? I think the answer is "No", and anyone who finds this level of service acceptable sells our Nation's youth short.

A second critical issue facing children's television stems from the preponderance of children's shows that are actually commercials masquerading as programs. The term the Federal Communications Commission uses to describe such content is a "program-length commercial." The FCC, pursuing its agenda of deregulation at any cost, rescinded its long-standing policy restricting program-length commercials for children in 1984. Since that time, with toy manufacturers often underwriting the costs of producing such shows, this format has quickly come to dominate the limited time periods allocated for children's programming. If children were sophisticated enough to recognize the commercial hucksterism that underlies such programs, they would quickly change the channel or shut the television set off.

Young children, however, by virtue of their limited cognitive development, cannot even recognize the commercial dimension of such programs. More importantly, their limited reasoning abilities make youngsters uniquely susceptible to the influence of these toy catalogs of the airwaves. That broadcasters also then count such programs as meeting their public interest commitment to the child audience, thereby displacing more worthwhile content, only compounds the adverse effects of program-length commercials.

Another major issue facing children's television today is not the programming itself, but the commercial interruptions. Sandwiched in between the program-length commercials and the handful of other child-oriented shows are the more traditional 30-second commercials, program promotions, and other non-program messages. A recent survey found that 22 percent of the time allocated to children's programs was actually devoted to these interruptions, many of which are designed to influence viewers too young to even recognize these messages' persuasive intent. This means that nearly one-quarter of each hour scheduled for children's programming

is not actually devoted to a program at all, but to a wide array of messages designed to persuade child-viewers either to buy more toy products or to watch more shows.

Mr. President, these are the problems that plague children's television. Now, what are the solutions? There is no question that we as a society should ensure that broadcasters begin to provide some worthwhile programming for children. That is the very least they owe in return for the privilege of using the publicly owned airwaves.

The legislation passed by the House begins to address some of the problems in the area of children's television. The legislation would require broadcasters to serve the educational and informational needs of children through their overall programming efforts and also would reinstate advertising limits during children's programming.

As one who has followed the issue of children's television closely for more than a decade, however, I am concerned that the House measure's programming requirement does not explicitly require programming specifically designed for children. It simply states that the interests of children must be met through broadcasters overall programming efforts. Does this mean we will see more and better children's programming? Maybe yes and maybe no—I just do not know.

Indeed, over the course of the past few weeks I have heard a number of distinctly different interpretations of the programming requirement in the House legislation. Some have suggested the programming provision requires broadcasters to provide programming specifically designed for children—at least indirectly. Others have said that, while it does not require broadcast licensees to provide programming primarily for the child audience, some broadcasters would do it anyway. And still others, have said quite clearly that the legislation will not bring America's children more and better programming because it is not specifically required by the legislation.

If broadcasters want to, they certainly could argue that family-oriented shows such as the Cosby Show are of benefit to children and that such programming efforts would satisfy the requirements of this legislation. Without question these programs have some value for children, but the key problem that needs to be addressed is the lack of educational and informational programs specifically designed for kids. Children benefit most from programs specifically tailored to their limited information processing capabilities, but unfortunately there is little economic incentive for broadcasters to provide such content.

I wish the programming requirement in the House legislation could be made stronger and more explicit. In fact, I vigorously pursued efforts to amend this legislation to more clearly convey the goal it is intended to achieve: An increase in educational and informational programming for children. These efforts earned the strong support of a number of organizations such as the National Parent and Teachers Association, the National Education Association, the American Academy of Pediatrics, the American Psychological Association, the Consumer Federation of America, the National Association for Better Broadcasters among others. I thank these organizations for their hard work and support.

Regrettably, Mr. President, my efforts were blocked and did not succeed.

Nevertheless, the legislation before us today does begin to address an important issue that is long overdue for our attention. So in the interest of moving this very important debate forward, I sought to offer a modest amendment to the House legislation that would only require two studies: One to evaluate the legislation's programming requirement and the second a simple economic analysis to determine the amount of commercial advertising that is necessary to support children's programming. Unbelievably, even this very modest initiative was blocked. One can only wonder why these straight forward proposals were opposed.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. WIRTH. I am happy to yield.

Mr. SIMON. Mr. President, listening to his experience has been interesting. I have been working on another problem that he has not touched upon. That is the violence on television. The most violent hour on television is when the most children watch, according to the University of Pennsylvania studies. I had the experience one evening in a motel, and all of us have spent a lot of nights in motels, of going in, turning on the television, and all of sudden in front of me in living color someone is being sawed in half by a chainsaw.

Mr. President, it bothered me. I thought, what happens when a 10- or 12-year-old sees that?

Then I discovered that there are about 85 studies all of which say that violence in television is hurting our children, including the Mental Health Institute, the American Academy of Pediatrics, and some others.

So I called the television people to my office and I said, I do not want to have censorship but I want to see that something is done and lo and behold they said—first they came up and said well, we have had a study by NBC showing that violence on television does not do any harm. And I said you remind me of the Tobacco Institute people who come in here and they have research showing that cigarettes do not do any harm.

Then they said, well, we cannot get together and establish any standards because it would violate the antitrust laws. So, finally I introduced legislation, cosponsored in the Judiciary Committee by everybody from Senator THURMOND to Senator METZENBAUM, saying let us have an exemption to the antitrust laws that simply permits the television industry to get together to establish voluntary standards.

It passed this body unanimously and I am sure you know the rest of the story. The broadcasting industry has been able to block it over in the House. Just that simple thing.

Somehow, we have to demand more of the television industry in this country.

Mr. WIRTH. I thank the distinguished Senator from Illinois for his comments. He has long been a protector of the interests of children, an advocate of the concerns of television, the concerns of children and education our society. The Senator is absolutely right.

It is extraordinary to me the lack of responsibility too often felt toward what everybody in their own common sense understands are things we ought not to do. Study after study, as you correctly point out, shows the pattern of violence in the behavior of kids afterward. Seeing various television programs, they get played out in various communities across the country the next day, next week, so on. So to suggest there is no correlation between violence on television and the behavior of youngsters is just simply preposterous.

Mr. SIMON. It is absurd. Yes.

Mr. WIRTH. It is important to explain what these studies would do. These are the studies I had asked for, Mr. President, for the purpose of just understanding what the economics of children's television would be, something as simple as that. Because I have every intention of pursuing the initiatives in the future. The first study was designed to evaluate effectiveness of the new programming requirement at actually generating more and better programming for children.

If we put this in the law, let us study it and see if it does any good. The broadcasters blocked that.

The programming study would be conducted during the first 2 years following the enactment of the legislation. If the study demonstrates clear improvements in children's programming, then the legislation will have served its purpose and no further action should be necessary. But if it proves too weak and does not meet the goal of improving the quality and quantity of television programs for children, then the study will make

that clear and serve as a catalyst for us to revisit the issue.

In the advertising area, the House legislation is silent on the issue of program-length commercials, an important concern that also must be addressed, along with a number of other issues in the advertising arena. The legislation would, however, reestablish limits on the amount of commercials permitted during children's programming. There is no question that such limits must be reestablished. Since the FCC rescinded its protections in this area, advertising to children has been on the increase because there is no marketplace incentive to keep it down. Many youngsters cannot even recognize the difference between programs and commercials, so they obviously cannot react negatively to an overload of commercials as would an adult viewer. Broadcasters stand to profit from this situation by increasing commercial content during children's programs, a practice which has already been documented by research filed with the Commission.

My concern is that the House legislation appears to arbitrarily establish the limits on children's advertising without any reasoned analysis. When the FCC first established children's advertising limits in 1974, its policy goal was to restrict broadcasters to the lowest possible level of commercialization during children's programs. If that is our policy goal today, it cannot be accomplished simply by selecting ceiling figures that reflect the average level of commercial practices today.

What we need is a careful economic analysis comparing the revenues generated by commercial advertisements to the costs associated with the production and distribution of children's programming. That type of analysis was performed prior to the FCC's initial enactment of its limits in 1974 and needs to be repeated again to reach an informed decision in this area. It may well be the case that advertising to children can viably be restricted to levels substantially less than the 10½ and 12 minutes per hour incorporated in the House legislation.

The analysis called for under my amendment, and which I plan to pursue, would provide valuable information to the FCC and others to help ensure that the advertising limits are established at the appropriate levels.

Mr. President, in an ideal world, this legislation should be nothing short of an absolute guarantee that the educational needs of children will be served by broadcasters. In a reasonable world, this legislation would at least include an analysis of the extent to which its programming requirement actually generates more and better children's programs. But apparently, Mr. President, we live in neither of these worlds, as my attempts to accomplish both of these objectives have in turn been blocked by opponents.

The word I have received is "It's this or nothing" as far as any children's television legislation is concerned. That word deeply saddens me because I know our children deserve more. I also know that America's broadcast industry is capable of achieving more in terms of its service to the child audience. Just think for a moment, Mr. President, how children would profit if even one-quarter of the hours that they now spend watching Saturday morning cartoons was devoted instead to programming of the calibre of "Sesame Street."

Mr. President, even though I am saddened that this measure cannot accomplish more of the many improvements needed in television's service to children, I am encouraged that this important issue has finally captured the attention of Congress. The House legislation is a step in the right direction. And given the choice between enacting this legislation or sticking with the status quo, I believe the House proposal deserves a chance.

I will, however, intently pursue both of the studies I have mentioned here today. In fact, I have already held discussions with the chairman of the Senate Commerce Committee, my good friend and distinguished colleague, Mr. HOLLINGS. Chairman HOLLINGS has indicated that he plans to hold hearings early next Congress on many of these issues, and has agreed to have the Commerce Committee conduct a study along the lines articulated in my admendment of the programming requirement in the House legislation. I want to express my deep appreciation and gratitude to Senator HOLLINGS for his help and willingness to tackle these difficult but very important issues.

In closing, Mr. President, it is clear that the problems with children's television can no longer be ignored, as the FCC has tried so hard to do. Broadcasters remain public trustees and it is essential that children, our most valuable resource, be considered an integral part of any public service equation.

It is time we return to a responsible and commonsense approach to the regulation of children's television. By adopting this legislation, we have the opportunity to send a clear message that the interests of children are paramount.

Finally, Mr. President, I would like to make one further observation. A careful reading of the Federalist Papers reveals the deep commitment of the Founding Fathers to education. Madison and Jefferson, and their enlightened colleagues in Philadelphia and throughout the early days of the young republic, did not believe that our democracy would work without an educated electorate.

The commitment of the Founding Fathers to education has been reflected throughout our history: The Northwest Ordinance, the State and Land Grant University Program, Vocational Education, the National Defense Education Act, the Elementary and Secondary Education Act—the list is long, deep and impressive. As a country, we have believed in a fundamental doctrine of universal education available to all, and fundamental to the working of a democracy.

In recent years, a new force has joined family, church, and school, the traditional institutions through which we imparted values and education to our young. Television has become a force as great as the others, and perhaps greater. Study after study shows the enormous power of televsion in educating and socializing our children—and yet the tragic paradox is that the more we know about television and its capacity to teach our young, the less we use it.

Twenty-five years ago, Newton Minow spoke of television as the vast wasteland. Today, we could speak about commercial television as the vineyard of irrepressible avarice. With precious few exceptions, this wonderful force for education, gentleness, awareness and acculturation has been channeled into a lowest common denominator, and the public interest—which television broadcasters are licensed to serve and strengthen—is discarded to the scrap heap.

These same commercial broadcasters will provide a series of weak excuses:

"Let public broadcasters do it" when they know the power of their commercial fare; "We can't afford it" but they won't even agree to a review of their economics in this area; "the cable industry is not required to do it" but few efforts are made to reach for an industry wide effort, rather than the least common denominator; or "let parents turn off the television" a blithe denial of the fact that most children in this country grow up in single parent households or in homes in which both parents work.

We have an education crisis in this country, Mr. President, and we all know it. Twenty-five percent of our high school students drop out; our inner city schools are increasingly battlegrounds; Head Start works, but only 1 in 11 eligible children are funded; and there are more than 30 million adult illiterates in this country.

Madison and Jefferson would be alarmed. They would ask what happened to the ideal of an educated democracy. And they would wonder what had happened to the idea that each individual and group has a public responsibility.

The response from most broadcasters, I am afraid, would be a haunting silence.

Mr. President, I ask unanimous consent that two letters be printed in the RECORD.

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

AMERICAN PSYCHOLOGICAL ASSOCIATION,
OCTOBER 19, 1988.

Hon. TIMOTHY WIRTH,
U.S. Senate, 380 Russell Senate Office Building, Washington, DC. 20510

DEAR SENATOR WIRTH: The undersigned organizations wish to express our appreciation and gratitude for your efforts to strengthen various aspects of the children's television bill, H.R. 3966. We are pleased that this legislation will soon be enacted into law; it represents an important breakthrough. We also share your concern that this action not be seen as closing the door to further consideration of children's television programming and advertising policy.

We strongly urge Congress to carefully monitor the broadcast industry's response to this legislation. We were extremely disappointed in the broadcast industry's opposition to proposals you offered to study the effects of H.R. 3966 on programming and advertising practices. As you know, it is possible that this legislation could result in a net increase in the average number of minutes of advertising directed at children. Likewise, it is unclear what the precise effects will be of allowing the broadcasters to meet their public trust obligation to the child audience through their "overall programming."

Many issues remain unaddressed. Nothing in this legislation speaks to the matter of "program length commercials" or product-linked programming. Many problems remain with respect to the programming standard for license renewal. We recognize your appreciation of these issues and hope that we can work with you during the 101st Congress to further improve the quality of children's television programming.

Thank you again for your longstanding and unyielding interest in quality television and the welfare of the Nation's children.

AMERICAN ACADEMY OF PEDIATRICS.
AMERICAN PSYCHOLOGICAL ASSOCIATION.
CONSUMER FEDERAL OF AMERICA.
NATIONAL EDUCATION ASSOCIATION.

UNIVERSITY OF CALIFORNIA,
SANTA BARBARA,
Santa Barbara, CA, October 19, 1988.

Hon. TIMOTHY WIRTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR WIRTH: We are from the same group of scholars who wrote to you back in June regarding the need for improvements in the Children's Television Education Act (H.R. 3966) that was passed by the House. We are aware of your repeated attempts to strengthen this legislation and wish to thank you for pursuing these efforts.

Like you, we are disappointed that a requirement could not be established that clearly stipulates the need for each broadcaster to present educational programs specifically designed for child audiences. The unregulated marketplace simply doesn't deliver this type of content that would so clearly be of benefit to the public. But we recognize that your attempts to alter the language of the House bill were blocked, and the choice came down to either adopting the House measure or continuing without any children's programming requirement at all. Though a difficult decision, we think you made the right choice in allowing the House legislation to move forward after your attempts to improve it were blocked.

We believe your efforts, like our original letter, have contributed to an increasing awareness that there is much more to be done to adequately reform television's service to children. Once again, you have demonstrated your leadership in this important area. We hope that you will continue to strive for the greater improvements so badly needed in the children's television realm.

Sincerely yours,

DALE KUNKEL, PH.D.,
Univ. of California,
Santa Barbara.
BRUCE WATKINS, PH.D.,
Univ. of Michigan.
ELLEN WARTELLA, PH.D.,
Univ. of Illinois.

I would like to know from the chairman of the Commerce Committee, Senator HOLLINGS, more about the renewal standard in this legislation and the type of programming required to meet it.

Mr. HOLLINGS. To meet the renewal standard in H.R. 3966, the broadcaster can rely upon general purpose programming which does in fact also serve the educational or informational needs of children (see, e.g. Children's Television Programming, 96 FCC2d 634, n39 (1984)). It would be arbitrary and against common sense to rule out appropriate reliance on such programming. At the same time, broadcasters must have some reasonable amount of programming specifically designed to serve educational or informational needs of children as well as to entertain them. Otherwise, the broadcasters would not be meeting their public service obligation as to an important segment of the child audience—the young child (e.g. the pre-schooler). For no matter how worthwhile and educational or informational a general purpose adult program may be for the older child, it is not suitable or indeed comprehensible to a pre-schooler. Hence, the broadcaster can rely upon overall programming but must also make some reasonable effort to meet the unique public service needs of the various segments of the child audience, including programming aimed at the young child. The mix is left to the discretion of the broadcaster. But the FCC will now have information before it at renewal, and we expect that the Commission, armed with such information, will ensure that the educational and informational needs of all segments of the child population are served by the commercial broadcaster, both in the ordinary and the comparative renewal situation (the former with a minimal and the latter with a substantial standard). See *Central Florida Enterprises, Inc.* vs. *FCC*, 683 F.2d 503, 507 (D.C. Cir 1982).

Mr. PRESSLER. Mr. President, in discussions I have had with proponents of the Children's Television Practices Act and industry representatives, it has become clear that they intend and expect the term "children's programming" to be defined in the traditional manner. Nevertheless, the legislation does not define "children's programming" and I believe this is the appropriate time to make clear that Congress intends to use the established FCC definition.

Since the FCC published its "Children's Television Report and Policy Statement" in 1974, the television broadcast industry has undergone many changes. Much of this change has been in the direction of increased specialization. Recognizing this, I suggest that we reaffirm the definition of children's programming as follows:

The term "children's programming" is intended to mean programming originally produced and designed for children aged 12 years old and under, as is described in the 1974 FCC Policy Statement on Children's Television.

Mr. HOLLINGS. I thank the distinguished Senator from South Dakota for addressing this matter. It has always been my intention that this legislation pertain to "children's programming" as defined in the 1974 FCC Policy Statement.

Mr. PRESSLER. I thank the distinguished chairman of the Commerce, Science, and Transportation Committee for his comments supporting the established FCC definition of "children's programming." This should help to avoid any potential uncertainty in the application of this law.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3966) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ORDER TO PRINT SENATE AMENDMENT TO H.R. 5210

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 5210, the Omnibus Anti-Substance Abuse Act of 1988, be printed as passed by the Senate.

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

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider en bloc with respect to all of the actions that have just been

taken by the Senate in connection with the foregoing measures be laid on the table en bloc.

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

Mr. BYRD. Mr. President, I thank the distinguished Republican leader and I thank Senator PROXMIRE and Senator D'AMATO.

CONCLUSION OF MORNING BUSINESS

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

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

Morning business is closed.

NATIONAL COMMISSION ON THE THRIFT INDUSTRY

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

The motion to concur in the House amendment to S. 2653, to establish a national commission on the thrift industry, with an amendment.

The Senate resumed consideration of the motion to concur.

Pending:

(1) Proxmire Amendment No. 3737, in the nature of a substitute.

(2) Byrd Amendment No. 3738 (to Amendment No. 3737), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the distinguished Senator from New York said that we should act on insider trading legislation. He indicated and implied that I was holding it up.

Mr. President, I have no hold on the insider trading legislation, H.R. 5133. I agree we should pass it.

There is a hold on this legislation and the hold is on the Republican side. I have been trying to find out who has the hold, but the Republicans have not been able to tell me to date. They say they may let me know eventually. But I have no hold on it. I want to advance that insider trading legislation. I think it is desirable.

Mr. President, I might add that no other Democrat has a hold on that legislation.

Mr. President, let me further point out that when Chairman Ruder, of the SEC, called me, he said he was concerned that we would pass S. 1886, the Financial Modernization Act, without the security enforcement provisions on it. I pointed out to Mr. Ruder that we were going to put that on the so-called insider trading legislation, H.R. 5133, and he agreed that that was fine with him and if we did that, he would have absolutely no objection at all, none to S. 1886, the Financial Modernization or Bank Powers Act.

So, Mr. President, it was necessary for us to separate S. 1886 the way we did for a very obvious, simple reason.

When S. 1886 went to the House, the jurisdiction fell between two committees, one headed by Congressman ST GERMAIN and one headed by Congressman DINGELL.

There was a jurisdictional battle. That is the reason why that bill, which passed the Senate 94 to 2, did not pass. So what have we done? We have divided S. 1886 by putting the security enforcement provisions onto H.R. 5133 and we hope and pray it will go through.

I assured Mr. Ruder that if we could not get H.R. 5133 enacted I would not press the bank powers bill, S. 1886. This is the only way we can get action in the House. If we can pass these two bills then what happens is that the bank powers bills stripped of the security enforcement provisions will go to the Banking Committee, and it means that the insider trading bill with the security enforcement provisions added will go to the Dingell committee, Energy and Commerce Committee.

The jurisdiction will be cleared. They can both act. It will then be in order to pass it.

It seems to me to be a perfectly logical action to take.

The Senator from New York is an extraordinarily intelligent Senator. I am sure he understands this. And I would hope under those circumstances if that was his objection, that was his problem, that he would let us proceed.

As I say I am perfectly willing to act, and I want very much to act, and I have made a promise which I will keep to the Chairman of the Securities and Exchange Commission that I will do everything I possibly can to get H.R. 5133, the insider trading bill, passed but it was necessary in order to have the jurisdictional problem in the House resolved to separate it precisely the way I have described it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, as I reiterated, Chairman Ruder is in opposition to this provision as put forth in its present form. The reasons are clear. It absolutely changes regulation by function and it leaves the Security and Exchange Commission without authority to undertake its most important responsibility.

Now, I understand that Senator PROXMIRE has engaged in this exercise, specifically so as to avoid and deal with House jurisdictional problems. I would suggest to you that there are many Members in the other body who are absolutely opposed to this, who want to have an opportunity to look at this bill in the full context and not in this way piecemeal, and that is not the purpose of this body, particularly when we have the insider trading bill pending and we have no action on it.

So what a kettle of fish we would find ourselves in with passing one part of this bill giving these enormous powers, new and expanded as they are, as diverse as they are, and with absolutely no ability to see to it that the abuses that we have already seen take place would not have the SEC with its 50 years of experience in regulating securities there to supervise these new activities.

It is folly to grant the banks, the custodians of federally insured deposits, powers to underwrite commercial paper, asset-backed securities, municipal revenue bonds, without at the very least Securities and Exchange regulation. That is what we would be doing, and I would have to oppose that.

Mr. President, let me suggest that we could continue on this course but I wanted the record to be clear. I am going to do everything possible to get clearance for that insider trading bill and contact whatever of my colleagues, whomever they may be, on whichever side of the aisle, for the purpose of getting some disposition as it relates to the insider trading bill. Because we need that. People are entitled to that protection. Law enforcement officials are in favor of it. The SEC sometimes vacillates as it relates to various parts of it, but I am prepared to move for that.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. D'AMATO. No, I will not, because, Mr. President, at this time I move to postpone the pending legislation until Friday, October 21, at 11 a.m.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. D'AMATO. 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. 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.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that there be no further action on the pending matter before the Senate today.

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

Mr. ARMSTRONG. Mr. President, would the leader yield a moment?

Mr. BYRD. Yes.

Mr. ARMSTRONG. I have, certainly, no objection to the request. In fact,

I think I share the view of the leaders that it is time for us to quit legislating and go home and do some other business. But let me say it is my intention to now leave town and return only upon the call of the Republican leader. But in the event it should be the desire of the leadership to turn again to the Thrift Commission bill I have asked the Senator from New York, Mr. D'AMATO, to represent my interests. And let me just state publicly what those interests are. They are as follows:

First, though I do not object to the bill, I do not strongly favor it either way. That is a matter that I do not care about particularly. Nor do I personally care whether the FDIC is included within the scope of the bill or whether it is left out. But I must report, and I am going to ask Senator D'AMATO to represent on behalf of Senator GARN that he very much desires that the FDIC be included if we pass such a bill. That would be on behalf of Senator GARN.

Third, if both are included, that is both the FDIC and the FSLIC, I believe it is absolutely imperative, for reasons that we have discussed previously, that the reporting date for the two be the same date.

And, finally, that that date be an early date. If we are going to do this at all, to postpone it to a date much beyond January 15 or January 20, I think, would be a mistake and a great mistake to postpone it long into the spring.

So I am going to leave that in the hands of others to handle. I do not know whether it will be the plan of the leaders to return to this, or the chairman of the committee. I would say I have mixed feelings about it. I favor the idea of a Commission. I am not sure whether it needs to be established by statute or whether or not it would be better established in some other way.

But it in any case, if you want to sandbag it, I wanted to express my interest in it.

Mr. PROXMIRE. Would the leader permit me to answer?

Mr. BYRD. I yield.

Mr. PROXMIRE. The distinguished Senator from Colorado is a very valuable member of our committee and is very familiar with these matters. Would he agree with the FSLIC situation? I understand Senator GARN would favor having a Thrift Commission proceed provided that we make only minor changes in what the House did and made no major changes of any kind.

Mr. ARMSTRONG. What sort of provisions of the House bill?

Mr. PROXMIRE. He wants minor changes in what the Senate did, not the House. It is minor changes in what the Senate provided.

Mr. ARMSTRONG. I hate to seem ill-informed after the chairman graciously stated I was well-informed. I have lost track of the situation. At the present time it is the Senate bill that contains both the FDIC and the FSLIC?

Mr. PROXMIRE. That is correct.

Mr. ARMSTRONG. With a common reporting date?

Mr. PROXMIRE. Six days.

Mr. ARMSTRONG. I do not agree with that. My concern is that they report the same day.

Mr. PROXMIRE. The proposal we are going to send back is for 30 days.

Mr. ARMSTRONG. I would have no problem—well, I really do have a problem. The truth of the matter is I think they ought to render a single report on a single day.

Mr. PROXMIRE. I just want to understand the position of the Senator. I certainly do not want to make any argument now.

Mr. ARMSTRONG. I thank the chairman. If there is some way I can be helpful, I would be pleased to stay. But it appears to me that the matters that are going to play out can be represented by someone else as well as I.

Mr. D'AMATO. If my distinguished colleague will yield, I want to say that this Senator has a great many problems with the whole Commission, its composition, the manner of the report. I am wondering really what that Commission can accomplish that a number of very distinguished groups would not be able to do—the Federal Reserve and others. I think my friend from Colorado is being far too generous. This is almost a boondoggle. We spend $500,000 and go out and make a group of people who are already lobbying members of a Commission. We have more lobbyists calling who want to get on this Commission, from the right, from the left, and from the center. I do not think we need it.

We are giving up these things like trick or treat. I think it will be exactly that. I am wondering what this Commission is really going to do and are there not better ways of coming up with the information, rather than one of these things put together as a political patronage boondoggle. That is what it is.

I am delighted to represent my good friend in his opposition because my opposition is going to go to the essence of this. I think there has been very little thought, very little input, from the administration as it relates to this effort. I think it is a political boondoggle, and I think maybe it should get one of those famous Golden Fleece Awards that my colleague from Wisconsin has handed out over the years. But I will not go into that today. When and if it comes up, I will raise an objection.

I would like to see something passed and go home. If we can get an insider trade legislation bill passed, let us do that. I will be delighted to represent the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, though our views are somewhat different, as usual, the Senator from New York has been very courteous and helpful by being willing to represent my interests. He enables me to meet some speaking engagements and some travel plans. I am not sure it is necessary, but in case there is a mad scramble with regard to members sitting on this Commission, I am happy to renounce my seat on this Commission. I believe it may be necessary because I believe what I hear tolling in the background are the bells of doom for this Commission for the time being.

I believe the Senator from New York has said no Commission. In any case, we will see how it works out.

I thank him and the chairman for their courtesy.

EXTENSION OF MORNING BUSINESS FOR 3 HOURS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue and that Members may speak therein, and that there be a time limitation on morning business of 3 hours.

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

COMMENDING KENNETH A. McLEAN FOR HIS SERVICE TO THE SENATE

Mr. BYRD. Mr. President, Mr. PROXMIRE has two resolutions, both of which have been cleared on both sides. I believe the Republican leader has authorized our going ahead.

Mr. PROXMIRE. Mr. President, on behalf of Mr. ARMSTRONG, Mr. BOND, Mr. CHAFEE, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. GARN, Mr. GRAMM, Mr. GRAHAM, Mr. HECHT, Mr. HEINZ, Mr. KARNES, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. WIRTH, and myself, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 503) commending Kenneth A. McLean for his service to the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

● Mr. SANFORD. Mr. President, I rise as an original cosponsor and supporter of the resolution commending Kenneth McLean, the staff director of the Senate Banking Committee. I certainly agree with our distinguished chair-

man, Senator PROXMIRE, that the Senate today is honoring a truly dedicated and extremely able staff member. As a member of the Banking Committee, I have had the pleasure of working with Ken and benefiting from his tremendous expertise, and his deep knowledge of banking, securities, and housing laws.

Since I have been on the committee, the committee has addressed a wide array of very complex issues, ranging from reforms to outdated banking laws, to examinations of the securities, options and futures markets following the market crash last October, to the problems facing the savings and loan industry, to much needed changes in the laws governing corporate takeovers, to the housing crisis and problems of homelessness plaguing the country. In each instance, Ken ably arranged very informative and helpful hearings and put before the committee sound legislative proposals to address the difficult issues facing the committee. He and our chairman, Senator PROXMIRE, has worked effectively and efficiently to bring much needed legislation to the floor.

I have enjoyed and benefited from the opportunity to work with Ken McLean and join today in this salute to his 21 years of fine service to the U.S. Senate.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 503

Whereas Kenneth A. McLean has ably and faithfully served the United States Senate since 1967;

Whereas Kenneth A. McLean has executed his duties as the Staff Director of the Senate Committee on Banking, Housing, and Urban Affairs with the utmost of integrity, perseverance, and personal dedication;

Whereas Kenneth A. McLean has clearly exemplified the honorable nature of an outstanding career in public service; and

Whereas Kenneth A. McLean has earned the highest respect of his colleagues and this institution: Now, therefore, be it

Resolved, That Kenneth A. McLean is hereby commended for his tireless and exemplary service to his country and to the United States Senate.

COMMENDING RONALD L. TAMMEN FOR HIS SERVICE TO THE U.S. SENATE

Mr. PROXMIRE. Mr. President, I send Senate Resolution 504 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 504) commending Ronald L. Tammen for his service to the United States Senate.

The PRESIDING OFFICER. Is there objection ot the immediate consideration of the resolution?

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 504) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 504

Whereas Ronald L. Tammen has ably and faithfully served the United States Senate since 1972;

Whereas Ronald L. Tammen has executed his duties as Administrative Assistant to Senator William Proxmire with unparalleled integrity, intelligence, and dedication to the ideals of the United States Senate;

Whereas Ronald L. Tammen has consistently served the interests of the citizens of the State of Wisconsin;

Whereas Ronald L. Tammen has earned the utmost respect of his colleagues in this institution: Now, therefore, be it

Resolved, That Ronald L. Tammen is hereby commended for his unfailing and exemplary service to his country, the State of Wisconsin and to the United States Senate.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader for his assistance. These two resolutions concern two remarkable staff members on the Senate Banking Committee who have served this Senator and the Senate so ably.

Mr. BYRD. I thank the Senator.

REFERRING S. 1964 TO THE CHIEF JUDGE OF THE U.S. CLAIMS COURT FOR A REPORT THEREON

Mr. BYRD. Mr. President, on behalf of Senators EXON and KARNES, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 507) to refer S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" to the Chief Judge of the United States Claims Court for a report thereon.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 507) was agreed to, as follows:

S. RES. 507

Resolved, That the bill S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any legally or equitably due to the claimant from the United States.

RESOLUTION AUTHORIZING CERTAIN APPOINTMENTS

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 508) authorizing certain appointments.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 508) was agreed to, as follows:

S. RES. 508

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may be permitted to speak in morning business for not to exceed 10 minutes each.

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

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

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

SANCTIONS AGAINST THE REPUGNANT APARTHEID REGIME IN SOUTH AFRICA

Mr. CRANSTON. Mr. President, for the past several weeks a number of Democratic Senators have been pressing for action on S. 2756, the South Africa sanctions bill which I am sponoring together with Senators KENNE-

DY, SIMON, BENTSEN, WEICKER, ADAMS, MOYNIHAN, BRADLEY, DODD, and LEVIN.

It has become clear that due to the refusal of virtually all members of the Republican side of the aisle to cooperate, we will not be able to achieve a bipartisan agreement to bring this bill to final passage.

I've counted this apartheid issue with great care. A clear majority of the Senate supports the bill—more than 50 Senators. But only two of the certain supporters are Republicans. All the rest are Democrats.

Unfortunately, there are only 54 Democratic Senators. An overwhelming majority of them support sanctions. But it takes 60 votes to stop a debate. So we could not end the debate without the help of a few more Republicans. We haven't had that help.

Given the certainty of a Republican filibuster that was certain to succeed because we lacked the 60 votes it takes to end debate by voting cloture, and given the press of other business—drugs and tax corrections, to cite two examples—the leadership quite properly concluded it would be pointless to bring up the measure. We'd already been frustrated by Republican filibusters against minimum wage, child care, and parental leave. The Republicans talked, talked, talked, and kept all three issues from coming to a vote.

I deeply regret that Republican Senators have blocked bipartisan support for action on this vital legislation.

As the principal sponsor of this measure, I regret that the Senate will not act on final passage this year.

But this is not the end of the battle. We'll be right back early in 1989. And then, relieved of the time pressures that closed in on us this year, we will do our utmost to bring the matter to a successful vote.

We will surely get a cloture vote. Senators will have to stand up on the issue and be counted publicly, as I have counted them privately.

Mr. President, this is by no means a new proposal. A version of this bill has been before the Senate Foreign Relations Committee for more than 16 months. Eight separate committees of the House and Senate have reviewed it. The full House has passed it. And in an historic Senate Foreign Relations Committee vote last month, that distinguished panel has endorsed the comprehensive sanctions bill. Progress, in many respects, has been remarkable.

Two years ago, the Foreign Relations Committee worked together in a bipartisan fashion to craft modest South Africa sanctions legislation.

The Senate made a pledge in passing that bill; we made a promise in adopting a mild compromise measure.

We made a solemn commitment in the 1986 legislation to revisit the issue 12 months later and to enact stronger sanctions if the situation had not improved.

The situation in South Africa has, in fact, grown far worse.

More than 30,000 people have been arrested for resisting apartheid in the last 2 years.

Thousands of children have been arrested.

Many of those children have been tortured by the regime's police.

And in recent weeks the machinery of the apartheid state has turned on the churches.

Virtually all groups opposed to apartheid have been outlawed.

A legal case is being prepared by the apartheid regime against Bishop Tutu.

And the offices of the South African Council of Churches have been devastated by bomb blasts.

The South African night is growing darker—and alternatives to violence and civil war are being extinguished daily.

We in this Chamber have a very limited ability to influence these grim developments.

But we have, I believe, a moral obligation to act, to use the modest power we have to help those who have none.

And we promised in 1986 that we would act again.

I therefore find unacceptable the position of virtually all Republican Senators that we do nothing. That is what the Republican Senators have said to us by refusing to work with us to craft a bipartisan bill: "Even though the situation has gotten worse, do nothing about apartheid."

The United States is not a pitiful, helpless giant. We can provide leadership, we can fulfill our commitments.

In the face of the horrors which have accelerated over the past few weeks in South Africa, we in the United States should not sit on our hands just because it is an election year at home.

I therefore regret the position taken by most Republican Members of this body.

We on the majority side have sought to be accommodating. We have sought to reach an agreement that would serve U.S. national interests and move this bill forward. It was in that spirit that I accepted the only modification proposed by any Republican Senator in the Foreign Relations Committee—to delete the provision of my bill governing access to future oil leases in the United States by firms involved in South Africa. So we have been responsive.

The United States have a vital interest in making clear our commitment to freedom for the people of South Africa. This is a moral obligation, to be sure. But it is a strategic imperative as well. For some day liberty will come to the oppressed millions in South Africa. It is in the interests of the United States to have stood with them in their struggle for freedom.

Mr. President, I am disappointed that my bill, S. 2756, has not received support from more Senators on the other side of the aisle. I believe the time has come for us to stand up and be counted on the question of doing business with the apartheid regime. I call upon all my colleagues to support sanctions legislation. And I pledge that I will afford them that opportunity anew by pressing antiapartheid legislation early in the new Congress. I hope that we will then enjoy bipartisan cooperation to end United States trade with South Africa and to withdraw American investments in the apartheid system.

Mr. President, I note that seated on the floor is a Senator who has been a leader in the battle against apartheid, the Senator from Illinois, PAUL SIMON, who recently went to South Africa because of his concern about what is happening there and about what is not happening here. I am delighted that he will now speak to the Senate on his first-hand observations in that beleagured, unfortunate country.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. First, I commend my colleague, Senator CRANSTON, for his leadership. I also commend Senator WEICKER and Senator KENNEDY for their leadership.

I did have, as Senator CRANSTON just mentioned, the experience just a few weeks ago of being in South Africa. South Africa is a time bomb. I cannot tell you whether that time bomb is going to explode 6 days from now or 6 months from now or 6 years from now. But explode it will. That explosion is going to be heard in a variety of ways all over the globe, in ways I cannot predict, nor can anyone else. Apartheid is going to go. The only question is whether it is going to go after massive violence or before massive violence. There will be meaningful negotiations between the white leadership of South Africa and the real black leadership. The only question is, does it come before massive violence or after massive violence. There is no guarantee the sanctions legislation is going to work, but there is a guarantee that if we simply mouth pious tirades and say "naughty-naughty," that is not going to work. That has been the history.

I remind everyone—and I do not need to remind the Senator from California, who is probably the only living American who was ever sued by Adolf Hitler because he wanted to get the original Mein Kampf printed in the United States—in the United States half a century ago, when Hitler was doing what he did to the Jews, we were saying, "Oh, this isn't right," but

we were not putting any economic muscle to it.

Maybe—we cannot rerun history—if we had had some kind of economic sanctions against Germany at that time the German people would have changed; we would not have had the massive bloodshed we had. We cannot rerun that but we can learn from history.

I know there are some who say sanctions is not the answer. I had whites in South Africa tell me that. Incidentally, among the whites overwhelmingly they were opposed to sanctions; among the blacks, the leadership overwhelmingly for it. And to those who say, "Well, the blacks in South Africa are opposed to sanctions." I simply point out you basically have three major labor union groups where they have nonwhite leadership now, one of the signs of progress, and there are some signs of progress in South Africa. But those labor union leaders say we want sanctions.

Shortly before I was there, in the one group which met, 870 unions unanimously supported sanctions because they recognized sanctions are the alternative to violence.

I visited three of the black townships. Township is a kind of a pleasant-sounding name to what is there. We have townships in Illinois. You may have townships in West Virginia. I do not know. Townships in South Africa are racially segregated, restricted areas where people have to live, several hundred thousands of them, blacks living there, with no water, no sewers, miserable schools, and all the rest that you can imagine.

I remember particularly visiting with one man. When I said, "The leaders of your Government tell me that sanctions will hurt blacks," he said, "I am 50 years old. I have three children. I have been suffering for 50 years. If I can suffer a little more and get freedom for my three children, I am eager to do it."

That is frankly the attidude of the majority of blacks who are sensitive to this issue.

Chief Buthelezi, the head of Zulus, was out of the country. I had lunch with his deputy. They are opposed to sanctions. It has to be added that he occupies his position with the approval of the Government, and blacks in key positions who are there at the sufferance of the Government have taken the attitude that sanctions will not work.

There is debate here about the impact of sanctions. There is no debate in South Africa about the impact of sanctions. They feel it. They feel it very, very severely. They feel it in loss of trade. They feel it in interest rates in South Africa. That is a major way they are feeling it.

Some people say sanctions by the United States alone is not the answer, and they are correct. We need to have multilateral sanctions, and here let me say particularly to our friends in Japan, do not try to undercut the United States in its attempt to see that justice comes to South Africa by moving in and getting the trade. That, in the long run, is not going to help Japan, it is not going to help the United States, and it is not going to help South Africa.

We should be having a multilateral approach. We should be leading in the United Nations instead of vetoing the legislation there.

I cannot overstress the fact that this is a time bomb.

Let me give you one example. I visited a hostel. A hostel is a kind of pleasant-sounding word in the United States. It is not that in South Africa. Hostels are where men live who cannot bring their families to the places they work. Eight men live in tiny, little rooms.

I visited with one man who has a wife and five children. He visits his wife and five children once a year. Let me tell you that if somebody hands that man a stick of dynamite and says "Tomorrow we are going to rebel against this system," he is ready.

We have to show him that change can come about peacefully.

One of the discouraging signs is among the whites generally and obviously there are exceptions. When I talk about whites and blacks there are exceptions on both sides. But whites in general have viewed someone like Bishop Tutu as an extremist. Young blacks, the radical, young blacks, view him as an Uncle Tom, as someone who believes you can bring about change peacefully, and they do not believe him.

To the extent that the Government in South Africa resists any change, to that extent, they are inviting the very violence that they say they oppose.

There are signs of hope. One is that in the unions I mentioned there is progress. Another is more and more banks are going to the universities and in the universities clearly the students, white and black, understand the change that is going to have to be part of the future. And if we could wait 40 years that would evolve naturally, but we cannot wait 40 years.

A third sign of progress is on the religious front. The religious communities, the leadership, clearly are on the right side.

Archbishop Hurley, the Roman Catholic, Bishop Tutu I mentioned, Reverend Bosack who is with the Reform Church, the Council of Churches.

I had a marvelous visit with Professor Heyns. Professor Heyns is the former moderator of the Dutch Reform Church which is the big church in South Africa. He and some others have issued a document saying "Our previous scriptural defense of apartheid is wrong" and spelling out why it is wrong.

There are signs of progress. But in the Government there, there is a rigidity. There are those in Government who will whisper to you "We have to change." But they have not come forward. We need a Sadat frankly in South Africa.

I had some fine visits with leaders of Government, had a 1-hour meeting scheduled with Pik Botha, the Foreign Minister, which turned out to be 1 hour and 45-minute visit, a very good, frank exchange.

There are leaders in South Africa who if the right circumstances were there could move forward, but I think we have to create those circumstances here. We have to send a signal to the business community that change has to come.

Now there are business leaders who are moving in the right direction, including the two principal business leaders in South Africa.

But there is a temerity also and they are frightened by the Government. You have to remember this Government has more political prisoners perhaps than any government on the face of the Earth, certainly one of the top three. It just can take people arbitrarily and put them in prison. So there is some concern.

I am a little older than the Presiding Officer here, and I go back to the days of the civils rights struggle here. I was involved in that. I could remember when the Birmingham Chamber of Commerce adopted a resolution saying, "Let's do away with segregation in the South." It was like a church bell tolling at midnight. We knew the change was going to come.

That signal from the business community has to be there is South Africa.

There is a willingness on the part of the business community to go along. There is at this point not the leadership that there has to be, and that has to come.

We have to remember that blacks in South Africa cannot vote. There is no trial by jury. There is not a single black judge in all of South Africa.

I visited one trial where 18 members of the United Democratic Front were up for advocating change. There they were before the white judge—18 blacks. There was clearly not a felling on their part that they can get justice.

There is this feeling of hopelessness and despair on the part of the blacks, a feeling of fear on the part of whites, and an awesomely small amount of communication, real communication between the two.

We have to lead. There is no other government on the face of the Earth that has the power to lead that this Nation has. We are one-fifth of the

world's economy. We have to use that power responsibly, and we do it not with a pious "we have solved all our problems," because we have not. You know that and I know that.

But we have also made great progress in this country. I do not mind saying I am proud to be an American, proud of the fact that we can now go no matter what your background, no matter what your race, you can go anywhere in the country, eat in a restaurant, stay in a motel, go to school.

That is great progress in my lifetime.

South Africa can make progress, too. South Africa has the potential to be the industrial center of all Africa, but South Africa has to get rid of this cancer of apartheid they have and we have to send the message. I hope in the next session of this Congress we do that.

I point out this system of apartheid requires repression on the part of the people there. While I was in South Africa, Newsweek magazine came out, and the Presiding Officer can see that and I do not know if anyone else can, but in every issue of Newsweek they had Nelson Mandela's picture. There someone in the Government took a long time to cut off Nelson Mandela's picture out of every Newsweek magazine.

That system has to change and to the South Africans who say, "Well, blacks cannot govern themselves," go right next door to Botswana, where there is a free system, greatest economic growth of any developing country on the face of the Earth, multiple-party system, complete freedom of the press and everything else.

South Africa can have the same. Whites, blacks, coloreds and Asians the divisions they have there, can work together to develop that country into a great country.

Mr. KENNEDY. Mr. President, I believe that it is time to call a halt to "business as usual" with South Africa. It is time for Americans to stop sending profits to aparthied, and it is time for American corporations to stop paying taxes to Pretoria. That is why I support S. 2756, and that is why I will work for its passage during the 101st Congress.

This year, this legislation was passed by the House of Representatives and approved, with minor modifications, by the Senate Foreign Relations Committee. Before the House took action on this legislation, we in the Senate worked long and hard to build the same kind of bipartisan coalition on South Africa that had been so successful in 1986. We were unsuccessful in that effort, and I fear that the politics of 1988 intruded. Whatever the reason, our counterparts on the other side of the aisle were unwilling to engage in the kind of dialog necessary to resurrect the partnership that had been so successful 2 years ago, and this legislation regrettably came to the floor of the Senate on the basis of party-line votes.

I believe that an effective American policy against aparthied can only be sustained if it has strong bipartisan support. For this reason, I plan to work closely with Senators on the other side of the aisle and with the new President to draft new legislation that will follow-up on and strengthen the landmark legislation of 1986.

Four years ago, I had lunch with Bishop Desmond Tutu and Reverend Allen Boesak in my office. The purpose of that meeting was to discuss the situation inside South Africa. They were concerned because the United States was in the midst of a Presidential campaign, but no one seemed concerned about United States policy toward South Africa. Bishop Tutu and Reverend Boesak told me about the brutality of the violence that was going on inside South Africa at that time, and they were unhappy about the fact that the Government of South Africa had been so successful in its efforts to persuade world opinion—including the Reagan administration—that aparthied was a thing of the past and that fundamental reform was underway inside South Africa. They were particularly concerned about the silence from America in the face of such violence against black people in South Africa. They told me that America's policy of "constructive engagement" was viewed as proapartheid by most South Africans and had prompted profound anti-Americanism among the majority of the people inside South Africa. It was four years ago that they invited me to come to South Africa to see for myself.

During that trip, I saw first-hand the suffering caused by apartheid, and I felt firsthand the anger and disappointment with America.

Since that lunch 4 years ago and since my trip to South Africa in January 1985, 2,500 people have been killed, 30,000 more have been detained, and countless thousands have been tortured and beaten in South African jails—many of them children. Today no one can deny the truth. Apartheid is alive and well in South Africa, and millions of people still live in bondage.

But, beginning in 1985, the American people rose up to demand a change in our policy toward South Africa. The Congress took action, first in 1985 then again in 1986, to make it absolutely clear where the American people stood on the issue of apartheid. And one of the reasons that Congress passed the sanctions legislation in 1986 was to reject "constructive engagement," to show all the people of South Africa that the American people were on the side of freedom in that country, and that we would no longer be passive or silent or complicitous in Pretoria's policy of apartheid.

But since we passed that legislation, this administration's policies have continued without interruption. Despite that legislation's demand that the American Government work with other countries to develop a cooperative and coordinated policy against apartheid, this administration has—on at least two occasions since 1986—vetoed antiapartheid resolutions in the Security Council. Despite that legislation's demand that the American Government recommend new sanctions if there has been no progress in dismantling apartheid inside South Africa, this administration continues its steadfast opposition to new sanctions. In fact, "constructive engagement" is alive and well in the halls of the White House and in the back rooms of the State Department.

Now it is time to send another message. Now it is time for the Congress to take action again. Now it is time for America to terminate its ties to apartheid.

With this legislation, we will say once again that America still cares. With this legislation, we will act once again to show that we are willing to lead. With this legislation, we will try once again to overcome.

There are those who say that sanctions do not work and will not work. I say that they have never been tried.

There are those who say that sanctions will hurt those who we are trying to help. I say that the South African people are willing to sacrifice because the suffering of apartheid is far worse than any suffering that will be caused by these sanctions.

There are those who say that the road to freedom in South Africa is through economic growth, and that "black empowerment" cannot be achieved by restricting black economic opportunity. I say that "black empowerment" has not been achieved despite 40 years of economic growth and will never be accomplished so long as the political chains of apartheid remain intact.

There are those who say that sanctions will only make matters worse inside South Africa, that there is a white backlash in that country which will only strengthen apartheid's hold on that land. I say that the backlash began long before America adopted sanctions, and that today America should respond to the pleas of the black majority, not to the appeals of would-be reformers. Apartheid must be eradicated, not reformed.

To the architects of apartheid in Pretoria, this legislation will say:

"America is still here. The American people still care. So long as you pursue the policy of apartheid, we will be your adversary—in every forum, in

every country, on every continent of our common planet."

To those white and black South Africans who still work to end apartheid, this legislation will say:

"We are with you now as we have been with you in the past, as we will be with you in the future. Working together, we will one day prevail over racism and injustice in South Africa."

To our friends and allies throughout the world, this legislation will send a message:

"Join us in the struggle. You too have a stake in freedom for the people of South Africa. You too are involved. You too can make a difference. But we must work together if we are to succeed."

With this legislation, the Senate will end America's complicity with apartheid. With this legislation, the Senate will establish America's place in history as a real and proven champion of human freedom—not only in Europe, Asia and Latin America but in Africa as well. With this legislation, the Senate will inspire millions of freedom-loving people throughout the globe to carry on the struggle.

I pledge to do what I can to make certain that this legislation gets early consideration on the floor when the 101st Congress returns to Washington, DC, in January.

Mr. WEICKER. Mr. President, I rise today to express regret that time will not allow action on the Anti-Apartheid Act Amendments of 1988, S. 2756.

How little it costs us to speak out against apartheid. How great a price paid by the people of South Africa. Inconvenience on our part; imprisonment and death on theirs.

Two years ago, the United States ended long years of silent complicity which had masqueraded under a colossal misnomer: "constructive engagement." As we suspected all along, there was nothing constructive about it. Two years ago, we imposed sanctions on South Africa and, to a modest extent, our allies followed suit. We did so with the full understanding that those sanctions amounted to no more than a first step in dismantling apartheid. They were a foundation on which to build.

The time has long since come to add new brick and mortar to that foundation. A GAO study commissioned by Senator KENNEDY and myself found that South Africa has lost more than $400 million in trade with the United States because of sanctions. However, along with five of our major allies, we still accounted for 81 percent of South Africa's imports and 78 percent of its exports in 1987. And, while there are only half as many United States companies in South Africa today as in 1984, the value of United States direct investment has risen owing to reinvestment of earnings.

In August, the House of Representatives took the necessary next step by voting to put new restrictions on loans to and investment in South Africa and to widen our trade ban to include crude oil, other petroleum products, and most other commodities. In September similar legislation which I cosponsored was introduced in the Senate, but election-year politics, being what they are, killed it for this year.

Meanwhile, apartheid is alive and uglier than ever, if not as visible to the American people, owing to press censorship which worsens with each passing week. If there is one point on which supporters and opponents of sanctions agree, it is that the situation in South Africa is deteriorating. The two largest antiapartheid newspapers, the New Nation and South, have been shut down. Others have been threatened with like treatment. Some 30,000 individuals have been detained without charge. As many as 10,000 are children. These detentions routinely involve physical abuse and torture.

Almost all antiapartheid organizations, including the United Democratic Front, have been outlawed. Men in boots carrying banners with swastika-like emblems can freely march in the name of racism and repression, while peaceseekers in clerical robes are thrown in jail for speaking of liberty.

People of conscience, here in the United States as elsewhere, have an obligation to act, and to act now. Yes, it is an election year but that should be reason for speaking out even louder and demanding that candidates do the same.

In September the Senate took note of the fact that November 9 will mark the 50th anniversary of Kristallnacht, the Night of the Broken Glass. Acting on orders that stemmed from Hitler and his henchmen, storm troopers and other Nazi sympathizers staged spontaneous demonstrations against Jews all across Germany—bashing in the windows of homes, businesses, and synagogues, setting fire to them, and shooting men, women, and children as they tried to escape the flames. Thirty thousand men were rounded up and sent to Dachau, Buchenwald, and Sachsenhausen.

Many Senators spoke out against the atrocities committed that night in 1938. Would that as many were as vocal about the atrocities committed daily in South Africa, 1988.

It makes some people nervous, others indignant, when you mention Nazi Germany and South Africa in the same breath. But the parallels are there in fact, not merely in rhetoric. In South Africa as in Nazi Germany, the law is used to subjugate an entire category of human beings. After walking the streets of Soweto, Holocaust survivor Elie Wiesel wrote:

Without comparing apartheid to Nazism and its "final solution"—for that defies all comparison—one cannot but assign the two systems, in their supposed legality, to the same camp.

We have a duty to denounce—and disassociate ourselves from—the dehumanizing practice of apartheid. All of us—Congress, the President, American business, and the American people. We must stop doing business with apartheid and, at the same time, do whatever we can to strengthen the frontline nations of southern Africa. They, too, have suffered because of Pretoria's policies.

Nelson Mandela must be freed. So must the many thousands whose names we do not know. Freedom of speech and of the press must be restored. And the race laws must go in favor, as the Freedom Charter of 1955 put it, of a "South Africa that belongs to all who live in it, black and white."

If we do not work toward these ends, then 5, 10, or 50 years from now, our children will look back on our generation as we look back on the era of the 1930's and ask: "How could you be silent? How could you stand by and do nothing?" The children of South Africa are asking these questions today.

"The struggle is my life," Nelson Mandela once wrote. We must put our political freedom to work, such that this struggle becomes the centerpiece of our South Africa policy. I am here to put my colleagues on notice that this struggle will continue in the Senate next year.

Mr. DODD. Mr. President, I rise to ally myself with the insightful comments of my friend and colleague from California.

I wholeheartedly agree with Senator CRANSTON that the critically important issue of working to end the racist apartheid regime in South Africa has been tragically lost in the politically motivated maneuverings of the Presidential season. As far as I understand, there are enough votes in this body—if we were to cast them today—to move S. 2756, the Anti-Apartheid Amendments of 1988, forward to final passage. As you well know, Mr. President, this legislation was reported favorably by the Senate Foreign Relations Committee on September 23 and was overwhelmingly passed by the House on August 11.

While my colleagues on the other side of the aisle dawdle about—decrying such precipitous action by the Senate, the situation in South Africa continues to deteriorate with the nationwide state of emergency still in brute forces, the media virtually blacked out and the courageous foes of apartheid in South Africa suffering under an unprecedented ban on their activity.

Mr. President, this legislation has been with us for over 16 months. In

June, the Foreign Relations Committee held 3 days of public hearings on United States policy options toward South Africa and the committee met for 2 days in early September to consider S. 2756. I join my friend from California in regretting—deeply regretting—that our colleagues on the other side of the aisle persist with a policy of "do nothing" and fail to stand up and be counted when it comes to taking a public stand against the horror of apartheid.

As the leading proponent of democracy in the world, the United States can no longer effectively condone apartheid by passively condemning it. We must take a lead in actively and aggressively ending apartheid—before it it too late. It saddens me that my colleagues on the other side of the aisle are preventing our Nation from sending a signal of action and resolve toward the Government in South Africa while sending a signal of hope and support to our bretheren struggling for their freedom.

Finally, Mr. President, I join Senator CRANSTON in his conviction to bring this legislation up again in the earliest days of the next Congress. Perhaps then, our Republican colleagues will join their Democratic colleagues and commend to the struggling men and women in South Africa not only words of solidarity, but acts of conviction that, at long last, will make our words unassailable.

Mr. SIMON. 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. 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.

RECESS FOR 1 HOUR

Mr. BYRD. Mr. President, while conferences are going on, I think it would be well for the Senate to recess. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 3:59 p.m., recessed until 4:59; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRYOR).

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

ATTENTION ATTRACTED TO THE NEED FOR NUCLEAR MATERIALS

Mr. McCLURE. Mr. President, the headlines of the Sunday, October 9, New York Times sounds a warning, "Reactor Shutdown Could Impede Nuclear Deterrent". Suddenly the Nation and the media have become interested. Tuesday, October 11, every major newspaper and television news show made a front page story of what was, for far too long, an issue buried, if reported at all, in small type or with one camera shot.

The attention is appropriate. The Nation's defense complex, which produces the materials for our nuclear deterrent, is in deep trouble. The Sunday, New York Times article, by Keith Schneider, reports that

> If the two-month suspension at the Nation's only manufacturer of vital material for nuclear warheads continues for several months, the United States might be forced to start deactivating nuclear warheads to recover radioactive elements for use in higher priority weapons, according to senior Administrative officials.

This warning was given almost exactly a year ago, at a hearing before the Senate Energy and Natural Resources Committee. At that time, I had grave concerns about the safety problems found at the Savannah River reactors during the National Academy of Sciences review. I feared the threat to our nuclear deterrent if the reactors could not operate because of these problems. Dr. Robert Barker, Assistant to the Secretary of Defense for Atomic Energy, repeated to the New York Times, the ominous words he spoke at our hearing,

> To have these reactors not operational is tantamount to unilateral nuclear disarmament.

Mr. President, this warning is one that I and a few others—in Congress and at the Department of Energy and the Department of Defense—have been giving for almost a decade. Until recently, I've wondered, like that haunting phrase from the Broadway play, 1776, "Is anybody there? Does anybody care?"

However, during the past few months, the number of people who do care have been joining the chorus and slowly the critical state of the plants that provide the Nation's sole source of tritium and plutonium has begun to receive the attention it should have had years ago.

At last.

But it took so much to get that attention. It took three aging reactors being shut down for an extensive period of time for safety reasons. It took operating errors and obvious evidence that, in spite of 30-some years of operating, too little was known about these reactors. It took the discovery that there had been 30 significant incidents at the reactors over the years, and more than 500 forced outages. It took DOE safety experts reporting that a "*Challenger* type of attitude prevailed at these reactors."

Mr. President, it has taken too much to get this attention. Tuesday, October 11, Secretary Herrington reported that none of the production reactors will be restarted this year because of unresolved safety issues. Deputy Secretary, Joe Salgado has said the delay in restart will not have an effect on the Nation's nuclear deterrent. Barker, in the New York Times article makes it clear that there reactors must be restored to safe operation soon. "If we don't, there will be very serious consequences for our ability to maintain our nuclear deterrent."

These serious consequences—facing a possible shortage of tritium in the next decade—require us to look at options. Last year at our hearing, the Senate Energy Committee explored these options with DOE and DOD. None are attractive. They include the possible use of civilian reactors to produce tritium, which will require much research to determine how and if this can be done; a crash effort to convert two reactors, the FFTF and the N reactor, at the Hanford reservation—one of which is too small and would be terribly expensive and the other would take 4 years and have a very limited operating life—and buying tritium from our allies.

It is very, very possible that, in spite of DOE's stated commitment not to operate an unsafe reactor, a shortage of tritium may demand the President of the United States order the Department to do just that.

DOE has developed a plan that the agency hopes will prevent this from happening, now and in the future. To correct the problems at the Savannah River Plant so that these reactors can be operated the next 10 years, a series of upgraded standards and proscriptive procedures with milestones and reviews at appropriate times will be established. These must be met before any of the reactors will be restarted. There will also be a formal training process for workers, increased management, and oversight at all levels.

This plan does not meet with unanimous support. The October 12, Washington Post quotes Richard E. Heckert, chairman of R.I. du Pont de Nemours & Co., contractor at Savannah River, as insisting—

> Things are fine down there if the Government will let us go on with our business. These facilities are quite adequate to serve the country's needs quite safely. * * * The impression that the Nation is in trouble at Savannah River * * * is nonsense.

The Washington Post article reports that Salgado responded. "This putting our heads in the sand has got to stop."

At last.

This Nation has had its head in the sand, has refused to face the facts about the reactors safety, their operating life, and our impending need for tritium. Mercifully, it did not take a serious accident at one of these reactors to get the Nation's attention I believe that in noting the problems at

the Savannah River Plant, we must also note that it was DOE's own safety group that discovered the problems and the attitudes at the plant. It was DOE that acted, finally, to prevent any *Challenger*-type accident. I only hope that the present flurry of attention will be sufficient to keep all of our heads out of the sand, our noses pressed up to reality.

I find reason to hope in DOE's recent actions and statements. There appears to be a commitment within the Department, not only to safe operation of these plants, but to seriously prepare for the future with the construction of two reactors to replace the three aging ones now operating; two reactors, concurrently constructed, at two sites using two technologies.

Mr. President, I urge my colleagues to support the two-reactor strategy proposed by DOE. There are concerns that we can not afford two. Events have proven that we can't afford not to build two. To do otherwise could well force a future President to have to make a choice we find abhorrent—a choice between safety and production. Our national security demands that we give the two-reactor plan our support, our attention now.

Mr. President, I ask unanimous consent that the October 9, 1988, New York Times article "Reactor Shutdown Could Impede Nuclear Deterrent, Officials Say," and the October 12, 1988, Washington Post article, "Weapons Reactors to Remain Closed Over Safety Concerns," be included in full in the RECORD.

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

[From the Washington Post, Oct. 12, 1988]

WEAPONS REACTORS TO REMAIN CLOSED OVER SAFETY CONCERNS—NEW SAVANNAH RIVER PROCEDURES PLANNED

(By Cass Peterson)

The Energy Department announced yesterday that because of unresolved safety issues its three weapons-production nuclear reactors in South Carolina will remain shut down until new operating procedures have been introduced.

The delay is the latest setback to DOE's struggle to maintain production of bomb materials in its aging weapons complex in Aiken, which has been under intense scrutiny since the Soviets' 1986 nuclear disaster at Chernobyl. Since then, the department has been forced to close one major production reactor and temporarily suspend operations in dozens of other reactors and processing plants because of allegations about lax safety practices and management deficiencies.

In recent months there has been renewed concern over the safety of the Savannah River Plant's three reactors, which produce all the tritium and plutonium in the U.S. nuclear arsenal. Congressional investigators disclosed that more than 30 potentially serious accidents had occurred there since the early 1950s. The disclosure came weeks after Savannah River operators, restarting the "P reactor" after a long shutdown, tried to force power levels up despite erratic behavior in the reactor core.

The three reactors at Savannah—P, K and L—have been out of operation for months for routine maintenance and safety modifications. The P reactor was restarted in August but was ordered shut down again days later, after DOE safety officials learned that it had experienced unexplained difficulties during startup.

The department had hoped to restart by late this month at least one reactor. But at a news conference yesterday, Undersecretary Joseph F. Salgado said that none of the massive plants will resume operations before late this year.

"We have a moral obligation to rectify past sins," Salgado said.

Meanwhile, E.I. du Pont de Nemours & Co. Chairman Richard E. Heckert angrily defended his company's record as operator of the Savannah River Plant and said that the reactors are safe to operate now.

"Things are fine down there if the government will let us go on with our business," Heckert said yesterday in a meeting with Washington Post editors and reporters. "These facilities are quite adequate to serve the country's needs quite safely."

Du Pont, which has operated Savannah River under government contract for 38 years, announced last year that it was dropping the contract, in part out of concern about potential liability for accidents. The Westinghouse Co. will take over Savannah River in April.

Two weeks ago, congressional investigators released a 1985 memorandum disclosing that more than 30 potentially serious incidents had occurred at Savannah River since the early 1950s. The memo, which included a description of a partial meltdown of some fuel rods, was prepared by Du Point officials.

Heckert denied that there was any effort to withhold information about the incidents from DOE officials, and said he believed his company was caught in "a political crossfire" between the Energy Department and its critics in Congress.

"These facilities are aging," he said, "but they have been modernized and they can be operated safely. The impression that the nation is in trouble at Savannah River . . . is nonsense."

In a telephone interview, Salgado disagreed. "This putting our head in the sand has got to stop," he said. "We're burning out our opportunities to prove we can operate these facilities safely . . . I don't find any political motivation to it. I really don't."

Salgado said the delay in restarting Savannah River's reactors will have no effect on the nation's nuclear deterrent. Of the reactor's output, tritium is the most critical because it decays rapidly and must be replenished in the existing nuclear stockpile.

Of most concern to DOE officials is Du Pont's handling of the August restart of the P reactor, which along with the K reactor produces tritium. Operators continued to increase reactor power levels even though they were having difficulty sustaining a nuclear reaction. Engineers later determined that they had miscalculated the amount of decay products in the core, which were suppressing the reaction.

A few days later, the reactor experienced an unexplained "power spike"—or abrupt increase in temperture and pressure—during a second restart attempt. Du Pont, under pressure form DOE officials, later ordered the reactor shut down again.

DOE's new schedule does not envision restarting the P reactor again until next summer. Instead, it intends to restart in December the K reactor, which has been shut down for safety upgrades, including seismic bracing that has not been completed.

Salgado said the seismic work was expected to be done by December, and the reactor would not be restarted unless it was.

[From the New York Times, Oct. 9, 1988]

REACTOR SHUTDOWN COULD IMPEDE NUCLEAR DETERRENT, OFFICIALS SAY

(By Keith Schneider with Michael R. Gordon)

WASHINGTON, Oct. 8—Nuclear reactors at the Savannah River Plant, which have been shut down since August for safety reasons, may be out of service so long that the United States will be unable to maintain all its nuclear weapons in a state of operational readiness, Administration officials said today.

If the two-month suspension at the nation's only manufacturer of a vital material for nuclear warheads continues for several months, the United States might be forced to start deactivating nuclear warheads to recover radioactive elements for use in higher priority weapons, according to senior Administration officials.

PRIMARY CONCERN IS TRITIUM

"It is very important that we restore the reactors to safe operation soon," said Robert B. Barker, the top Pentagon official for atomic energy matters. "If we don't, there will be very serious consequences for our ability to maintain our nuclear deterrent."

The primary concern, say Administration officials, is the production of tritium, a radioactive gas that boosts the explosive power of nuclear weapons and has enabled weapons designers to shrink the size of warheads.

But tritium, like slowly melting ice, decays at the rate of 5.5 percent annually. At some point—exactly when is secret—enough tritium decays to render the weapon inoperative.

Thus, the Government maintains a program to replace tritium in warheads. The Savannah River Plant is the only plant in the nation that manufactures tritium.

The Government maintains a reserve of the gas. But three officials, who declined to be identified, said that if the reactors at the Savannah River Plant are not activated soon, the reserve of tritium would soon be exhausted by next summer.

It is not currently known how long the three reactors at the Savannah River Plant will be out of service. Troy E. Wade, Acting Assistant Secretary of Energy for Defense Programs, said he would like to restart one of the reactors within 30 days to 45 days, but those plans are under "intensive review." He declined to comment on plans for restarting two other reactors, which are needed to meet the military's requirement for tritium.

Other officials said political pressure and a new Energy Department emphasis on safety could delay the restart of the reactors for a much longer period.

The White House has said that safety would take precedence over production in any decision to restart the reactors. In addition, the transfer in the management of the plant is scheduled for April 1, and that could bring additional delay, according to Energy Department officials. E.I. du Pont de Nemours & Company, which has operated the plant for the Government since 1952,

is turning over control of the plant to the Westinghouse Electric Corporation.

Government officials and critics differ over whether the shortage of tritium represents an immediate threat to national security. Senior Pentagon officials said the United States needs all the weapons in its arsenal to meet military contingencies.

Mr. Barker, Assistant to the Secretary of Defense for Atomic Energy, added, "To have these reactors not operational is tantamount to unilateral nuclear disarmament."

But other arms control experts say the United States does not need all the weapons in the stockpile. They assert, for example, that the United States has developed a neutron bomb, a tritium-rich weapon that has never been deployed and can be dismantled so that its tritium can be recovered for use in other weapons.

But solving the immediate need for tritium does not ease the long-term problem of making sure there is a reliable supply of the radioactive material. Producing adequate amounts of tritium in the old and brittle reactors at the Savannah River Plant will remain a severe problem until after the turn of the century, when the Government hopes to complete new tritium production reactors at the Savannah River Plant and at the Idaho National Engineering Laboratory near Idaho Falls, according to Energy Department officials.

"In the current spotlight, it is going to be difficult to keep the old Savannah River reactors going for a decade, even if we don't run into any life-limiting problems," Mr. Wade said, referring to possible technical problems that could permanently close the reactors. "That worries the hell out of me, but we don't know how to beat it."

U.S. CONSIDERING OPTIONS

In the face of the possible shortage of tritium in the next decade, the Energy Department is considering a number of options:

Researching the use of civilian reactors to produce tritium for military ends, a step that would require repeal of the Congressional prohibition on the use of civilian reactors for such purposes.

A crash effort to convert two reactors at the Government's Hanford Reservation in Washington State to produce tritium. One reactor, the Energy Department's Fast Flux Test Facility, is used to develop fuel for liquid metal reactors. But Mr. Wade said that modifying the reactor to make tritium "would be terribly expensive" and would not be "something that we can turn on tomorrow and have tritium come out the next day." Moreover, it would only produce a relatively small supply of tritium.

Another possibility would be to modify and restart the N-Reactor at the Hanford Reservation, which is closed for safety reasons. But Mr. Wade said there are no plans to do this soon. Even if the decision to start the N reactor was made today, it would take at least four years before the reactor could be operated and supply tritium, engineers who manage the plant say.

Buying tritium from such American allies as Canada, Britain or France. But this approach is not regarded by officials as an attractive option for either the immediate future or the long term. They say that allies have not yet been contacted. "If I was chairman of the Joint Chiefs, I do not think that I would feel terribly comfortable about relying on Canada for an assured supply," Mr. Wade said.

Taking advantage of the emerging treaty to reduce long-range nuclear arms. But this approach would not be of any immediate help, because such a treaty is far from complete, and would also be subject to a thorough review by the Senate. One Administration official estimated that under the treaty's proposed provisions, 3,000 to 4,000 American weapons would be eliminated over seven years. This official estimated that the total amount of tritium recovered from these weapons might only provide the United States with the equivalent of a two- to three-year supply.

Whatever the possible long-range solution to the tritium shortage, Congressional leaders say the United States is facing a dilemma over the shutdown at the Savannah River Plant. "It's not overstating that we've gotten to a situation where the President has to make a decision," said Senator John Glenn, a Democrat of Ohio who has been investigating conditions at Energy Department weapon plants since 1984. "Do we operate a perfect plant or do we accept a little less than perfect plant that is probably safe to produce tritium. That's a pretty hard decision."

On Thursday, in a statement concerning the complex near Aiken, S.C., Marlin Fitzwater, President Reagan's spokesman, said the Administration policy is that "safety is the first consideration when it comes to operating these plants. Production is the second priority."

Since August, the three reactors at the plant have been shut down because of concerns about the safety of equipment, the adequacy of operating procedures, and the qualifications of technicians and supervisors. The suspension is the longest period the nation has gone without being able to operate its weapon production reactors since 1944.

Within the Energy Department, a conflict has been brewing for months about when to restart the reactors. Mr. Wade, who manages the agency's weapon programs, hopes at least one of the reactors at the Savannah River Plant can be restarted before the end of the year.

But the Department's chief safety officer, Richard W. Starostecki, said that virtually every aspect of the operation, management, and maintenance needs to be overhauled and upgraded before he will be satisfied that running the reactors can be done safely. The restructuring of the operations of the reactors could take "one month. Four months. Six months. Longer. I don't know," he said.

The Savannah River Plant is one of the 17 facilities and laboratories in 12 states that make up the core of the wholly-owned Government industry to develop and manufacture nuclear weapons. Two of the five reactors built at the plant in the early 1950's have been permanently shut down. One of those, the C reactor, was retired in 1985 after cracks were discovered in the reactor vessel.

Three reactors, the P, K and L reactors, have been temporarily shut down. If the Energy Department plans to restore all three reactors to half power are carried out, the three reactors would meet 100 percent of the stated goal for tritium production, officials say.

The size of the United States nuclear stockpile is classified. But according to an estimate by the authors of the Nuclear Weapons Databook, a comprehensive reference work describing the design and manufacture of weapons, the United States has 22,000 warheads in its arsenal of deployed and stored weapons that use about 100 kilograms of tritium—or an average of slightly more than 4 grams per warhead. It also has older warheads that do not contain tritium.

But it is known that tritium degrades at a rate of 5.5 percent a year, which means the United States would be forced to retire about 1,200 warheads a year if supplies of the material were exhausted. Government officials declined to say how many warheads the United States would deactivate. But one Government expert said that the estimate was roughly accurate.

But whether the Savannah River production can be restored soon is unclear. "As of Saturday, the 8th of October, the intent is still to restart the P reactor within 30 to 45 days," said Mr. Wade, who manages the Energy Department's weapons production programs.

Energy Department officials concede that important technical difficulties and political problems must be overcome before the reactors are restarted and tritium production resumes in South Carolina.

Since last August, when operating errors at the P reactor led to a power surge and other potentially dangerous incidents, the Energy Department has made public memorandums and reports that severely criticize the capabilities of reactor operators and their superiors at the plant and in the department.

Mr. Starostecki, the Deputy Assistant Secretary for Safety, Health and Quality Assurance, has prepared a sweeping plan to reorganize the operations at the reactors. The plan calls for retraining operators, supervisors, technicians and maintenance employees.

Yet even if Mr. Starostecki's retraining program is completed within months, the Energy Department faces another key technical hurdle.

In 1986, Du Pont inspectors found unexplained marks and other abnormalities on vessels of two of the three reactors. Du Pont believes the marks are harmless surface corrosion rather than more serious indications of cracking. The Energy Department agreed. "There is no indication of cracks in the reactor vessels," said C. Anson Franklin, the department's chief spokesman. "There is no indication of safety concerns related to cracks."

But these marks are similar to those found on the C reactor before the marks were confirmed to be stress cracks that forced the Energy Department to shut down the reactor, according to the General Accounting Office, the investigative arm of Congress.

Because the marks appear to be similar, the G.A.O. has called on the Energy Department to test the vessels to determine if there are cracks before the reactors are started.

But the Energy Department said it wants to proceed with restarting the reactors before completing the tests, which require sophisticated equipment that the Energy Department still needs to develop. The Department says the machinery will not be available until June 1989 or later.

Because of a lack of options, Administration officials said, the United States would be forced to use its arsenal as a source of tritium if confronted with a shortage next year. The tritium would be removed from some weapons, effectively disabling them and put into higher priority weapons.

Pentagon officials say that retiring weapons from the American arsenal would an extremely worrisome development. They assert that the nuclear stockpile needs to be

maintained at its current size to meet all possible military contingencies.

But some critics say that the Pentagon can take tritium from some weapons without endangering national security.

IN THE NAME OF GOD, GO

Mr. McCLURE. Mr. President, many of us have been watching and waiting with bated breath the end of this session of the Congress. We were told early in the year that the end of September would be our target date for adjournment. That was revised some months later to say the first week in October. It was revised sometime later to be the second week in October. And without revision or announcement we keep on meeting.

I guess there is only one real way to make comment and that is to refer to an utterance made by Oliver Cromwell in 1653, as accurate then as it is today, or perhaps I should say as accurate today as it was in 1653, to end the 20-year-long Parliament.

He said these words:

You have sat too long here for any good you have been doing. Depart, I say, and let us have done with you. In the name of God, go.

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

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

DUKAKIS ON DEFENSE

Mr. GORE. Mr. President, the American people will soon make a choice which will affect them and the rest of the world in a very profound way. Ideally, they should make this choice on the basis of clear judgment, knowing the candidates as they really are and their policies as they really are. I believe that such a choice will be made but that it will come in spite of the campaign of Vice President GEORGE BUSH and its tactics which aim to create a caricature of Mike Dukakis based on character assassination, ridicule, and grotesque distortions of fact. Just in the last 24 hours, for example, the Bush campaign has begun a new television advertisement which includes all of those features—ridicule, character assassination, and grotesque distortions of fact.

I would like to address one of those distortions now—namely, the Bush campaign's repeated assertion, most recently in this television advertisement, that Mike Dukakis is opposed to "virtually every new defense system."

I would like to tell you, Mr. President, and this body something about the facts. I fought Mike Dukakis for the Democratic nomination. I know that he and I differ on some things about defense, but I know what Mike Dukakis' approach to defense is down to the last syllable, and this Bush charge would be a joke if it were not a hoax.

Mike Dukakis knows full well the Nation's security is the first responsibility of a President. But unlike GEORGE BUSH, Mike Dukakis also knows that we cannot buy the Pentagon's entire wish list. He knows that we have already thrown $13 billion at SDI and received virtually nothing from it except paper. He knows that if GEORGE BUSH is elected, the next installment will be $65 billion and that this will buy us nothing but an obligation to spend literally hundreds of billions of dollars more. He does not want to buy into such a bad deal.

Mike Dukakis knows that after spending a trillion dollars on defense, this administration still believes that the Soviet Union and its allies could steamroll NATO unless we and our allies decide to use nuclear weapons within a matter of days. He also knows that if GEORGE BUSH is elected President, these weaknesses will get worse, not better, because GEORGE BUSH will hollow out our conventional defenses in order to pay for SDI. He does not want to buy into that deal either.

We already have critical shortages in our conventional weaponry, in our supplies of ammunition, and the idea that we can spend a virtually unlimited amount of money on what is called star wars and not continue the neglect of conventional forces is an idea that is simply not realistic.

So let me tell you what I know Mike Dukakis supports. He supports the Trident II. He supports nuclear modernization. He supports the B-2 stealth bomber and the advance cruise missile. Now, how in the world can the campaign on the other side put out such a grossly misleading statement as the one contained in the television advertisement which Americans saw last evening and which they are seeing now, when the record is so clear about the systems that Mike Dukakis supports very strongly.

Second, Mike Dukakis will strengthen our conventional defenses. He supports the M-1 tank, the AH-64 Apache helicopter. He supports more spare parts and advanced conventional munitions. These measures, Mr. President, are critical if we are going to set the stage for the reductions in strategic nuclear weapons that we hope can be negotiated in a START agreement.

The Dukakis team will fight to develop and deploy new effective light antitank weapons because he knows that America's light antitank weapons at the present time cannot stop modern Soviet tanks.

Next, Mike Dukakis will protect America's lead in tactical aircraft like the F-15, the F-14, and the F/A-18. He supports the advanced tactical fighter, America's next generation fighter plane, and the C-1 military transport. Again, how do you square those facts with the grossly misleading charge of the Bush campaign?

Fifth, Mike Dukakis supports a strong and balanced Navy. He will go forward with the new SSN-21 Seawolf attack submarine and the DDG-51 *Arleigh Burke*-class destroyer and direct the Navy to build more minesweepers, support ships, and fast sealift ships.

Sixth, Mike Dukakis will insist that American forces be at a high level of readiness. He will not skimp on the maintenance of tanks, airplanes, and warships. And again, Mr. President, how do you square those facts with the grossly misleading charge of the Bush campaign?

Mr. President, the Reagan-Bush administration came to office with a strong mandate from the public to strengthen our defenses. Republicans and Democrats alike in this Chamber know full well that that mandate has been shattered. The public, with justification, thinks that this administration let the Defense Department go on a spending binge, wasting billions and billions of dollars, from which it will take us many, many years to recover.

GEORGE BUSH was there, applauding and cheerleading when it happened. Unlike other prominent members of this administration who waited until they were fired to tell the truth to the American people, GEORGE BUSH is trying hard not to return to private life. He cannot dare tell us the truth about our circumstances and about the difficult choices that lie directly ahead. Instead, he can only try to mislead the public about the nominee of the Democratic Party, Mike Dukakis.

The fact is that we have had a stalemate that has been created by this administration. If we are going to move forward with the strengthening of our conventional defenses and our strategic forces in order to negotiate a START agreement from a position of strength, we will have to rebuild the public mandate and we will have to recognize that in a democracy, consensus is itself a strategic asset. That consensus, whether it is on modernization of our nuclear forces or on strengthening our conventional forces, has been destroyed by the Reagan-Bush administration.

Mike Dukakis knows how to work with Congress. He has balanced 10 budgets in a row, and he understands that America's strength in the world will depend on our ability to build a strong economy, to reduce the budget deficit, and to deal with the most massive procurement scandal in the Pentagon in the history of this Republic. This administration has done it. Mike Dukakis will do it.

The choice, I believe, is clear; and I think it is most unfortunate that we would see from the other side the kind of misleading and distorted message that we are seeing now from the Bush campaign.

THE SERVICE OF SENATOR BOB BYRD AS MAJORITY LEADER

Mr. DOMENICI. Mr President, an historic moment will occur soon in the U.S. Senate. The majority leader, our friend, Senator BOB BYRD, will step aside, passing the mantle of leadership to someone else.

We are familiar with Senator BYRD's record of achievement. Yet I think it bears repeating because it is so extraordinary.

Elected to the West Virginia House of Delegates in 1946, elected to the State senate 4 years later, elected to the U.S. House of Representatives in 1952, elected to the U.S. Senate 6 years later.

Since that time, Senator BYRD has risen steadily through hard work and dedicated service. He became Secretary of the Democratic Conference in 1967, then moved up to become majority whip in January 1971. When our dear friend, Senator Mansfield retired, Senator BYRD was elected majority leader in 1977, serving in that post during both the 95th and 96th Congresses.

During the 6 years of Republican leadership of the Senate, BOB BYRD was an effective minority leader. Actually, he was too effective from my point of view.

I don't need to tell you of the great respect each of us has for Senator BYRD. He has left an imprint that will linger long into the next century, when he might well be serving the people of West Virginia in the U.S. Senate.

As a member of the Committee on Appropriations, I wish to express to him my very best wishes, and, should the election next month turn out badly, I also want to say: "Welcome, Mr. Chairman."

LEADERSHIP OF SENATOR DOLE

Mr. DOMENICI. Mr. President, I wish to express a few words of thanks for the untiring and effective leadership of Senator BOB DOLE during the 100th Congress.

There is no harder job in America than the one he has held during this Congress. He has the responsibility of leadership, while serving in the minority. He has had to serve us, his colleagues, while helping to make certain that the Senate runs well.

As always, he has achieved that with grace and effectiveness.

The accomplishments of this Congress—the Economic Summit last year, passage of the appropriations bills without the need of a continuing resolution, the drug bill, and so many, many more—have been in large measure due to his effectiveness.

We all know that this was a year of disappointment for BOB DOLE. Yet he never allowed that to interfere with his service to his colleagues and, more importantly, his service to the American people.

Mr. President, I look forward to a 101st Congress under the leadership of BOB DOLE, a Congress when he will once again demonstrate that he is one of the great Senators of this century.

SENATOR LAWTON CHILES

Mr. KENNEDY. Mr. President, it is an honor to pay tribute to our friend from Florida, Senator LAWTON CHILES, whose retirement at the end of this session marks the end of 18 years of outstanding public service to the Senate and the Nation.

The campaign style that first brought LAWTON CHILES to the Senate in 1970 has served him well in the years since then. I have often felt that LAWTON CHILES was one Senator who would always walk the extra mile to fully understand an issue and fairly resolve a controversy. But there must have been times during his tenure on the Senate Budget Committee when he felt that logging all those miles across Florida was much easier than logging all those hours on the budget.

As chairman of the Budget Committee at a time of record budget deficits, Senator CHILES has perhaps the most thankless task in the Senate. Yet he performed it with uncommon wisdom and ability—not to mention the modesty and grace that so impressed and charmed us all and that unfailingly shed the light of reason on even the darkest and angriest days of our debates.

Setting Federal spending priorities is never an easy job, particularly in these times of fiscal crisis. But no one could have been more caring for the people that we serve—or more conscious of the constraints imposed by the need for a responsible budget than Senator LAWTON CHILES.

Under Reaganomics, the Federal budget has a great fall. All the President's horses and all the President's men couldn't put it back together again. But Senator LAWTON CHILES could—and did.

Another of his important and lasting contributions has come in recent years, during his service as Chairman of the National Commission to Prevent Infant Mortality. In the years ahead, literally millions of children now unborn will be in LAWTON CHILES' debt for pioneering effective ways to reduce the shamefully high rates of infant mortality that exist in too many areas of the country.

I also want to express my appreciation to Senator CHILES for his distinguished work on the Appropriations Subcommittee on Labor, Health and Human Services. Year after year, he has consistently given his expert attention and compassionate understanding to the essential and complex programs in his jurisdiction. Because of his leadership, the Senate was able to meet the spending limits imposed by the budget summit agreement, while maintaining, to a degree many of us thought impossible, the Nation's commitment to helping those who need our help the most.

With skill and understanding, he fought successfully for increased funds for health and education, for child immunization, for AIDS research, and for many other priorities that the administration was reluctant to acknowledge but that America had to meet.

Above all, Senator CHILES was our field marshal and point man in the great Social Security shootouts of recent years. In large part because of his leadership, elderly Americans kept their retirement benefits—and Senate Democrats won their majority back.

In battles like these, Senator CHILES has always been in the forefront of the struggle, dealing effectively with issues central to the future of our Nation. Through thick and thin, he has held the standard high. The Senate is a better institution because of LAWTON CHILES, and America is a better country. It has been a privilege and an honor to serve with him and to have him as a friend.

RETIREMENT OF SENATOR BOB STAFFORD

Mr. DOMENICI. Mr. President, Senator ROBERT STAFFORD is, by choice, leaving us this year. During my initial 14 years in the Senate, I had the great honor to serve with BOB STAFFORD on the Committee on Environment and Public Works. During 6 of those years, BOB STAFFORD was my chairman on that committee.

Over that span—and the time since then—I have found Senator STAFFORD about as fine a Senator has we have had in this body. He is fair, he is generous, and he is always helpful.

We are familiar with his record: attorney general of Vermont, Governor, Member of the House, and Member of the Senate—a record of more than three decades of public service. "Public service." An important phrase, and, as the Washington Post noted last year, Senator STAFFORD has never "lost sight of what that term means."

When some Members of the Senate let environmental concerns slide, BOB STAFFORD has made certain that we confronted those hard issues, and worked to protect the environment.

When some wanted to cut education programs, BOB STAFFORD made sure that did not happen.

Historians who look back on America in the latter years of this century will see the importance of BOB STAFFORD, particularly in his unfailing efforts on behalf of environmental improvement and educational excellence.

I salute you, BOB STAFFORD. We thank you and wish you well.

SENATOR ROBERT STAFFORD

Mr. KENNEDY. Mr. President, I want to take this opportunity to pay tribute to our distinguished Republican colleague who is retiring at the end of this Congress, Senator ROBERT STAFFORD of Vermont.

Senator STAFFORD has had a long and distinguished career in public service. He was Vermont's attorney general until being elected Governor in 1958. He was first elected to Congress in 1960 and served in the House of Representatives until 1971, when he was appointed to the Senate.

In this Chamber, he has been a highly respected member of both the Labor Committee and the Public Works Committee. As the chairman of the Public Works Committee from 1981 through 1986, he was Mr. Environment, compiling a brilliant record of leadership on environmental concerns, including toxic waste cleanup, expansion of the Superfund, clean water, and the removal of asbestos in public schools.

My closest association with Senator STAFFORD has been on the Labor Committee. We have served together for 17 productive years, and he has always been an effective, dedicated member of the committee. He has left a lasting imprint on many of the bills that the committee has approved in critical areas such as health care, education, assistance to the elderly, civil rights, and support for the needy in our society.

Senator STAFFORD has been an exceptionally strong supporter of Federal aid to education. He had made a difference—often, all the difference—on student aid, education of the handicapped, and vocational education. In particular, he deserves great credit over the past 8 years for rising above partisanship, rejecting unfair budget cuts, and working diligently to meet the Nation's true priorities in education and on many other issues.

Without Senator STAFFORD's patient guidance, ability, and determination, some of our most important Federal programs for the needy would have been drastically cut back or completely eliminated. The sound measures we have today and the bipartisan support they enjoy are a tribute to ROBERT STAFFORD's leadership. Again and again, he has been a profile in courage on these issues, and I commend him for his achievements.

Earlier this year, Congress voted to name the Guaranteed Student Loan Program after Senator STAFFORD, in recognition of the many essential contributions he has made on these challenges over the past two decades.

When I think of BOB STAFFORD, I think of wise leadership, sound judgment, and remarkable integrity. He is a tremendous resource for Vermont and the Nation, and he will be greatly missed in the Senate as a leader, friend, and colleague. Few Senators, I suspect, have ever enjoyed as much respect and affection on both sides of the aisle as BOB STAFFORD. He has earned a long and happy retirement, and I wish him well in the years ahead.

RETIREMENT OF SENATOR DAN EVANS

Mr. DOMENICI. Mr. President, when Senator DAN EVANS leaves the Senate, 99 of us will lose a valued colleague. I will also lose a good neighbor.

DAN EVANS is something quite unusual in this body. He is a trained engineer, the closest thing we have in the Senate, aside from our good friend from Ohio [Mr. GLENN], to a scientist.

Not long ago, I examined the background of the Members of this body. What I found was that 66 of us, including this Senator, were trained in the law.

Personally, I am convinced that we need a far greater understanding of science in this age of accelerating scientific revolution. And for that reason, as well as so many personal reasons, I regret greatly that DAN EVANS will be leaving us.

I think most of us are familiar with his great record of accomplishment:

Governor of Washington from 1965 until 1977, the only person to serve in that post for three terms; keynote speaker at the Republican National Convention in 1968; president of Evergreen State College from the time he left the governorship until he was appointed to fill the seat of the late Senator Henry Jackson in September 1983.

It has been a great personal honor for me to serve with DAN EVANS on the Energy Committee, to witness how well and how effectively he serves the people of Washington and the United States.

Senator EVANS, we will miss you greatly.

RETIREMENT OF SENATOR PROXMIRE

Mr. DOMENICI. Mr. President, the Senate is about to lose a legend, Senator BILL PROXMIRE.

He has served in this body since 1957—more than 30 years—and during that span, he has developed a position among us that can only be termed unique.

We all are familiar with his unbelievable record of having not missed a single rollcall vote since April 1966, more than 10,000 votes in a row. And, I am told, that he missed that 1966 vote only because he was misinformed by the leadership one evening that no more votes would be held.

Anyone who has served here, or worked around this building, knows that such a record is simply not possible, not possible except for BILL PROXMIRE.

But there are lots of things about Senator PROXMIRE that are impossible. In his past two reelection campaigns, he spent a total of $322.83, about 1 day's worth of bumper stickers in many Senate races.

What I would like to do is to mention his leadership in one area, an area that I believe has been important to America.

When I came to the Senate, what we sometimes term the pork barrel was overflowing. There was little rationale to many of the projects that became "the law of the land." A rare dissenter was BILL PROXMIRE.

When I was running for reelection the first time in 1978, BILL PROXMIRE stood on this floor to prevent the passage of a major water projects bill, one stuffed with projects selected on such an ad hoc basis.

It was that act of courage that helped to create the atmosphere that led 8 years later to enactment of an entirely new water projects law, a change that nearly everyone agrees today was necessary and important.

Mr. President, a lot of people in this city may be pleased that BILL PROXMIRE is leaving the Senate. But not this Senator. I shall miss him, and I salute him for his courage and leadership.

RETIREMENT OF SENATOR JOHN STENNIS

Mr. DOMENICI. Mr. President, I really don't quite know where to start in expressing a few words of affection for JOHN STENNIS.

We all know that no Member of this body is held in higher regard than JOHN STENNIS. Maybe no Member ever has been. And each of us can recite examples of his decency, his honesty, his dedication.

Senator STENNIS entered the Senate when I entered high school. He has the second longest span of service to this body of any Member in our history. In fact, JOHN STENNIS has been a Senator for 20 percent of the history of our Republic.

But what is so special about JOHN STENNIS is summed up in a comment of his that I came across a while back:

"I never wake up in the morning and say, 'I wish I didn't have to go to work this morning.' I'm ready to get up, ready to see what's going to happen."

It is that sense of optimism, that excitement with the world that is so very special about the gentleman from Mississippi.

How many of us, after lying in a hospital bed for 3 months recovering from a gunshot wound would have carried on as he had carried on? How many of us, with the other medical problems JOHN STENNIS has faced, would still have carried his optimism?

He is a very special man, who came to serve when America needed a special man.

His magnificent record is known to all: President pro tempore, chairman of the Appropriations Committee, chairman for a dozen years of the Armed Services Committee, author of the Senate's first code of ethics.

I haven't always agreed with JOHN STENNIS. For example, we have squabbled in the past over policies affecting water projects, and issues like the Tennessee-Tombigbee Waterway. But not once, no matter what the issue, did JOHN STENNIS fail to act with the very highest degree of integrity—and, given his successes in winning on his issues, his great effectiveness.

Mr. President, many people who are not Members of this body may tire of hearing us say that the retirement of JOHN STENNIS marks the passage of an era. But if they knew the man as we do, they would realize that it is absolutely true.

Senator STENNIS, we may miss you, but we will never forget you.

RETIREMENT OF SENATOR PAUL TRIBLE

Mr. DOMENICI. Mr. President, I wish to say a few words to express my great regrets over the retirement of my good friend, Senator PAUL TRIBLE.

It has been a great honor to work with PAUL TRIBLE throughout his 6 years in this body. I respect him greatly as a spokesman for the people of Virginia and as a leader for America.

Senator TRIBLE's service on the select committee investigating the Iranian arms sale demonstrated his outstanding grasp of key issues. We all are in his debt for his work on that committee, as well as his service on his three standing committees: Foreign Relations, Commerce, and Governmental Affairs.

I know that his decision to leave the Senate was both a difficult one and an easy one. It was difficult because he had such a bright future in this body.

But it was also an easy decision because of his great love for his wife, Rosemary, and his children, Mary Katherine and Paul III.

I am delighted that Senator TRIBLE has announced that he plans to reenter public life by running for the governorship of Virginia. We need men like PAUL TRIBLE, and certainly the people of Virginia need men like PAUL TRIBLE.

I will miss PAUL TRIBLE in the Senate. I will miss him as a friend and as a leader.

SENATOR PAUL TRIBLE

Mr. KENNEDY. Mr. President, I want to take this opportunity to pay tribute to my colleague from across the aisle, Senator PAUL TRIBLE of Virginia, who is retiring from the Senate at the end of the 100th Congress.

Senator TRIBLE has accomplished a great deal at a young age in his career so far in public life, having served as assistant U.S. attorney and Commonwealth's Attorney in Virginia, three terms in the House of Representatives, and the past 6 years in the U.S. Senate.

As a member of the Iran-Contra Committee, Senator TRIBLE was an effective leader in the effort to uncover the truth behind that reckless and illegal scheme. He won distinction for his work in defending the prerogatives of the Congress and the rule of law, and I commend him for his efforts.

Although we have not always agreed on questions before the Senate, I have come to respect Senator TRIBLE's ability on the issues, his commitment to public service, his dedication to the people of Virginia, and his dedication to his family.

It is never easy for any of us in public service to balance our time-consuming official responsibilities with the private needs of our families. I sympathize with Senator TRIBLE's concern to spend more time with his wife and young children, and I hope that as reforms in the operation of the Senate are developed for the next session, we will do a better job of accommodating Senate business with these quality-of-life concerns.

The Senate, the Commonwealth of Virginia and the Republican Party will miss PAUL TRIBLE's dedication and talent, and I wish him well in the years ahead.

TRIBUTE TO SENATOR PROXMIRE

Mr. BOREN. Mr. President, I rise to join many of my colleagues in giving tribute to the senior Senator from Wisconsin, WILLIAM PROXMIRE. As everyone in this Chamber knows, Senator PROXMIRE is retiring at the close of the 100th Congress after over 31 years of service to the people of his State.

I did not have the honor of serving under Senator PROXMIRE during his leadership of the Banking Committee or with him on the Appropriations and Joint Economic Committees. However, he and I have worked together on a wide range of issues, the most recent of which has been reforming our corrupt campaign finance system. I am happy to say BILL PROXMIRE was one of the first cosponsors of my reform legislation in the 100th Congress. He and I are two of only three Senators who do not take PAC money. His record of spending only the money needed for returning unsolicited campaign contributions during his reelection races is a model for all of us in the Senate. I certainly hope the days of the hundred dollar Senate campaign do not end with the retirement of BILL PROXMIRE, but I am afraid they could well be over.

How can someone in these times, with multimedia million dollar campaigns, win race after race without spending more than a few hundred dollars? Well, Senator PROXMIRE won five Senate races because he went out to talk with his constituents, listened to their concerns, and represented them very, very well here in this body. I'm told he was even out at the Wisconsin State Fair this past summer, in the near-100 degree weather, shaking hands and talking to his fellow Wiconsinites. This from a man who wasn't running for reelection. It is representative of his deep commitment to democracy and public service.

His dedication to clean government is well known. Time after time Mr. PROXMIRE fought waste in Government spending and Federal procurement. There isn't a Federal agency that has not felt the effect of his Golden Fleece Award. His strong-willed and deep-seated belief in a responsive government has lead him to bump heads with regulators and even with some of his colleagues here in the Senate. But when he has won fights, and he has won more than a fair share in the Senate, they have been well deserved victories.

BILL PROXMIRE has fought in committee and on this floor for what he felt was right, but he has not prevented the Senate from working its will. If he disagreed with legislation, he made his case to the rest of his colleagues and voted his conscience.

Morning after morning he has spoken to this body on a whole host of issues. A retiring Senator 90 years ago said that "the Senate is a school. The world's history is its textbook. No man well made up can be there long, if he will but listen, without himself becoming wiser and better." All of us here have learned much and become all the wiser from listening to the Senator from Wisconsin.

His near perfect voting record, his reelection campaigns, his persistence all show the work of a real public servant who has served his State and his country very well. I am sorry to see him go.

SENATOR LAWTON CHILES

Mr. BOREN. Mr. President, when the 101st Congress meets next January, the absence of Senator LAWTON CHILES will be felt by all who have had the honor to work with him during his long and energetic career. Of his three decades of public service, 18 years have been dedicated to serving the people of Florida in the U.S. Senate. Before coming to this office in 1971, he served in the Florida State Legislature. In his 1970 campaign for the Senate, he was up against three experienced statewide political leaders. But through his legendary march across Florida and other grass roots campaign methods, Senator CHILES won that election and has been popular in his State ever since. I first met LAWTON CHILES when I was making my first statewide race for Governor of Oklahoma. He was kind enough to share with me parts of the diaries which he kept while walking across Florida. From them I learned a lot about his sincere concern of people in all walks of life and his commitment to help them solve problems which they were confronting. He has always listened to his constituents with respect and understanding. From that time in 1974 when I just came to know Senator CHILES, his friendship has greatly enriched my life.

His accomplishments are numerous and reflect his intelligence, capabilities, and experience. His hard work and persistence have been felt both in his home State as well as throughout the Nation in many public policy areas, particularly in health care, education, and environmental protection. Perhaps his wisdom and insight have been appreciated through his chairmanship of the Senate Budget Committee. Senator CHILES has served with distinction in one of the Senate's most difficult and demanding jobs for the past 6 years. His diligence in striving for sound economics and his dedication to fiscal responsibility are to be commended. His personal integrity and moral courage to take difficult positions on tough issues are well known to all of us.

Members of the Senate as well as citizens of Florida will miss his leadership and talent in the U.S. Senate. I wish Senator CHILES and his wife, Rhea, a safe return to Florida. He is truly an example for all to follow.

TRIBUTE TO SENATOR ROBERT T. STAFFORD

Mr. BOREN. Mr. President, when this 100th Congress adjourns, Senator ROBERT T. STAFFORD will retire from the Senate. I will miss him and his leadership very much.

Senator STAFFORD started representing Vermont in Washington 27 years ago in the House of Representatives. After 10 years of service in that body, he was appointed Senator by the Governor of Vermont upon the death of Senator Prouty in 1971. Nearly two decades of hard work and true sense of public service have made Senator STAFFORD a respected Member of the Senate. I will remember him for his dedication to progress in the fields of environment and education: he served as chairman of the Environment and Public Works Committee for 6 years, and he was chairman of the Education Subcommittee of the Labor and Human Resources Committee. Holding those two positions, Senator STAFFORD often found ways to help the less fortunate in our world; whether they were handicapped children, youth who could not afford a decent education, or endangered species of our wildlife. On these issues, Senator STAFFORD frequently crossed the line of demarcation which exists between the two sides of this Chamber, and worked in a bipartisan manner with a patience and efficiency rarely matched by any Member of the Senate.

Senator BOB STAFFORD's 27 years in Congress have left their mark, and in my mind I will always think of him as not belonging to any political camp in particular, but rather to the group of gentlemen who put the well-being of their Nation above all other priorities. His efforts exemplify the fact that subtle perseverance often overcomes heated expressions of emotions in times of difficulty. I wish Senator STAFFORD and his wife, Helen, the best of luck as they leave for the peace and quiet of beautiful Vermont, and extend my gratitude and admiration for his work over the years.

TRIBUTE TO SENATOR DANIEL J. EVANS

Mr. BOREN. Mr. President, I wish to compliment Senator EVANS on his performance as a Member of this body these past few years. He will be missed next year when it convenes for the 101st Congress. Senator EVANS has served both his State and country well: He defended America in wartime, he was a representative in Washington's State Legislature, he was president of Evergreen State College, he was Governor of Washington for 12 years, coming to the Senate in 1983, when he was elected to succeed the late Senator Henry Jackson. I first knew him when I became a freshman Governor in 1975. He was the leader of the National Governors Conference and conducted a school for new governors which was immediately helpful to all of us. He was known as the "governors' governor." The title was a mark of respect for his ability and above all for his bipartisan statesmanship and absolute personal integrity. He brought those same qualities with him to the Senate.

In the few years that Senator EVANS has been here, he has accomplished much—the citizens of Washington are fortunate to have been represented by this outstanding man. He has admirably and successfully defended the interests of his State throughout the years on energy policies, trade, and the environment. He has been an ardent supporter of promoting pay equity for women and minorities. In addition, Senator EVANS has brought into Congress what might be called a strong work ethic, striving to remedy the inefficiencies of the Senate as an institution.

I do not believe that this is the last the State of Washington or this Nation will see of DAN EVANS. I wish him well in his future endeavors.

TRIBUTE TO SENATOR JOHN C. STENNIS

Mr. PRYOR. Mr. President, when the 100th Congress adjourns we will bid adieu to one of the most distinguished individuals to have served in this body. JOHN STENNIS, the second-longest serving Senator in the history of our country, will end his tenure of 41 years and 2 months.

It will be hard for a number of us to imagine a Senate without JOHN STENNIS. His steadiness and unfailing character and integrity will be sorely missed.

Probably the last of the "old school," JOHN STENNIS has taught this Senator much about the legislative process. His personal resolve amidst medical problems, the loss of a limb, and of his beloved wife are a credit to JOHN STENNIS' strength.

I hope that when the annals of history record any legacy that I might leave following tenure in the Senate, I will have even a fraction of the legislative accomplishments that JOHN STENNIS has accumulated.

The old adage is that "good things often come in small packages." JOHN STENNIS is such a powerful package.

I wish him good health in his retirement. The people of Mississippi have been superbly represented by his unselfish years of service.

TRIBUTE TO SENATOR DANIEL J. EVANS

Mr. CONRAD. Mr. President, I rise today to pay tribute to Senator DAN EVANS on the occasion of his retirement from the Senate.

I have had the privilege of serving with DAN on the Energy and Natural Resources Committee since I came to the Senate 2 years ago. DAN's thoughtful, deliberative approach to the issues confronting the committee has been an example to me; and I will always be impressed with his knowledge of details and dedication to protecting our

resources and environment for our children and grandchildren.

In April of this year, my wife, Lucy, and I had the pleasure of traveling to the Soviet Union with a group including DAN and his wife, Nancy. The trip provided a unique opportunity to get to know them both better, and share a remarkable experience with them. Lucy and I will long remember the Winter Palace, the Kremlin, the food, and the churches. As a member of the Foreign Relations Committee, DAN was keenly aware of Soviet human rights policies, and aptly demonstrated this knowledge in our meetings with Soviet dissidents and Jewish refuseniks.

DAN has been a strong advocate of women's rights since his days in the Washington Legislature and 12 years as Governor of that fine State. In the Senate, he has been a vocal, effective spokesman for equal opportunity for women and minorities.

Among the many equal opportunity measures that he has supported, DAN worked tirelessly for the Pay Equity Act. I was pleased to cosponsor this measure, which mandated a study of the Federal job classification system to determine whether current wage disparities are caused by discrimination against women and minorities. I share DAN's belief in the need for this type of study as a step toward identifying the extent of employment discrimination against women and minorities. In this area, the Federal Government should set an example and demonstrate its commitment to providing equal employment opportunity. I regret that this measure was not approved by this body, but we should strive to continue our colleague's work in the 101st Congress.

DAN's persistent efforts to eliminate discrimination against women have been an inspiration to many. His voice in this area will be greatly missed.

It is hard to believe that DAN has been in the Senate for only 5 years. His accomplishments, and his rational, farsighted approach to legislating are marks of a long and distinguished career in public service. I will miss DAN in the Energy Committee and on the floor, but wish him the best of luck and success in his future endeavors.

TRIBUTE TO SENATOR PAUL TRIBLE

Mr. CONRAD. Mr. President, I rise today to express my appreciation to Senator PAUL TRIBLE for his friendship and distinguished service in the Senate.

First elected to Congress in 1976, PAUL served three terms in the House and 6 years in the Senate. As we are about the same age, it is sobering for me—as a recently elected Senator—to see him leave this body for new and greater challenges. I am glad that we had the chance to serve together for 2 years, and got the chance to know each other.

In April of this year, my wife, Lucy, and I traveled to the Soviet Union with a group that included PAUL and his wife, Rosemary. This was a fascinating and most informative trip, and we had many memorable experiences. As a member of the Senate Foreign Relations Committee, PAUL had interesting observations on the changes taking place in the Soviet Union. He has thought a great deal about the problems of that country, and about relations between our two nations.

Besides his assignment to the prestigious Foreign Relations Committee, PAUL has served on the Government Affairs Committee and the Commerce Committee. Through the Government Affairs Committee, he could take an active role on issues of vital importance to Federal Government workers, clearly a major constituency in his State of Virginia. On the Commerce Committee, in the 99th Congress, he led the successful push for legislation transferring National and Dulles airports to a regional authority, which will undertake an ambitious program of improvements at both airports. Virginia's economy should benefit greatly from the development fostered by these airport expansions—and passengers should find the service and accessibility of these airports markedly improved.

I will miss PAUL as he retires from the Senate. In announcing his plans more than a year ago, PAUL said: "I want to be better able to shape my day, set the agenda, and do more for my family and for Virginia." As this Congress heads toward adjournment, that's a message we all can readily appreciate. I know PAUL will welcome the chance to spend more time with his family, and fully expect he will remain active in Virginia politics and public life.

TRIBUTE TO SENATOR ROBERT STAFFORD

Mr. CONRAD. Mr. President, I rise to express my appreciation to Senator ROBERT STAFFORD for his leadership and wisdom during his 28 years in the U.S. Congress, and for his leadership and counsel during my first 2 years in the U.S. Senate.

Senator STAFFORD will be remembered by his colleagues as an articulate and effective spokesman on issues affecting the environment. He knows, better than anyone else perhaps, that we are stewards of our environment for future generations, not pirates of our resources for expedient gains. He knows that reasonable steps to protect our environment now will preempt drastic and costly measures to save our resources later.

As chairman of the Committee on Environment and Public Works for 6 years, Senator STAFFORD prevented attempts to weaken the Clean Air Act, while he pressed hard for legislation to reduce acid rain. He championed an expanded version of the Superfund legislation, and as ranking minority member of the Environment Committee during the last 2 years, he has played a major role in attempts to strengthen the Clean Air Act.

Senator STAFFORD's accomplishments are not limited to environmental issues, however. As a member of the Labor and Human Resources Committee, he has been a quiet but strong voice of reason and compassion for America's working men and women. His commitment to education is second to none. He has continually fought proposed cuts in education, and it is befitting that the Elementary and Secondary School Improvement Amendments of 1988 and the Guaranteed Student Loan Program now bear his name.

I will remember Senator STAFFORD as a wise, thoughtful and courteous Member of this body, who combined reasonable approaches to problems with a determined desire to solve them. In an era when political rhetoric often exceeds substantive accomplishments, it is noteworthy that Senator STAFFORD's self-effacing manner masks his remarkable achievements. As the Washington Post stated in an editorial dated December 4, 1987, he is a Senator who is "substantive, unassuming, patient and effective."

Senator STAFFORD has represented the State of Vermont well, and he has served the Nation admirably. He has gained the respect of his colleagues, and he has earned the gratitude of his country. He is, in the words of a popular expression, "a class act." We will miss his presence in the U.S. Senate, but we are fortunate to have had him among us.

I wish him good luck and Godspeed.

H.R. 4432

Mr. INOUYE. Mr. President, I wish to offer my support for H.R. 4432, a bill to direct the U.S. Bureau of the Census to obtain detailed tabulations of nine Asian American and Pacific Islander ethnic groups in the 1990 decennial census.

I am very concerned about the Census Bureau's plans to collect data on Asian/Pacific Islander residents as one single racial category, with a write-in section for specific ethnic populations. This proposal is a serious departure from the 1980 census in which nine ethnic groups were listed under the Asian/Pacific Islander category. At that time, these racial groups comprised at least 95 percent of the national Asian/Pacific Islander popula-

tion. Respondents in these subgroups marked the appropriate category in the race question; the Census Bureau electronically tabulated their responses on a 100-percent basis.

Between 1970 and 1980, the Asian/Pacific Islander community increased by 141 percent, from 1.5 million to 3.7 million. This population is anticipated to grow another 88 percent to almost 7 million by 1990.

The Census Bureau maintains that the write-in method will yield more accurate information. However, it is my belief that the Bureau's approach will complicate efforts to analyze data regarding Asian/Pacific Islander populations.

Although only 6 percent of the total U.S. population in 1980 was foreign, 59 percent of the Asian/Pacific Islander population was born in a foreign country. Many new immigrants lack formal education and, thus, the ability to correctly follow directions. For example, sample questionnaires were distributed which directed respondents to write in their ethnic groups, "Chinese, Japanese, Filipino, * * *, et cetera". When immigrants did not locate their appropriate race in the list of examples, they described themselves as et cetera." Others only marked the general Asian/Pacific Islander category, without providing a more specific written response.

The accuracy of the census, or the inaccuracy thereof, will significantly influence the Nation's understanding of the socioeconomic needs and problems of the nearly 7 million Asians and Pacific Islanders. The write-in format lends itself to a significant undercounting of ethnic groups. Consequently, State and private organizations will lack the information necessary to address emerging issues, obtain funding, and provide appropriate assistance. A diverse and rapidly changing population cannot be lumped into one category; fourth generation Japanese-Americans are distinctly different from recent Laotian immigrants, although both are deemed Asian/Pacific Islanders.

I therefore lend my full support to this bill and urge my colleagues to give it their serious and timely consideration.

Mr. SIMON. Mr. President, I wish to join with my colleagues, Senator INOUYE and Senator MATSUNAGA in support of a bill which will require the Bureau of the Census to provide a detailed tabulation of the Asian and Pacific Islander populations in the 1990 census.

The Census Bureau has proposed to change its 1990 census format from the checkoff system used in the 1980 census, which included a list of nine separate Asian and Pacific ethnic subgroups, to a system which would require the census respondents to write in their ethnic subgroups on a blank.

The proposed change ignores the fact that Asian- and Pacific-American populations are composed of multiethnic communities with vast differences in social, economic, and educational standings. I am very concerned that the write-in system, which can be very confusing to people whose English language ability is limited, will result in a gross undercount of Asian ethnic groups. Consequently, the change will hamper our ability to collect necessary data to formulate intelligent policy decisions, and to provide needed social services for Americans of Asian ancestry.

In my home State, Illinois, the Asian American population numbers over 250,000 and ranks fourth in the Nation. The ethnic groups range from the older Chinese and Japanese communities to the new arrivals from Vietnam, Laos, and Cambodia. It is a population so rich and diverse that we would be doing these people a great disservice to lump them into one homogeneous group.

On the national scene, I have had many Asian organizations such as the National Democratic Council of Asian and Pacific Americans, the Japanese American Citizens League, and the Organization of Chinese Americans, expressing strong concerns over the proposed change.

The bill I am supporting today is a companion bill to legislation I cosponsored with Senator MATSUNAGA. It will require the Census Bureau to collect data on Asian-Americans in the same manner that was used in 1980. Asian-Americans are one of the fastest growing minority groups in America. An accurate census count will ensure that they will receive their proper share of representation and services.

I urge my colleagues to support this important legislation.

TRIBUTE TO HENRY M. HERLONG, SR.

Mr. THURMOND. Mr. President, last week, Edgefield, SC, lost a devoted public servant and a fine man with the death of Henry M. Herlong, Sr. Mr. Herlong, a lifetime resident of Edgefield County, brought distinction to the county and to the State in his various positions in public service.

After graduating from Clemson College in 1931, Mr. Herlong returned to Edgefield County to serve as superintendent of schools. During his tenure, he was responsible for the operation of about 50 schools across the county. Although constrained by a limited budget, Mr. Herlong led the school system in both a creative and distinctive manner. At one time, he went door to door asking citizens to approve a tax increase to finance the construction of a gymnasium, which today remains in use at Strom Thurmond High School in Edgefield.

At the outbreak of the Second World War in 1941, Mr. Herlong enlisted in the armed services. Mr. Herlong was a proud member of the military, retiring with the rank of lieutenant colonel. Mr. Herlong returned to Edgefield County once again after completing his military service.

The list of Mr. Herlong's various public offices and community activities is long and distinguished. Upon his return to Edgefield after World War II, Mr. Herlong ran successfully and subsequently served as county treasurer for one term. Mr. Herlong was a member of the Edgefield County Council from 1972 to 1978. During his time on the council, the county was awarded the J. Mitch Graham Award for the most outstanding public service in the State of South Carolina. Mr. Herlong's efforts greatly facilitated the achievement of this award.

In addition to these many duties, Mr. Herlong also served as president of the Edgefield Industrial Development Corp. and as a leader in the Edgefield County Farm Bureau, State Forestry Board, the American Legion, the Clemson University Board of Visitors, and the Edgefield Senior Citizens Council, which he helped to organize.

As a church leader, Mr. Herlong also served in a dedicated fashion. He was a member of Harmony United Methodist Church, where he performed the duties of Sunday school teacher, member of the official board and church treasurer. The many ways in which Mr. Herlong contributed to the Edgefield community are truly remarkable.

On a personal note, Mr. Herlong was a man of utmost integrity and honesty. Whether as superintendent of schools, county council member or county treasurer, Mr. Herlong's primary role was as a teacher of the strong values of family and community. Mr. Herlong's gifts to the Edgefield community were many, and his memory will live on into the future in Edgefield County.

My wife Nancy joins me in extending our deepest sympathies to Mrs. Josie Blocker Herlong, the lovely wife of Mr. Herlong, and to his able son, Judge Henry M. Herlong, Jr.; his devoted daughter, Mrs. Mary Jo Herlong Spiers; his sister, Mrs. Mary Whitaker of Lake Junaluska, NC; and his brothers Robert H., Frank W. and D.C. Herlong, all of Johnston, SC.

Mr. President, I ask unanimous consent that the following articles concerning Mr. Herlong be printed in the RECORD.

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

19-059 O-89-18 (Pt. 22)

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

LT. COL. HENRY M. HERLONG, EX-EDGEFIELD COUNTY OFFICIAL

Retired Army Lt. Col. Henry Michael Herlong Sr., 78, of Columbia Road, Edgefield, died Wednesday, September 28, 1988, at his residence.

Born in Edgefield County, he was a son of the late Henry Hancock and Mrs. Nettie Rankin Herlong. He was a former businessman and farmer and a graduate of Clemson University, where he was a former member of the board of visitors. He served as Edgefield County treasurer and as Edgefield County superintendent of education and was a former member of the Edgefield County Council.

He was a World War II Army veteran, retiring as a lieutenant colonel, and was a former president of the Edgefield Lions Club. He was a Mason and past Master of the Harmony Grange. He was a member of Harmony United Methodist Church and the official board, serving as a Sunday school teacher and church treasurer. He was a member of S.C. Development Board and Longtime President Edgefield Co. Industrial Development Corp.

Surviving are his wife, Mrs. Josie Blocker Herlong; a son, Henry M. Herlong Jr. of Columbia; a daughter, Mrs. William J. (Mary Jo) Spieres Jr. of Cameron; a sister, Mrs. Mary Whitaker of Lake Junaluska, N.C.; and brothers, Robert H., Frank W. and D.C. Herlong, all of Johnston.

Services were held Friday, September 30, at Harmony United Methodist Church with the Rev. Wayne Horne officiating. Burial was in the church cemetery.

Pallbearers were John Herlong, Thomas Herlong, Jan Younginer, Joe Younginer, Joe Ben Herlong and Billy Herlong.

Memorials may be made to Harmony United Methodist Church.

Edgefield Mercantile Funeral Home was in charge.

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

HENRY M. HERLONG, SR.

Edgefield County lost a solid citizen, a dedicated public servant and a valued friend last week with the death of Henry M. Herlong, Sr. Mr. Herlong was a native of the Harmony Section of the County and a member of one of the oldest and most distinguished families of the county.

After graduating from Clemson University, Mr. Herlong returned to Edgefield County where he served in various public offices and worked in various community organizations for over half a century.

In 1931 he became Superintendent of Schools for Edgefield County where he served during the difficult period of the Great Depression. From this experience he derived a strong sense of the value of education. Throughout his life, Mr. Herlong continued to be a strong supporter of education in the county, whether in his capacity as interested citizen, Sunday School teacher, County Treasurer, County Councilman or as the husband of Josie, who was one of the county's best teachers for many years.

During World War II Mr. Herlong served in the U.S. Army where he distinguished himself by rising to the rank of Lieutenant Colonel. He was one of five sons of Mr. and Mrs. Henry Hancock Herlong to serve in the war, a circumstance which was the subject of broad publicity across the nation.

Mr. Herlong later went back into public service when he was elected County Treasurer. His traits of high integrity and careful conservatism served him well in this post.

However, farming was in his blood and that is what he returned to for the balance of his working life. He raised poultry, cattle and timber. He and his wife Josie developed their beautiful home on Columbia Road in Edgefield where they became noted for their prize-winning roses and their gracious hospitality.

In 1972 Mr. Herlong returned to public service when he was elected to County Council. This was a period of much change in Edgefield County and Mr. Herlong's guidance and advice was invaluable to the County. When he retired from this post in 1978 he was replaced by his son, Henry, Jr.

Henry Herlong was the kind of solid citizen that it takes to make a community. He was intensely practical, very hard-working, firmly committed to what he believed in and deeply devoted to his family and to his community. He will be missed, but his example lives on to guide future generations of our County.

The Citizens News join all of Edgefield County in extending its deepest sympathy to Mrs. Herlong and the rest of the family.

[From the Edgefield (SC) Citizen News, Oct. 6, 1988]

HENRY HERLONG REMEMBERED AS PUBLIC SERVANT, FRIEND

Henry Michael Herlong Sr., a respected community leader who helped set direction in Edgefield County for more than half a decade, died Sept. 28, 1988, at his home.

He was 78.

Mr. Herlong was an active public servant for the county.

"His philosophy was to serve other people," said his wife of 49 years, Mrs. Josie Blocker Herlong. "He loved other people so."

Area residents remember Mr. Herlong for many of his attributes: He was an accomplished farmer, gardner (including vegetables, fruits and especially roses), cook, fisherman, hunter and friend. He also spent much of his time helping his church, Harmony United Methodist Church. But the greatest part of his life was spent in public service to help better Edgefield County.

"He never said no to anybody," Mrs. Herlong said.

He and his wife enjoyed "air streaming" with friends, especially on their trips to Palmetto Cove Trailer Park, a private campground facility located in Cleveland, S.C., that the two went to almost every month for 15 years.

His son, Henry Herlong Jr., said his father taught by example.

"The example I got from him . . . was that he worked hard and was extremely fair to people. He was honest and he liked people. Family was important to him."

He added that he learned a great deal from his father while the two were out on fishing trips.

Mr. Herlong was born in Edgefield County, the son of the late Henry Hancock and Mrs. Nettie Rankin Herlong.

He graduated from Clemson University in 1931 and lettered in football. He came back to Edgefield County to become superintendent of schools. He was tapped to fill the unexpired term of Strom Thurmond, who had been elected to the state Senate. Mr. Herlong later was elected to the post, serving about 4½ years.

During his tenure as superintendent, he headed some 50 schools across the district on a limited budget.

At one time, he, along with others, went around from door to door in the county asking citizens to approve a millage increase to help fund the building of a gymnasium. That gym now stands at Strom Thurmond High School.

After his tenure at the school district helm, he worked for the Internal Revenue Service for five years.

When World War II broke out in 1942, he was called to serve his country. He spent his military time in the Army, from 1942 to 1947. During that time, he served in the Pentagon in the adjutant general's office. He retired a lieutenant colonel. He was one of five brothers who served in the Army during this time.

While in the Army, he came up with the first working model of a withholding tax system that was first put into place in the Army. The IRS later adopted the model to withhold taxes from all taxpayers' pay checks.

After his stint in the Army, he came home to Edgefield County and ran for county treasurer. He won the post and served in that position for one term.

In about 1950, he turned to one of his real loves—farming. He was a self-employed farmer who raised poultry, cattle and some timber. During this time he and his wife built a home on Columbia Road in Edgefield.

He retired from his farming interest in 1970.

From 1972 to 1978, he served on the Edgefield County Council. While on the council, the county won the J. Mitch Graham Award, an award given to Edgefield County because the county was judged to be the most outstanding county in the state in terms of accomplishments and services to the people of county. Mr. Herlong's services greatly contributed to the achievement of this outstanding recognition.

In addition to his other duties, Mr. Herlong has served as longtime president of the Edgefield Industrial Development Corp., and was a leader in the Edgefield County Farm Bureau, Masons, Edgefield Lions Club, Edgefield Senior Citizens Council (which he helped organize), State Forestry Board and the American Legion, Forty and Eight, as well as master of the Harmony Grange and member of the Clemson University Board of Visitors.

At Harmony United Methodist Church, he taught youth and adult classes, served as Sunday School superintendent, church treasurer, chairman of the board of stewards and lay representative to the Methodist Annual Conference.

Surviving are his wife, Mrs. Josie Blocker Herlong, a son, Henry M. Herlong, Sr. of Columbia, who is a U.S. Magistrate in Columbia; a daughter, Mrs. William J. (Mary Jo) Spiers of Cameron; a sister, Mrs. Mary Whitaker of Lake Junaluska, N.C.; and brothers Robert H., Frank W. and D.C. Herlong, all of Johnston.

Mr. Herlong also had four grandchildren: Bill Spiers, 22, pro baseball short-stop with the Milwaukee Brewers; Michael Spiers, 20, a junior at Clemson University; Faris Herlong, a 10th grader at Brooklyn-Cayce High School; and Michael Herlong, an 8th grader at Northside Middle School, West Columbia. He also had two step-grandchildren, Bram Collins and Samuel Collins.

Funeral services were held Friday, Sept. 30, at Harmony United Methodist Church with the Rev. Wayne Horne officiating. Burial was in the church cemetery.

Pall bearers were John Herlong, Thomas Herlong, Jan Younginer, Joe Younginer, Joe Ben Herlong and Billy Herlong.

Memorials may be made to Harmony United Methodist Church.

Edgefield Mercantile Funeral Home was in charge.

A TRIBUTE TO EUGENE O'NEILL

Mr. DODD. Mr. President, I rise today to pay tribute to an adopted son of New London, CT, who rose to international prominence as the only American dramatist ever to have won the Nobel Prize for literature, and who is, with William Shakespeare and George Bernard Shaw, among the most widely translated and produced playwrights in the English language: Eugene O'Neill.

O'Neill, who would have marked his 100th birthday on October 16, is commonly recognized as no less than the greatest playwright this Nation has ever produced. Although misunderstood by many in this country during his life, his stature as an artist has been secure for decades—and is growing still. I ask that we take a moment to join the thousands of people across the Nation, around the world, and in Connecticut, who gather this week to celebrate the 100th anniversary of the birth of this great man—a four-time winner of the Pulitzer Prize.

Eugene O'Neill expanded America's literary horizons with innovations such as the incorporation of ancient mythology in modern drama, as in the play "Mourning Becomes Electra." His "Strange Interludes" made skillful use of soliloquy, and the play "All God's Chillun' Got Wings" broke ground by ignoring the stereotypes of blacks which then prevailed in literature.

O'Neill influences were many. The philosophies of writers and thinkers such as Dostoevsky, Freud, and Nietzsche are displayed in the expressionism of O'Neill works and in the intense studies of the American psyche seen in his characters. Yeats, Synge, and especially Strindberg, were playwrights with profound impact on O'Neill's writing. Perhaps it is not surprising, then, that O'Neill's works were accepted and acclaimed in Ireland and Sweden long before his greatness was recognized here in America.

I take a special pride in the fact that Eugene O'Neill called New London his home. Throughout much of his youth, O'Neill's family followed his actor father from performance to performance in city after city. The only permanent home O'Neill knew was Monte Cristo Cottage, a beautiful Victorian house overlooking New London Harbor and Long Island Sound, where O'Neill spent summers with his family. But despite the beauty of the setting, O'Neill led a troubled life. His mother was secretly addicted to morphine, and this courteous and private man was an alcoholic.

O'Neill's writing career was closely tied to his New London experiences. Among his first published writings were poems that appeared periodically in a New London newspaper. The city, which was nearing the end of its days as a great whaling port when O'Neill was young, served as fertile ground for his imaginings. Ship crews appear as characters in a number of his early plays, which tell tales of hunts for whale oil, obsessed captains, and weary sailors.

Several of O'Neill's most brilliant plays are set in New London. "Ah, Wilderness!" and "A Long Day's Journey Into Night," two of the best-known works in American drama, take place in Monte Cristo Cottage. The stage directions for "A Long Day's Journey Into Night" fit perfectly in Monte Cristo's living room. Literary tours of New London point out the boarding house where O'Neill first began to write, the beach mentioned in "Moon for the Misbegotten," and the lighthouse to which the family in "Ah, Wilderness" takes a drive.

Mr. President, I take great pride in acclaiming O'Neill's brilliant writing and unique vision. I ask unanimous consent that the following articles from the New London Day and the New York Times, which commemorate O'Neill's 100th birthday, be printed in the RECORD.

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

[From the New York Times, October 17, 1988]

O'NEILL STATUE UNVEILED IN CONNECTICUT

NEW LONDON, CT., October 16.—This harbor city celebrated the centennial of the birth of Eugene O'Neill today by unveiling a bronze statue of the playwright as a boy at the foot of City Pier, near where he had played.

More than 500 people attended the unveiling, which culminated a year of observances celebrating O'Neill, who spent summers in New London from 1889 to 1915, at Monte Cristo Cottage. Two of his plays, "Ah, Wilderness!" and "Long Day's Journey Into Night," are set in the cottage.

In the statue, O'Neill, who wrote about four dozen plays and won four Pulitzer Prizes and the Nobel Prize in Literature, is shown as a 7-year-old, sketching birds and boats on the shore of the Thames River. It was sculptured by Norman Legassie of nearby Old Lyme.

Among those who participated in the unveiling were Gov. William A. O'Neill and George C. White, the president of the Eugene O'Neill Theater Center in Waterford, Conn.

A letter from President Reagan was read to the crowd as well, in which the President observed, "All of New London can take great pride in the role your city played in the formative years of someone who many consider to be America's greatest playwright."

A 62-member committee formed six months ago raised money for the statue and the celebration, and organized such events as a cocktail party and gala ball at the theater center on Saturday and a parade, a United States Coast Guard band concert and the unveiling of the statue today. Gerald P. Ceniglio, the chairman of the committee, said $28,000 was obtained from a local charitable trust and $2,000 from the State Commission on the Arts to commission the statue.

The statue, based on a photograph of the young O'Neill, shows a gawky boy sitting on the grass with his legs stretched out in front of him, sketch pad in his lap and a cap pulled down over his forehead, and an intent look on his face.

[From the New London Day, Oct. 14, 1988]

EUGENE O'NEILL, AMERICA'S PREMIER PLAYWRIGHT, NEW LONDON'S ADOPTED SON

This weekend New London celebrates the centennial of the birth of Eugene O'Neill, America's greatest playwright and the city's own adopted son. New London gave O'Neill a sense of place, a mooring from which to launch his literary career. The city, its people and the sea remained at the forefront of his consciousness and his creative energy throughout his life—no matter how far away he went.

Eugene O'Neill deserves the attention the world has given him. He deserves more respect from his own country. It is no small measure of the ambivalence some of this nation's academic and critical communities feel about the playwright when, 25 years after his death, critics and scholars still equivocate about the measure of the man's talent.

Was he really great, or was he simply important because he was the first to give legitimacy to a native drama, uniquely American and fresh? Only a few of his plays are great, we hear. Many were mediocre.

The effort to deride O'Neill seems to know no limits. American intellectual snobbery seems determined not to give the great playwright his due.

Part of that ambivalence flows from the sheer solemnity of his themes. His heaviness sometimes cries out for relief. But while the tone is repetitively somber, the dimensions of his creativity must be recognized. What O'Neill did in his steadfastness to artistic integrity and a new American theater made it possible for Tennessee Williams, Arthur Miller and others to have an easier time later.

O'Neill is, in every sense, America's premier dramatist, appreciated around the world for his brilliance and his integrity. Not once did he consider cheapening his efforts to create bold new works, to move the theater beyond easy commercialism and proven formulas.

He remained throughout his life committed to breaking new ground, to achieving drama that rivaled the majesty of the Greek tradition. Some make too much of his failures. Those who do often fail to apply similar standards to other artists who produced equally unsuccessful works.

Perhaps this is because of O'Neill's personality, aloof and ponderous. He was no self promoter. Though he could write comedy, as his only such work, "Ah, Wilderness!" proves, Eugene O'Neill's creative passion was great tragedy.

As every artist dedicated to creating breakthroughs in his field knows, the push to move beyond the conventional often means failure. Only through experimentation and boldness can something different and unique emerge.

Eugene O'Neill dared to take risks. He cared more about bringing to a modern per-

spective the soaring spirit of the tradition of Greek tragedy than he did to worry about the dangers to his artistic reputation such risk-taking created.

Eugene O'Neill dealt with the largest, most troubling and difficult of themes affecting the human condition. He lay bare the rawest human emotions, and he wove into his plays a sense of grandeur that is missing in some other playwrights whose significance has been compared to that of O'Neill.

In short, America is strangely self-conscious about O'Neill. The country has yet to move beyond accepting the value of more than four or five plays to explore the range of his talent. He started it all for the American drama. He did that with integrity, with commitment and with an unflinching ability to withstand the pain of his early family life, his alcoholism, his stormy personal problems, his illness.

He moved beyond the rejections of his early writing. He wrote prolifically. He wrote from the depths of his soul with a personal passion and brilliance that earned him a Nobel Prize and four Pulitzer Prizes.

The world admires the work of Eugene Gladstone O'Neill. New London feels especially honored as the setting for several of his plays, and Waterford has become home for the Eugene O'Neill Theater Center, founded and headed by George C. White.

It is a pity so few in America understand the personal sacrifices playwright Eugene O'Neill endured to carve out for himself and for America a place in the theaters of the world. It is utterly shameful he is not honored and showcased regularly in public schools as our native playwright.

His truly was genius.

TRIBUTE TO PHILLIP C. McGUIRE

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding Federal law enforcement officer, Phillip C. McGuire, Deputy Director of the Bureau of Alcohol, Tobacco and Firearms. Mr. McGuire is planning to retire on December 2, 1988, after 26 years of exemplary service.

Mr. McGuire's career as a law enforcement officer began as a criminal investigator for the Treasury Department on May 7, 1962, in Aiken, SC. His other assignments have included criminal investigator positions in Greenville and Anderson, SC, as well as other investigative positions in North Carolina and Georgia. Mr. McGuire has also held positions as a regional analyst in California and Ohio.

In Washington, Mr. McGuire rose to the position of Deputy Director of the Bureau of Alcohol, Tobacco and Firearms, after serving in several other positions within that Bureau. He began as Chief of the National Firearms Act Branch, and later served as Special Agent in Charge of the Firearms Enforcement Branch, Chief of the Special Investigations Division, and as Associate Director of Law Enforcement at the Bureau.

Throughout the last 26 years, Mr. McGuire has served diligently in his various capacities and has brought about many innovative and progressive changes in law enforcement strategy. His strong leadership and commonsense approach to the many complex problems and challenges that face today's law enforcement officer have served as an encouragement to his friends and coworkers. He has instilled an enduring sense of pride in those who have had the opportunity to work with him during his tenure with the Bureau of Alcohol, Tobacco and Firearms.

I commend Mr. McGuire for his fine efforts in the law enforcement area and wish him the best in his retirement.

UNITED STATES LOAN TO MEXICO: MORE FOREIGN AID

Mr. HELMS. Mr. President, 2 weeks ago, in the waning hours of the fiscal year, the Congress debated and passed appropriations bills for the coming fiscal year. Included among those bills was a foreign aid appropriations bill, Mr. President, one which underwent considerable scrutiny and which survived only because of immense pressure from the administration. But survive it did.

That was 18 days ago, Mr. President. But now the administration, on its own, has decided to initiate a major lending program of its own, without consulting Congress, much less getting Congress' approval.

Yes, Mr. President, yesterday all of us awoke to the news that the U.S. Treasury Department, without consulting the House, the Senate, or any of the relevant committees, has written its own foreign aid bill, for one country, without any provisions for supervision, prudent management, congressional oversight, and other safeguards normally built into the foreign aid process.

Not only that, Mr. President, but the sum involved is greater than any single item in the foreign aid bill we passed just 2 weeks ago. In fact, it amounts to $3½ billion.

Of course, the Treasury Department does not call it foreign aid, Mr. President. But that is what it really is, even though in normal usage a loan is something that will be paid back. In the shell game of modern international finance the word "loan" translates into taking the "payback" out of another pocket later, rolling over the debt, in effect, the net sum outstanding remains the same. So we can assume that Mexico, already over $100 billion in debt, is now $3.5 billion more in debt.

Yes, Mr. President, yesterday morning's New York Times features the following headline at the top of its front page, and I quote: "Mexico To Receive Up to $3.5 Billion as Loan From U.S."

The newspaper goes on to report that this so-called short-term loan is intended to "tide over Mexico * * * until it can get longer loans of similar magnitude from the big multilateral lending agencies, the World Bank and the International Monetary Fund."

During the consideration of the foreign operations appropriation bill, Mr. President, I questioned the wisdom of going hog wild with billions of U.S. taxpayers' money through international lending institutions which have only a minority of U.S. control and even less success in their lending programs.

But what confronts us today is not such irresponsible acts of unaccountable multilateral institutions, Mr. President. We have become accustomed to the lack of respect with which those bodies treat the American taxpayer, who foots the bill for the tax-free salaries, the million-dollar golden handshakes, and the development disasters wrought on the poor and unsuspecting peoples of the Third World by these institutions.

No, Mr. President, this latest dismal chapter in international chicanery confronts us as a fait accompli, without so much as a please or a thank you, as the result of negotiations between the Treasury Department, the Federal Reserve Bank, and the Government of Mexico.

I have to mention, Mr. President, that we have come to expect this kind of sleight of hand from the Fed. One major U.S. banker recently recounted how Paul Volcker, then Chairman of the Federal Reserve Board, called him in 1986 and pleaded with him to participate in that year's bailout of Mexico, which was being orchestrated by Volcker. Mr. Volcker and the heads of the regional Feds were hounding hundreds of bankers, across the United States, to participate in these very dubious loans. But this particular banker, a man of more than passing substance, refused.

"No, Mr. Volcker," this banker reported to me, "my bank has been careful to avoid this type of bad loan in the past, and we will not begin now. Our portfolio is very sound."

"Well," said Mr. Volcker, "I'd hate to have to send in our examiners tomorrow and find something amiss in those portfolios."

"Well, Mr. Volcker," replied the bank chairman, "I'd hate to have to print the contents of this conversation verbatim in a full-page ad in tomorrow's Wall Street Journal."

End of conversation, Mr. President. End of conversation.

But it did not mean the end of the shell game that the Fed and the Department of the Treasury have conducted.

Mr. President, the fait accompli presented to us by the Department of the Treasury compounds the problems our Nation faces in the treacherous course

of international finance in the coming months. Imagine, Mr. President, how our representatives on the World Bank and IMF loan boards will feel when they examine prospective loans from those institutions to Mexico. These U.S. representatives will know that, no matter how bad those loans might be, even though those loan agreements might contain no provisions for progress toward economic freedom, the approval of those loans might provide the only way our U.S. taxpayer can be let off the hook, the very hook onto which this recent U.S. Treasury action has placed him. For without those multilateral loans, the Treasury's new $3.5 billion bridge loan might never be paid back.

Thus, Mr. President, the U.S. representatives to the multilateral institutions will no longer be able to demand serious conditions as a part of their support for such loans. The debtor nations will know that our representatives have effectively had their hands tied—by our own Treasury Department.

In effect, Mr. President, we have been blackmailed by our own Treasury Department. And the payment, $3.5 billion, is coming straight out of the pockets of the U.S. taxpayers, whose elected representatives were intentionally kept in the dark about this issue until the whole dirty business was consummated.

In fact, Mr. President, the timing of this announcement suggests that the Treasury Department expected the U.S. Congress to be out of session by now—indeed, Mr. President, I wish it were—and so the Treasury Department anticipated no Senate session in which Senators might suggest a more responsive consultation process.

Now, we will no doubt be told that tough demands were made before this money was committed. Oh, yes, Mr. President, we will no doubt hear claims of reform in Mexico, and we have come to expect them. Time and again, Mexico promises future improvements on human rights, on drugs, on civil rights, on free elections, on economic reform, on support of Communist regimes. And time and again, Mr. President, Mexico fails to deliver.

Mr. President, how can the Department of the Treasury tell us that there has been reform in Mexico when the leading party just rigged another Presidential election there? In 1986, when the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations held a series of hearings on Mexico, the media attacked me, as the then subcommittee chairman, because I wanted to discuss the charges of human rights abuses, bogus elections, and drug operations conducted by government officials in Mexico.

In 1988, however, the major media all agree that Mexico's elections were rigged, that the Mexican Government is rife with corruption, and that it has yet to cooperate with the United States on basic, elemental implementation of the war on drugs.

Mr. President, I am hopeful that our subcommittee's 1986 hearings contributed to that widespread understanding of Mexico's problems today. But I am also mindful, Mr. President, that during those 1986 hearings our subcommittee was assured by a certain Treasury Department official—out of charity I will not name him—that the Department was carrying on no negotiations with Mexico for a United States taxpayer-financed bailout, while at that very moment the Chairman of the Federal Reserve Board was in Mexico carrying on such negotiations with the full knowledge and support of the Department of the Treasury.

Mr. President, that official came to me some time later to apologize—privately—and assured me that it would "never happen again."

As Ronald Reagan used to say, Mr. President, "There they go again."

Moreover, Mr. President, the last paragraph of the last column of the last page of the New York Times story tells the tale: It informs us that, and I quote,

> Some people in Washington were baffled by the size of the loan announced today and the air of urgency because Mexico, unlike some debtor countries, has ample reserves of gold and foreign currencies to draw upon.

What the Treasury really has in mind, Mr. President, and what the Mexican Government no doubt fervently hopes for, is reflected in a story appearing just below the Wall Street Journal's announcement of the loan. That story, and undoubtedly the ultimate fate of the $3.5 billion of U.S. taxpayer money so cavalierly volunteered by our Treasury officials, is nicely summed up in the headline of that story: "U.N. Chief Urges Write-Off of Some Third-World Debt."

That headline says it all, Mr. President. The Government of Mexico will get this money, one way or the other. They might spend it on paying off the opposition parties, who claim that they won July's Presidential election, so that the inauguration of the so-called winner of that election will come off smoothly in December. They might convert it to capital flight, funnelling it to large dollar accounts in foreign countries for the thousands of Mexican Government officials who will be retiring when President De La Madrid's term ends 2 months from now. Some of it might even find its way into the drug enterprises which the United States Bureau of Customs has identified in Mexico that are owned, managed, and protected by Mexican Government officials.

Two things are sure, Mr. President: The people of Mexico will never see any of this money, and neither will the United States taxpayer, who provided it so generously. But the American people have a right to know what is done with their money, and so does the U.S. Congress.

U.S. CUSTOMS SERVICE: ANOTHER SIGNIFICANT SUCCESS

Mr. HELMS. Mr. President, included in the drug bill passed by the Senate last week was a section commending the U.S. Customs Service for Operation C-Chase, a 2-year investigation of the Bank of Credit and Commerce International and its top managers.

As a result of this operation, 39 suspected international drug and money laundering kingpins were arrested. Included among the arrested was Ajmad Awan—General Noriega's personal banker.

This operation is just another in a string of successes recently achieved by the U.S. Customs Service under the leadership of Commissioner William von Raab.

For example, just a few months ago, the Customs Service successfully completed an undercover investigation in which it stopped the attempted export of sensitive military material to Egypt. This operation underscores another of the many important roles the Customs Service plays in defending our Nation. At the same time, it serves as a warning about the dangerous sitaution developing in the Middle East as countries there scramble to obtain ballistic missiles.

Since its inception in 1789, as America's first law enforcement agency, the U.S. Customs Service has served a dual function: By policing our ports of entry it has guarded against the importation of contraband, and by levying duties it has raised money for our National Treasury. In this latter capacity, the Customs Service not only was able to pay off the entire debt from the American Revolution, but also was America's sole source of revenue for the first 125 years of the Republic.

Under the leadership of William von Raab, the Customs Service has instituted a variety of innovative programs to protect our country from illegal trade. Mr. von Raab has been one of the most efficient and most effective appointments in the Reagan administration. I salute his dedication and his loyalty.

In 1981, the Customs Service embarked upon an ambitious threefold program code named "operation exodus." The objective of this program is to interdict the unlawful exportation of high technology. To achieve this end, Mr. von Raab's people established relationships with

manufacturers, who, with the aid of a new sophisticated computer system enabled agents to track the soon-to-be-exported merchandise.

For example, the filing of charges against five individuals for their attempted export to Egypt of carbon-carbon, a critical material in ballistic missiles, is one of von Raab's latest successes.

As presented in the indictment, the story of this success is as follows:

On March 10, 1988, Kaiser Aerotech shipped 54 pounds of carbon-carbon to Abdelkader Helmy at his home in California. Carbon-carbon is included on the United States Munitions Control List and cannot be exported without a license from the Office of Munitions Control, within the State Department. Mr. Helmy is an Egyptian with American citizenship and is a recognized specialist in the field of rocket propulsion.

In March, 1988, according to the indictment, Fuad Algamal traveled to California from Cairo. Algamal was traveling under a diplomatic visa in the name of Fouad Mohamed Mohamed. On March 23, 1988, Helmy and Algamal flew to Washington with two boxes weighing close to 200 pounds.

The contents are not known with certainty, but the package was allegedly addressed to a building in Washington that is used by the Egyptian military attache. At the airport, the boxes were reportedly placed in a car with Egyptian diplomatic license plates. In addition, according to the indictment, between December, 1987, and March, 1988, more than $1 million was wired to Helmy from a bank account in Switzerland.

On May 25, 1988, a court-ordered wiretap was placed on Helmy's work and home telephones. As a result of the wiretaps, it was learned that Helmy spoke often with Egyptian Colonel Hussam Yossef about shipments to Egypt. The indictment charges that Colonel Yossef directed the operation from Austria. Helmy also spoke frequently with James Huffman about the operation. Huffman is the mid-west marketing representative for Teledyne, McCormick, Selph, a defense aerospace company in California.

On June 14, 1988, 430 pounds of carbon-carbon were delivered to an Ohio warehouse for shipment to Baltimore. The shipment was allegedly purchased by Huffman at the direction of Helmy.

On June 24, 1988, it was apparently planned that an Egyptian military C-130 would leave Baltimore with the carbon-carbon material on board in a box market "Air Force Club." The Customs Service seized the box, which contained all 430 pounds of the carbon-carbon material. The only shipment that is thought to have made it through to Egypt was the first with the 54 pounds of carbon-carbon.

On June 24, 1988, Lt. Col. Mohammed Abdella Mohammed, also known as Colonel Shousa, was arrested on a charge of willfully attempting to export defense articles from the United States without a license. He was released after he claimed diplomatic immunity. The complaint also charges Colonel Hussam Yossef of Austria. Colonel Yossef was not apprehended because of his location.

Mr. Helmy, and Mr. Huffman were arrested and charged with numerous counts of attempting to export defense articles without the proper licenses. All three now await judicial proceedings on charges of conspiracy to violate U.S. export laws.

Mr. President, it is in operations such as this that we are able to see the difference Commissioner von Raab has made as head of the Customs Service.

While Americans should be proud of the Customs Service's work in this case, we should not ignore the implications for our relationship with Egypt. Many questions remain unanswered at this point—questions, Mr. President, about the involvement of Egyptian officials which need to be answered. There is reason to believe that the carbon-carbon was intended for the development of the Condor II intermediate range ballistic missile.

But while questions remain, it is important to remember that Egypt is an important ally of the United States. I have a great deal of respect for President Mubarak and an appreciation for Egypt's Representative in Washington, Ambassador El Reedy. I am encouraged with Egypt's willingness to share with the United States all information from their investigation.

While this incident is serious, it is vital that our Nation not lose sight of the underlying problem; specifically, the missile race in the Middle East, ignited by China and the Soviet Union.

The development of the Condor II is another chapter in the missile race in the Middle East, a race which threatens America's interest in a safe and secure Israel, and in a peaceful and stable Middle East.

News reports suggest Syria is planning to purchase Chinese missiles that can hit anywhere in Israel. Saudi Arabia has already acquired from China nuclear capable missiles with a range of 2,200 miles. Kuwait is reported to be negotiating with Beijing for missiles with a range of 720 miles which would encompass Israel.

Iraq has used their Russian-built Scud B missiles against Iran. Iran also has used missiles in the gulf war. The Condor II, the missile Egypt is allegedly developing, will have the range of an INF missile, and it has been reported that Brazil will sell Libya missiles with a range of 600 miles.

Mr. President, the United States must make every effort to stop the proliferation of missiles in the Middle East. Commissioner Von Raab and his agents at the Customs Service have done their part. Unfortunately, a great opportunity was lost when the House rejected my amendment to the foreign operations appropriations bill prohibiting assistance to the Chinese missile program until the Chinese agree not to provide missiles to Iran, Iraq, Syria, Libya, and Saudi Arabia.

DEFENSE AUTHORIZATION AMENDMENTS AND BASE CLOSURE AND REALIGNMENT ACT

Mr. WARNER. Mr. President, S. 2749, the Defense Authorization Amendments and Base Closure and Realignment Act, could possibly save the taxpayers between $2 billion and $5 billion dollars annually beginning in the early 1990 timeframe.

The source of these savings is the closure or realignment of military installations that are no longer cost effective to operate or no longer serve our national defense requirements.

Today, the United States maintains 3,800 bases and installations in the 50 States and territories.

When Japan surrendered on August 15, 1945, the United States had more than 12 million personnel under arms, manning 95 aircraft carriers and 90 Army divisions. Astonishingly, this peak base structure has not declined as our forces have been reduced to today's level of approximately 2 million men and women in uniform.

Today, the Navy maintains 14 deployable aircraft carriers, the Army mans 18 active divisions, and the Air Force mans about one-tenth of the aircraft manned in 1945.

Additionally, U.S. military strategy since World War II has been based on forward deployments, as reflected by our principle force structure commitments to the North Atlantic Treaty Organization. Bringing "our troops home"—a popular call—would be in conflict with this proven strategy.

The result of our post-war strategy has been the continuance of a military base structure that does not reflect the national security policies of today.

Closing military installations that are not needed has always been difficult. As a former Secretary of the Navy, I remember well a struggle of over 3 years with Congress before the antiquated Boston Naval Shipyard could finally be closed.

About 60 percent of all congressional districts contain a military base or border one. No Senators or Congressmen want to see jobs lost in their States or districts.

Earlier, I indicated that $2 to $5 billion could be saved through base closures. Those figures come from the Grace Commission study on the Federal Government. Additionally, the Office of Management and Budget completed a study on military bases in 1981 that indicated $4 billion could be saved by closing 138 installations.

In an effort to determine how much base structure is necessary to support our miltiary forces, Secretary Carlucci established a bipartisan Base Closure and Realignment Commission.

Secretary Carlucci requested that Congress enact legislation to remove the various impediments in law that prevent timely closure of military bases. Every Secretary of Defense from the beginning of the Department of Defense in 1947 has wanted this authority now confirmed by Congress in this bill, which passed with over-

whelming support in the House, 370 to 31, and by 82 to 7 in the Senate.

Under section 201 of S. 2749, the Commission is required to submit its findings to the Secretary of Defense not later than December 31, 1988.

Section 202 gives the Secretary of Defense until January 16, 1989, to accept the Commission's findings. He is prohibited by law from exempting bases from the list or adding bases to the list not recommended by the Commission.

Section 208 concerns congressional review of the Commission's findings. Beginning March 1, 1989, the Congress will have 45 session days to act to stop all closure proceedings through a joint resolution of disapproval. The President, however, could veto such a resolution and, in the absence of a congressional veto override, closures would take effect.

Mr. President, if the closures are approved, no action to reduce or close a base will begin until January 1990. This is to allow the Secretary of Defense time to consult with Governors and affected communities to plan an effective strategy for re-use of the installations.

Mr. President, I feel that S. 2749 is the most fair and objective way that we can proceed with what has historically been a very political problem.

In the final analysis, we were all elected to serve the best interests of the Nation. If we are ever to remove waste and inefficiency from the Defense budget, this is an essential place to start.

I am very proud that my fellow colleagues from Virginia, Senator TRIBLE and Congressmen WOLF, PARRIS, BOUCHER, BLILEY, SISISKY, SLAUGHTER, OLIN, PAYNE, and PICKETT have joined me in this unique opportunity that will save billions of taxpayer dollars and is most certainly in the best interest of our great Nation.

Thank you, Mr. President.

UNIVERSAL TELECOMMUNICATIONS SERVICE

Mr. PRESSLER. Mr. President, in these days of rapid technological change in the communications field, it is increasingly important for us to ensure that all areas of the Nation participate in and profit from the emerging information age. I recently wrote a law review article on this subject with my chief of staff, Kevin V. Schieffer.

In that article, I argued that the established goal of universal telephone service needs to be expanded to include information services. I ask unanimous consent that portions of that article be printed at this point in the RECORD.

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

A PROPOSAL FOR UNIVERSAL TELECOMMUNICATIONS SERVICE

(By Senator Larry Pressler and Kevin V. Schieffer)

INTRODUCTION

We are entering the Information Age. Driven by computer technology and telecommunications capabilities, the creation and distribution of information around the globe has opened new horizons in business, education, government, and a host of other areas. Our "global village" is indeed becoming smaller and smaller.

We risk, however, excluding a large segment of our society from this village—namely, rural and small town America. Left entirely to itself, the communications industry will focus its energies, resources, and innovation on the more profitable population centers. The sparsely populated areas of the country will receive far less attention than has been mandated by public policy.

Although rural America will be a residual benefactor of advances wrought by urban-tailored innovation, in a relative sense, it will be the big loser. Rural America will be at a severe economic disadvantage if relegated to a secondary position of months, years, or even decades behind the technology curve. Human and natural resources necessary to compete in any high technology or information-related business will be increasingly attracted to the population centers, and to the extent that any technology might be transferred to rural settings, its cost would be much higher than in its urban birthplace. In fact, this is true today. Rural America is not an equal partner in sharing the benefits of many of our communications miracles.

The past few decades have produced dramatic changes in the field of communications, and telecommunications policy in the United States is currently at a crossroads. A series of administrative and judicial decisions gradually eroded AT&T's total dominance in several telecommunications markets, and ultimately led to AT&T's breakup in 1984. Legislators and administrators alike have since developed a variety of proposals which fundamentally affect the constitution and future direction of the telecommunications industry. Throughout the relatively brief history of the telecommunications industry, the policy pendulum has swung back and forth between "competition" and "public utility regulation"—in varying degrees of extremity—remarkably often. The current trend is toward the former, but its direction is by no means certain.

There is virtually unanimous agreement among policymakers that "universal service" is, and should remain, a guiding principle in directing U.S. national telecommunications policy. The idea of universal service grew out of the concern that many rural areas and smaller communities would be cut off from access to communications services because of prohibitively high rates. Advocated by AT&T's Theodore Vail as early as 1908, the concept of universal service was adopted quickly by state regulators and the goal of providing universal service throughout the entire country was embraced by Congress in the Communications Act of 1934. Stated broadly, the purpose of the Act is to regulate "interstate and foreign commerce in communication . . . so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and worldwide . . . communication service with adequate facilities at reasonable charges, . . . for the purpose of promoting safety of life and property through the use of . . . communication."

This congressional articulation of universal service has been the touchstone for virtually all major telecommunications policy discussions in subsequent decades. Yet, while there is general unanimity in reverence to the concept of universal service, there is substantial disagreement over its definition and its relation to other, sometimes conflicting, national policies. The policy language of what has come to be known as universal service is expressly qualified, the substance of which will be considered in detail below.

In recent years, competitive concerns have taken great significance in policy debates. Over the last three decades, the desire for increased competition has influenced major court and FCC decisions, which in turn have had a profound impact on the industry and on the direction of telecommunications policy.

Congress has yet to resolve the fundamental public policy questions which must be addressed in order to provide the stable environment necessary for long-range planning. Instead, it has been content to leave telecommunications policymaking to the FCC and the courts without articulating clear guidelines or policy priorities. As a result, the future of the telecommunications industry is shrouded in uncertainty.

A widely publicized and controversial article written by Mark Fowler, then Chairman of the FCC, outlines a proposal for a clearer national telecommunications policy, including a three-year trial of total deregulation of telecommunications. Perhaps the most important and enduring contribution of the article, however, is that it better defines the parameters of an extremely important national debate. The purpose of this Article is to discuss and analyze the key issues which need to be addressed and resolved in order to develop a more plausible and coherent national telecommunications policy.

This Article will attempt: (1) to address the irreconcilable conflict between the twin policy goals of competition and universal service; and (2) to suggest that the latter must prevail in most contests between the two if the United States is to maintain a truly national communications policy. Toward these ends, this Article will first review the history of telecommunications regulation and policy development in the U.S., identifying and discussing the outstanding issues which must be addressed in any policy proposal. The Article will then evaluate regulators' responsibilities under the Communications Act of 1934 and introduce a new proposal for the telecommunications industry.

* * * * *

III. A PROPOSAL FOR UNIVERSAL TELECOMMUNICATIONS SERVICE

Congress's failure to comprehensively address the unresolved policy issues that developed in the wake of the AT&T breakup has left the future direction of the telecommunications industry uncertain at best. More disturbing is the possibility of large price increases for local ratepayers seriously jeopardizing the universal service policy by encouraging large telecommunications users to leave the network, thus taking with them the revenues necessary to subsidize universal service. There remain very real incentives for major users to build grossly inefficient and duplicative facilities for the sole purpose of bypassing an existing telecommunications network.

The BOCs argue that they will be able to hold down costs attributable to local users by expanding their ratebase, and that they are seeking to enter the long distance market along with other "lines of business" banned by the *Modified Final Judgment.* Several bills have been introduced in Congress to shift the responsibility for administering, enforcing, and modifying the *Modified Final Judgment* from the courts to the FCC. The terms of the legislative language allow for the simple transfer of jurisdiction over the decree to the FCC, with varying degrees of congressional policy guidance. It is widely understood, however, that one of the primary purposes of this type of legislation is to ease the "line of business" restrictions placed on the BOCs.

Because of the substantial amount of time, resources, and institutional expertise required to oversee these regulated monopolies, jurisdiction over the decree should be transferred to the FCC. However, the transfer should not be permitted to threaten the continued viability of the *Modified Final Judgment,* particularly as it relates to the antitrust policies which encourage healthy competition. Specifically, Congress should retain the "line of business' restrictions unless it can be shown—using the test set forth by the court—that "there is no substantial possibility" that lifting them could impede competition in the relevant areas. In essence, Congress should include in the transfer bill language which retains the structural separation of the competitive and noncompetitive elements. As demonstrated by the long history of telecommunications regulation, it is impossible to "enforce" competition through regulation.

However, with the structural separation comes a need to protect local ratepayers in service areas where the cost of providing telecommunications remains relatively high. Both the court-ordered divestiture plan and the present legislative transfer proposals fail to consider this factor. As intended, the structural separation of monopoly and competitive services has resulted in a substantial increase in competition. While competition has increased pressure to raise local rates, the best response to that problem is to require the long distance suppliers to continue "subsidizing" local rates.

Subsidization may be done efficiently and without undue market distortion if the subsidy is mandated as a component of the existing pro rata pooling process or as an additional payment into the universal service fund. Either of these options could be implemented and administered without an elaborate bureaucratic mechanism. The existing universal service fund and the pooling arrangement are each able to provide an implementation mechanism. Further, either method would require only a slight increase in the percentage that long distance providers now contribute toward non-traffic sensitive (NTS) costs.

Implementation of this proposal would not result in substantial market distortions, as each long distance provider would contribute in direct proportion to use; the current NTS costs pooling arrangement provides an excellent model. Resulting higher long distance charges will inevitably reduce demand for that service in some areas. However, this is the trade-off for realizing the universal service goal. In addition, from a public policy perspective, economic inefficiency will prevent the development of an "information elite," a serious congressional concern.

The most troublesome problem presented by this approach is the incentive it creates for inefficent bypass of the local exchange. If long distance costs are driven too high, large users eventually will find it more economical to build private point-to-point systems, eliminating the need for the distribution function of the local exchange. This creates a "Catch 22" of sorts: long distance prices are increased to hold down local rates, but because long distance rates are artifically high, the largest users bypass the network. These consequences reduce the ratebase available to offset local rates, thereby forcing them to levels higher than before. For the stated proposal to be operative, this vicious cycle must be ended.

Escaping from the cycle requires preventing inefficient bypass of the network. To accomplish this goal, Congress must enact legislation which will effectively discourage bypass—most plausibly, through an outright prohibition, or through the imposition of what would amount to a penalty tax proportionate to the subsidy. Either of these alternatives would eliminate any incentive which may now exist or develop in the future to bypass the system. An added advantage of the proportionate "penalty tax" alternative is that it would retain the right of private users to bypass the system for other reasons, such as security.

CONCLUSION

The proposed approach would further the goal of universal telecommunications service while retaining most of the competitive benefits of the divestiture. These public policy goals, however, cannot be achieved without a cost. Some inefficiency will result from the economically unjustified subsidy of local rates. Yet, this trade-off is not new to regulatory regimes in this country and the consequences are no less efficient than any previously suggested alternatives.

Under the approach suggested here, "information services" would be made available on the same kind of qualified universal basis as basis telephone service. It would be especicially imprudent to forsake traditional universal service goals, for there remains a real danger of excluding a large segment of our society from the benefits of the Information Age, thereby creating an information elite.

Developing a strategy whereby the twin objectives of preserving universal service and promoting competition can be achieved successfully and simultaneously is the challenge which will face telecommunications policymakers in the next decade. Telecommunications, combined with computer capabilities, is producing increasingly more sophisticated applications. It is in the public's interest to make this new technology reasonably available on as broad a basis as possible.

INTERIM RESTRAINT IN STRATEGIC WEAPONS

Mr. BUMPERS. Mr. President, when we considered the DOD appropriations conference report, the senior Senator from North Carolina offered an amendment to halt the inactivation of two old Poseidon submarines until the Soviets dismantle their radar at Krasnoyarsk. In support of his amendment, he produced an unclassified statement from the administration that said the Soviets are exceeding the 1,200 SALT II limit on ICBM and SLBM launchers.

Of course, even after we dismantle 2 submarines, the United States will still be 45 over the SALT II limit of 1,320 on all MIRV'd systems, more than twice the margin of 22 by which he alleged the Soviets were in excess of the 1,200 sublimit.

In the interests of balance and usefulness, I sought a further explanation of the Soviet compliance situation and recently received the following information from the Senate Intelligence Committee. According to this information, "Recent Soviet actions leave them below the 820 MIRV'd ICBM launcher subceiling, as well as the 1,320 MIRV'd ICBM/SLBM/ALCM heavy bomber subceiling."

In addition, "the information provided also appears to put the Soviets slightly above the 1,200 MIRV'd ICBM/SLBM subceiling. The Soviets have, on occasion, temporarily exceeded this sublimit since mid-1987."

It is important to keep in mind that the United States has exceeded the overall 1,320 subceiling on MIRV'd systems since November 1986. The information goes on to say that "it is quite possible that the Soviets will exceed some of these limits in the future as the United States continues to remain above the 1,320 subceiling."

I have been saying on the floor of the Senate since 1984 that if we violated the SALT II subceilings we should certainly expect the Soviets to do the same, and that is precisely what has happened. This administration trashed the SALT II Treaty in 1986, and we are just very lucky that Gorbachev rather than Brezhnev or Chernenko is in power, and that the Soviets have only slightly exceeded one subceiling, and not the overall subceiling as we have.

What this points out is the critical need for a policy of mutual restraint until we get a new start agreement. It doesn't have to be SALT II, but it should be something. The chairman of the Armed Services Committee, Mr. NUNN, has spoken several times of the importance of interim restraint, and that has been what my 5-year battle on this has been about.

There are still a number of difficult, unresolved issues remaining in start, including mobile missiles, sea-launched cruise missiles, verification, cruise missile counting rules, strategic defenses, and others. It will be a while before we get a new agreement, probably a couple of years.

Whoever enters the Oval Office in January will need to address this issue on a priority basis, and so will Congress. I intend to pursue this matter next year to ensure that we don't leave ourselves vulnerable to a wide-open arms race.

As the German Foreign Minister, Hans Dietrich Genscher, said a while ago, "because it is very difficult to

make new agreements in arms control, it is all the more important to most carefully preserve existing treaties and adhere to them."

I ask unanimous consent that a copy of the statement I received from the Intelligence Committee be placed in the RECORD at the end of my remarks, and I thank the Chair.

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

STATEMENT FROM SENATE INTELLIGENCE COMMITTEE

According to information provided to us through the Intelligence Committee, recent Soviet actions leave them below the 820 MIRVed ICBM launcher subceiling, as well as below the 1,320 MIRVed ICBM/SLBM/ALCM heavy bomber subceiling. The information provided also appears to put the Soviets slightly above the 1,200 MIRVed ICBM/SLBM subceiling. The Soviets have, on occasion, temporarily exceeded this sublimit since mid-1987. It is quite possible that the Soviets will exceed some of these limits in the future as the United States continues to remain above the 1,320 subceiling.

TRIBUTE TO LAWTON CHILES

Mr. CRANSTON. Mr. President, at the end of this historic 100th Congress, my dear friend and colleague, LAWTON CHILES, will leave the Senate after 18 years of distinguished service. I know I speak for all who know him when I say that LAWTON and his wife, Rhea, will be greatly missed in Washington.

Mr. President, LAWTON's distinguished career in public service began 30 years ago in the Florida State legislature. In 1970, after literally walking 1,000 miles across the State of Florida, earning him the admiration and respect of Floridians throughout the State, as well as the nickname "WALKIN' LAWTON," LAWTON won his bid to represent Florida in the U.S. Senate. When LAWTON arrived in Washington, he brought with him a unique and genuine understanding of the diverse concerns and needs of the individuals he met and spoke with during his campaign. He has never lost touch with the individuals he represents, which is why he has been such an effective Senator.

Mr. President, the ability to listen, compromise, and work with others even in the most adverse circumstances and situations are essential qualities for a Senator—especially for a chairman of the Budget Committee. As the chairman of that committee for the past 2 years and as its ranking minority member for the 4 years prior to that, LAWTON's patience and skills were put to the test. Senator CHILES has been faced with making very difficult and complex decisions in a largely thankless task—working to reduce the tremendous budget deficits and to apply sound and reasonable budget principles to the Government budgeting process. He has handled that task with great determination, integrity, and strength, and I believe that each and every citizen of this Nation owes him a debt of gratitude for the work he has done in this area.

Under his leadership, the Budget Committee has stressed a cooperative, not a confrontational or combative, role in its relationships with other committees of the Senate. I think that is a very important and productive hallmark of LAWTON CHILES' approach to problem solving.

He has also been willing to make the tough budget choices and to try to lead, nudge, push, and occasionally shove the Senate in the direction of doing so as well. He has set a very high standard for his successors to emulate.

As chairman of the Veterans' Affairs Committee, I have seen firsthand LAWTON's devotion to the principles of maintaining budgetary discipline while protecting programs that provide well-earned benefits to our Nation's veterans. Despite inadequate funding requests from the administration, my good friend from Florida [Mr. CHILES] has done his best to see to it that veterans' programs were treated fairly in the budget process.

I also would like to note what I consider to be one of the most far reaching improvements in maintaining our democracy, the Government in the Sunshine Act which Senator CHILES authored. Through his efforts as a member of the Governmental Affairs Committee, Federal Government meetings must be open to the public, thus allowing greater citizen participation in and knowledge of the workings of their Government.

Mr. President, LAWTON also has done yeoman's work during the 100th Congress as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies that provides funding to programs directly affecting the health and welfare of our Nation.

As chairman of the subcommittee, LAWTON has overseen increases in appropriations for research, prevention, and public health activities to combat AIDS and was a moving force behind the AIDS mailing that went to every American household a few month ago. He has also been a strong advocate for programs to improve services for individuals who are elderly or disabled and for America's young biotechnology industry.

LAWTON has been deeply concerned about the high rate of infant mortality in this country—particularly in the South. He helped champion efforts to provide Medicaid coverage to indigent pregnant women for prenatal, delivery, and infant care and has devoted many hours of time and energy as the Chairman of the National Commission to Prevent Infant Mortality.

Finally, as the Senate and the House are meeting to finish the Omnibus Anti-Substance Abuse Act of 1988, I want to pay special tribute to LAWTON's unwavering crusade against drugs. He has been fighting for programs to combat this menace for more than 10 years and has contributed greatly to the legislation the Senate recently passed. Senator CHILES has authored numerous laws to improve our interdiction and law enforcement efforts against drugs. But, LAWTON also recognizes that our best weapons against drugs are prevention, education, and treatment for addicts and that we will never solve the drug problem until we slow down the demand for drugs here at home. He was a strong and forceful advocate for those programs during our negotiations on the current drug bill.

Mr. President, I would like at this time also to recognize the great work which has been done over many years by Rick Brandon, staff director for Senator CHILES on the Budget Committee. Like his boss, Rick has done a tremendous job of balancing competing concerns for limited resources, and has done so with great grace and aplomb. His expertise in the budget area is unmatched—except by Senator CHILES himself. In my Veterans' Affairs Committee role, the staff and I have been privileged to work also with Alan Cohen and Kathy Deignan on the budget staff during this period. They have done a fine job as well.

Mr. President, we will all miss LAWTON in the 101st Congress and I wish him the very best for the years to come.

RETIREMENT OF ADM. KINNAIRD R. McKEE, USN

Mr. NUNN. Mr. President, on November 1, Adm. Kinnaird R. McKee, Director of Naval Nuclear Propulsion, will retire from active duty.

During 41 years of naval service, Admiral McKee played a key role in the Nation's defense. He has been all that a military officer ought to be—bright, brave, dedicated, determined, thoughtful, inspiring, and honorable—a fine example for all who will follow.

Admiral McKee became a legend in the submarine service, Mr. President, long before he reached flag rank. As skipper of the *Dace*, he and his ship opened new frontiers in special operations of great importance to this Nation—accomplishments for which Admiral McKee and his ship were highly decorated.

Admiral McKee has left his mark on the Navy in a variety of jobs from warfare specialist to fleet commander—not only in an operational sense, but also in terms of the people he inspired and of his ability to identify their work with the Navy's long-term goals.

Admiral McKee did an excellent job as Superintendent of the Naval Academy, where he helped shape the minds and professionalism of a multitude of young officers, brought women into the Naval Academy, and substantially strengthened the technical curriculum there.

Because of his wealth of experience in warfare training and in technical matters, Admiral McKee was the perfect choice to succeed Admiral Rickover as Director of Naval Nuclear Propulsion in February 1982—a job that many considered the most difficult in the Navy. It is to his great credit, Mr. President, that Admiral McKee not only kept this talented organization intact, but moved ahead to bring the Navy's new attack submarine, the SSN-21, from an idea to lead-ship authorization. More importantly, he has continued the tradition of technical excellence, safety, and readiness which has always been the hallmark of the nuclear propulsion program and which is so important to the continued viability of the 40 percent of naval combatants that are nuclear powered.

I want to congratulate Admiral McKee on the completion of an outstanding and exemplary career of service to his country. I want to thank him for his cooperation with the Congress and for his willingness to provide us with the objective information we needed. He retires from the Navy with our thanks for a job well done. I wish Admiral McKee and his wife, Betty, every success in their future endeavors.

ON UTE SETTLEMENT ACT

Mr. BRADLEY. Mr. President, today the House has adopted Senate Concurrent Resolution 162 which concerned the Ute Indian Settlement Act. This resolution, which the Senate passed last Friday, ensures that H.R. 2642, the Ute Settlement Act, will include important protections for Indian water rights. The incorporation of these basic changes was critical before I was willing to permit this legislation to proceed.

Mr. President, the sponsors of this legislation—notably Mr. WIRTH in the Senate and Mr. CAMPBELL in the House—labored long and hard on this settlement. As their original bill put them at odds with numerous States that share the Colorado River, their negotiations were especially arduous. They surmounted seemingly impossible roadblocks with imagination and flexibility.

Nevertheless, I want to make clear that I still have important problems with the Animas-La Plata project, on which this Settlement Act depends. These problems are significant enough that I voted against the act in committee and, had these been a rollcall vote on final passage, I would have voted against it on the floor. My concerns are broad. I am troubled by some of the environmental implications of the construction of the Animas-La Plata project, I am likewise concerned about the cost-sharing provisions, certain waivers of reclamation law and the reasonableness of a $500 million commitment of Federal funding. I am not yet convinced that the U.S. taxpayers would be well served by the project. Notwithstanding passage of the Ute Settlement Act, these concerns remain today and I intend to address them in legislation next year before taxpayer dollars are actually appropriated for this project.

Specifically, I will seek to make sure the State officials make good on assurances that any phase beyond phase I of the project will be built solely with non-Federal funds. The most appropriate way to do that appears to be a deauthorization of the subsequent phase as a Federal project. I will also seek legislation to insure that water from this project does not assist the production of surplus crops. I will further direct my Subcommittee on Water and Power to examine closely the implications of project construction. If the project does not merit today's standards for environmental quality or economic efficiency, I will work for its modification.

Mr. President, I have worked closely with the Ute Settlement Act's sponsors to achieve the compromise embodied in the Senate resolution. The sponsors know of my broader concerns. They have pledged their help to make the Animas project the best it can be and I look forward to their assistance in the next Congress.

A BIASED NEWSPAPER IS TRAPPED INTO PRINTING THE TRUTH, FOR A CHANGE

Mr. HELMS. Mr. President, one of the few embarrassments to be found in the State of North Carolina is the newspaper monopoly in the State capital. The Raleigh News and Observer, once considered a sort of bible to the residents of eastern North Carolina, is now scarcely more than a petulantly biased political adjunct of the far-left movement in general, and the zany policies of the most leftward elements of the Democratic Party in particular.

No Republican nor any conservative need apply to Raleigh's morning paper for fair-play or objectivity. It is an apologist for the homosexual movement, an advocate of socialized government, a bitter critic of all business—except its own lucrative enterprise—and totally scornful of the free enterprise system.

Its owners are rich, but piously pretentious in its feigned concern for the poor. Its editors are arrogant in the exercise of power. Increasingly, its readers are resentful of what has been done to a newspaper founded long ago by Josephus Daniels, who served this Nation as Secretary of the Navy and as U.S. Ambassador to Mexico. Josephus Daniels was partisan, but he was fair. There is no sense of fairness today in the newspaper founded by Josephus Daniels.

Mr. President, I mention all of this as a prelude to a surprise column that appeared yesterday in the News and Observer. A prominent Raleigh attorney, Thomas D. Bunn, challenged the News and Observer to print the truth about the American Civil Liberties Union. Since Mr. Bunn is a prominent and respected Democrat, and no doubt fearing that Mr. Bunn would make known the fact that his challenge was rejected, the newspaper's management directed the editor to suggest to Mr. Bunn that he write a rebuttal—hopeful, of course, that Mr. Bunn would decline.

To the newspaper's chagrin, Mr. Bunn did no such thing. He promptly accepted, and prepared an excellent analysis of the ACLU. The newspaper was left no alternative: It had to publish Mr. Bunn's article.

So yesterday morning's Raleigh News and Observer, caught in a trap, published the Bunn article under the headline, "ACLU Policies Cast 'Mainstream' Claim in Doubt." It appeared on the page opposite the News and Observer's editorial page.

Mr. President, I believe Senators and others may be interested in Mr. Bunn's assessment of the ACLU, and in a moment, I shall ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks. But before I make that request, I would emphasize that Mr. Bunn, and his father before him, Mr. J. Wilbur Bunn, earned the respect and admiration of the Democratic Party. But that was in the old days before the party was taken over by the far-left. Thomas D. Bunn served with distinction in the North Carolina General Assembly. And before I was elected to the Senate, I was a Sunday school teacher for a class named for J. Wilbur Bunn at Hayes Barton Baptist Church in Raleigh.

Mr. President, I now propound the unanimous-consent request to which I alluded a moment ago.

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

ACLU POLICIES CAST "MAINSTREAM" CLAIM IN DOUBT

(By Thomas D. Bunn)

We tend to toss the terms liberal, conservative, left, right, moderate, middle of the road around flippantly and with little meaning except as to what votes the terms might engender. Seemingly, no one wants to be labeled "liberal," not even the American Civil Liberties Union, according to its president, Norman Dorsen, who defended its position as "mainstream" in the wake of the recent

presidential debates and George Bush's criticism of Michael Dukakis' membership in the ACLU.

On Oct. 3, The Wall Street Journal gave a sampling of the position and world views of the ACLU from its 1986 "Policy Guides." You decide whether the ACLU views are mainstream or lack common sense according to The Journal: 1) Drugs should not be prohibited by law. 2) School discipline must be strictly limited. 3) Few crimes should be punished by jail. 4) The Constitution mandates increased welfare spending, which translates into taxpayer or third-party obligation and invalidates reforms encouraging an end to welfare dependency. 5) Equal pay for equal work is not enough. 6) No more rescue attempts for American hostages or secret operations against terrorists. 7) There can be no military draft, even in war time. 8) The First Amendment protects all pornography, including child pornography. 9) Rating movies is an unconstitutional prior restraint. 10) Prostitution should be legal. 11) Homosexuals can be foster parents.

The Wall Street Journal noted, "It is perfectly fine for the ACLU to argue these positions. . . . But others are entitled to criticize these positions as having little to do with the Constitution or, for that matter, with common sense." Author Francis A. Schaeffer, in "The Christian Manifesto," stated that the ACLU "has shown that it is the reverse of a Civil Liberty Union."

The beliefs and actions of the ACLU are generally unbelievable. They hold extreme positions on most moral issues. In the face of an epidemic, they alarm even the liberals in their stance against AIDS tests. They took a stance against minors advising their parents before abortion.

The ACLU opposes laws prohibiting public drunkenness, saying, "The introduction of substances into one's own body or the use of any drugs should be exempt from criminal prosecution." It opposes the use of metal detectors in airports for terrorists' weapons on the grounds that the practice is unwarranted search and seizure.

Dr. William A. Donohue, Bradley Resident Scholar at the Heritage Foundation and author of "The Politics of the American Civil Liberties Union," stated that the ACLU strongly supports the legality of homosexual marriages, complete legal equality for lesbians and gay men, all rights and benefits and responsibilities of married couples. According to Dr. Donohue, "There is virtually no form of moral depravity which one could commit that the ACLU will not find acceptable as long as the parties involved are consenting adults."

Chapters of the ACLU have, as fund-raising events, auctioned off an abortion and shown two hardcore pornographic films, "Deep Throat" and "Behind the Green Door," according to Citizen magazine in its March 1988 issue.

The ACLU even intervened in the international situation where the 12-year-old Walter Polovchak fought to stay in the United States rather than return to his Soviet parents. The ACLU argued that he should be forced to go back against his will to the country he hates. This shocked Allen Dershowitz, a liberal law professor and attorney for Penthouse magazine, who wrote, "The ACLU's different positions can be understood only if the issues are defined politically—a preference for abortion, an alliance with lesbianism and an unwillingness to criticize communism."

The ACLU is well-financed from known organizations such as the Rockefeller and Playboy foundations. Hugh Hefner's daughter, Christie Hefner, has served on the ACLU's Board of Directors. Dr. Donohue said he was not surprised at the close relationship of Playboy and the ACLU because they are "fanatical in their defense of pornography."

Probably the single most revealing segment of the ACLU's alleged defense of the First Amendment of the Constitution is that in its original formation, the ACLU gave as its objectives every component and segment of the First Amendment except freedom of religion. Quoting from the Citizen, "A truly non-partisan organization in service to civil liberties would have had to make freedom of religion one of its primary goals."

A horse can label itself a "cow," but it is still a horse. As for the ACLU labeling itself "mainstream," you be the judge.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4210) to authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5408. An act to make a correction in the Education and Training for a Competitive America Act of 1988.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 59. An act entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988";

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes;

S. 437. An act to authorize the refinancing of certain small business debentures, and for other purposes;

S. 1727. An act to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders;

H.R. 1275. An act for the relief of Joyce G. McFarland;

H.R. 3515. An act to amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste;

H.R. 3621. An act to declare that certain lands located on California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contiguous;

H.R. 3757. An act to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of a medical or other emergency situation;

H.R. 4410. An act to designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Federal Building";

H.R. 4818. An act to establish the National Park of American Samoa;

H.R. 4939. An act to amend the Safe Drinking Water Act to control lead in drinking water;

H.R. 5052. An act to amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office;

H.R. 5199. An act to make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes;

H.R. 5389. An act to concerning disaster assistance for Bangladesh;

H.R. 5442. An act to provide the Environmental Protection Agency and the public with additional information about asbestos products; and

H.R. 5471. An act to amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories.

The enrolled bills, except S. 1727, were subsequently signed by the Acting President pro tempore (Mr. DASCHLE).

At 5 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 1490. An act for the relief of Jean DeYoung; and

H.R. 2802. An act for the relief of Fleurette Seidman.

The message also announced that the House agrees to the amendments of the Senate to each of the following bills:

H.R. 1133. An act for the relief of Thomas Nelson Flanagan; and

H.R. 1388. An act for the relief of David Butler, Aldo Cirone, Richard Denisi, Warren Fallon, Charles Hotton, Harold Johnson, Jean Lavoie, Vincent Maloney, Austin Mortensen, Kurt Olofsson, and Jon Jenks.

The message further announced that the House has passed the bill (S.

1842) for the relief of Mr. Wilhelm Jahn Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo David Schlechter; with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5408. An act to make a correction in the Education and Training for a Competitive America Act of 1988; to the Committee on Labor and Human Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 19, 1988, he had presented to the President of the United States the following enrolled bills:

S. 59. An act entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988";

S. 136. An act to improve the health status of Native Hawaiians, and for other purposes; and

S. 437. An act to authorize the refinancing of certain small business debentures, and for other purposes.

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-4004. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, as amended on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Finance, the Committee on Foreign Relations, the Committee on Energy and Natural Resources, and the Committee on the Judiciary.

EC-4005. A communication from the Acting Director of the Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 1989; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986; referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-4006. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on two requirements on the Secretary of Defense; to the Committee on Armed Services.

EC-4007. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting pursuant to law, a proposed letter of offer to the Thailand for defense articles estimated to cost $50 million or more; to the Committee on Armed Services.

EC-4008. A communication from the Director (Administration and Management), Department of Defense, transmitting, pursuant to law, the intention of the Department of the Navy to exercise the authority to exclude a clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-4009. A communication from the Attorney General of the United States, transmittting, pursuant to law, notice that the United States will not appeal the judgment of the court of appeals in Verba v. Ohio Casualty Ins. Co.; to the Committee on the Judiciary.

EC-4010. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "The Effect of Airline Deregulation on the Level of Air Safety"; to the Committee on Commerce, Science, and Transportation.

EC-4011. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Federal Coal Management Report for the fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-4012. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Tennessee Valley Authority's financial statements for 1987; to the Committee on Enviroment and Public Works.

EC-4013. A communication from the General Counsel of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, notice of suspension of deportation of certain aliens under sections 244(a)(1) and 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4014. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to improve the compensation for members of the Senior Executive Service; to the Committee on Governmental Affairs.

EC-4015. A communication from the Director (Administration and Management) Department of Defense, transmitting, pursuant to law, an altered record system submitted by the Department of the Navy; to the Committee on Governmental Affairs.

EC-4016. A communication from the Director of Financial Management, General Accounting Office, transmitting, pursuant to law, the 1986 and 1987 annual reports of the Comptroller General's Retirement System; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the resolution (S. Res. 187) to refer the bill (S. 966) for the relief of Frederick Paul to the Chief Judge of the United States Claims Court (Rept. No. 100-598).

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. MOYNIHAN:

S. 2914. A bill to exclude the receipts of Social Security trust funds from the deficit calculation, and to establish an independent agency, governed by a bipartisan board, to administer the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, the Supplemental Security Income Program under title XVI of such act, and the Medicare Program under title XVIII of such act; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977.

By Mr. BYRD (for Mr. DODD):

S. 2915. A bill to provide certain minor and technical amendments to the Child Abuse Prevention, Adoption, and Family Services Act of 1988; considered and passed.

By Mr. GLENN:

S. 2916. A bill to establish the congressional scholarships for science, mathematics, and engineering, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself and Mr. BREAUX):

S. 2917. A bill to implement the recommendations of the Interagency Committee and the Technical Study Group on Cigarette and Little Cigar Fire Safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE:

S. 2918. A bill to provide for a national plan and coordinated Federal research program to ensure continued U.S. leadership in high-performance computing; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PROXMIRE (for himself, Mr. ARMSTRONG, Mr. BOND, Mr. CHAFEE, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. GARN, Mr. GRAHAM, Mr. GRAMM, Mr. HECHT, Mr. HEINZ, Mr. KARNES, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH):

S. Res. 503. Resolution commending Kenneth A. Mclean for his service to the Senate; considered and agreed to.

By Mr. PROXMIRE:

S. Res. 504. Resolution commending Ronald L. Tammen for his service to the U.S. Senate; considered and agreed to.

By Mr. BYRD:

S. Res. 505. Resolution to authorize printing of additional copies of a Senate document; considered and agreed to.

By Mr. DOLE:

S. Res. 506. Resolution authorizing the printing of tributes to Senator ROBERT C. BYRD; considered and agreed to.

By Mr. BYRD (for Mr. EXON) (for himself and Mr. KARNES):

S. Res. 507. Resolution to refer S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc. of Hastings, Nebraska" to the chief judge of the U.S. Claims Court for a report thereon; considered and agreed to.

By Mr. BYRD:

S. Res. 508. Resolution authorizing certain appointments; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2914. A bill to exclude the receipts of Social Security trust funds from the deficit calculation, and to establish an independent agency, governed by a bipartisan board, to administer the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act, the Supplemental Security Income Program under title XVI of such act, and the Medicare Program under title XVIII of such act; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

SOCIAL SECURITY SANCTITY ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that will provide important safeguards for the Social Security system.

The legislation, titled the Social Security Sanctity Act, would accomplish two important goals.

First, it would exclude the receipts of the Social Security trust funds from the calculation of the deficit under the Gramm-Rudman-Hollings law. This change would make explicit the actual operating budget deficit of the Federal Government, and will not permit an administration to use the Social Security surpluses to mask the true magnitude of the deficit.

This was done in this fiscal year, as was done in the last fiscal year, and as will be done in the next fiscal year unless we enact this legislation. Obviously, we are not going to do it in the remaining hours of the 100th Congress, but we can get to it promptly in the 101st Congress, and it would apply to the fiscal year that begins October 1, 1989.

In the current year, the Gramm-Rudman-Hollings deficit goal of $146 billion is nominally achieved, but that comes about by using $52 billion of the trust fund reserve.

The $200 billion deficit, as far as the eye can see, to use Mr. David Stockman's term, is still structurally in place. The fact is that the debt service is beginning to eat us alive. The deficit this year will be smaller than the interest on the debt. In this country today, it takes 23 percent of the revenue of personal income tax to pay the interest on the money we have borrowed in the last 8 years.

Having put in place a secure trust fund reserve, a stream of revenue of some $3 trillion over the next 30 years, it seems to me that it is urgent that we save it for the baby boomers when they retire, that we not use this money for current consumption and having nothing to show when the time comes when we need it.

Second, the Social Security Sanctity Act includes legislation to establish the Social Security Administration as an independent agency. I have previously introduced this legislation as a separate bill. I believe that the sanctity of the Social Security system requires the establishment of this independent agency.

I do not have to tell the distinguished Presiding Officer that the Social Security Administration began as an independent agency, and only after a generation was it brought into the Department of Health and Human Services, which was previously the Department of Health, Education, and Welfare.

Since the 1983 Social Security Commission agreed on a plan to restore the stability of the funding, very much having in mind the need to establish public confidence in this most essential element of all public programs, an independent agency, with its own trustees and its own clear status, as something set apart from the budget and from the Government and the politics of the day and the politics of Congress or the administration, is needed.

I remind the Senate that in a survey done by Daniel Yankelovich not too long ago, for the 50th anniversary of the Social Security system, it was established that two-thirds of the nonretired adults in the United States do not believe they will receive Social Security when they retire or do not believe they will receive that portion of it to which they currently are entitled.

It is worth reminding that in the past, in this decade, we have seen extraordinary efforts to declare the system unstable. The largest bankruptcy in history, Mr. Stockman told us, was happening. I very much admire Sylvia Porter for describing such a scare campaign of vicious proportions. I equally admire the distinguished Republican leader for his unwillingness to be associated with it. On the contrary, Senator DOLE and a small group of others restored the stability of the Social Security trust funds in 1983. It would be very small reward for their efforts, with which I must say I was associated, if we do not reserve that flow of revenue, $3 trillion in 30 years, and instead simply use it for current consumption, use it to disguise the real state of the deficit and spend it, so that nothing will be there when we do need it.

In 1970, the U.S. birth rate fell below the reproduction level, and that means the day will come, starting around the year 2030, when there are only two persons in the work force for every retired person in this country. We had better have a pretty good work force if we are going to maintain what we have every reason to expect to be the level of benefits now assumed and forecast and which are entirely manageable if we save this reserve. That can be done. It is not being done.

So the first thing to do is to establish the fact that it is there, and I do not know of any better way to do that than to take it out of the Gramm-Rudman-Hollings calculations and to establish the Social Security Administration as an independent body, able to speak for itself and defend its interests, which, after all, are our interests.

Mr. President, I ask that the bill be referred to the Committee on Finance, which I believe it will be.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Sanctity Act".

TITLE I—EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS

SEC. 101. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

TITLE II—SOCIAL SECURITY ADMINISTRATION REORGANIZATION ACT

SEC. 301. SHORT TITLE AND TABLE OF CONTENTS.

This title, with the following table of contents, may be cited as the "Social Security Administrative Reorganization Act".

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Sec. 307. Technical and conforming amendments; rules of construction.
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SEC. 302. ESTABLISHMENT OF AN INDEPENDENT SOCIAL SECURITY AGENCY; SOCIAL SECURITY BOARD

(a) Section 701 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY AGENCY; SOCIAL SECURITY BOARD

"SEC. 701. (a) There is hereby established, as an independent agency of the executive branch of the Government, a Social Security Agency (hereafter in this title referred to as the 'Agency').

"(b)(1) The Agency shall be headed by a Social Security Board (hereafter in this title referred to as the 'Board').

"(2)(A) Except as provided in subparagraph (B), the Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate.

"(B) For the period ending January 31, 1989, the Board shall be composed of three members appointed by the President, by and with the advice and consent of the Senate.

"(C) The members shall be chosen, on the basis of integrity, impartiality, and good judgment, from among individuals who, by reason of education, experience, and attainment, are exceptionally qualified to serve on the Board.

"(3)(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of fifteen years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(B) Of the members first appointed—

"(i) one shall be appointed for a term ending October 1, 1989,

"(ii) one shall be appointed for a term ending October 1, 1992,

"(iii) one shall be appointed for a term ending October 1, 1995,

"(iv) one shall be appointed for a term beginning February 1, 1989, and ending October 1, 1998, and

"(v) one shall be appointed for a term beginning February 1, 1989, and ending October 1, 2001,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the Chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the Chairman of the Committee on Finance of the Senate.

"(C) Any member appointed for a term after the commencement of such term shall be appointed only for the remainder of such term. A member may, with the approval of the President, serve for not more than one year after the expiration of his or her term until his or her successor has taken office.

"(4)(A) Except as provided in subparagraph (B), not more than three members of the Board shall be of the same political party.

"(B) For the period ending January 31, 1989, not more than two members of the Board shall be of the same political party.

"(5) A member of the Board may not, during his or her term as member, otherwise serve as an officer or employee of any government. If any member of the Board becomes an officer or employee of any government, he or she may continue to serve as a member of the Board not more than 30 days after the date he or she becomes an officer or employee of such government.

"(6)(A) Except as provided in subparagraph (B), three members of the Board shall constitute a quorum.

"(B) For the period ending January 31, 1989, two members of the Board shall constitute a quorum.

"(C) A lesser number may hold hearings.

"(7) A member of the Board shall be designated from time to time by the President to serve as Chairperson of the Board.

"(8) The Board shall meet at the call of the Chairperson or a majority of its members.

"(c) The Board shall—

"(1) govern by regulation the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII,

"(2) appoint a Commissioner of Social Security, as described in section 702, to act for the Board as the chief operating officer of the Agency responsible for administering such programs,

"(3) make annual budgetary recommendations relating to the Agency and defend such recommendations before the appropriate committees of each House of the Congress,

"(4) make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance, and, in consultation with the Commissioner of Social Security, as to legislation and matters of administrative policy concerning such programs,

"(5) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Agency with respect to such programs and any other information relating to such programs, and

"(6) conduct policy analysis and research relating to such programs.

"(d)(1) The Office of the Board shall include an Office of the Actuary, to be headed by a Chief Actuary appointed by the Board. To the extent provided by the Board, the Office of the Actuary shall assist the Board in carrying out its actuarial functions.

"(2) The Office of the Board shall include an Office of Policy and Legislation, to be headed by a Director of Policy and Legislation appointed by the Board. To the extent provided by the Board, the Office of Policy and Legislation shall assist the Board in carrying out its functions relating to policy analysis, research, and legislation.

"(3) The Office of the Board shall include an Office of General Counsel, to be headed by a General Counsel appointed by the Board. The General Counsel shall serve as the principal legal counsel in the Agency and shall provide necessary legal advice and services to the Board and the Commissioner.

"(4) The Office of the Board shall include an Ombudsman, to be appointed by the Board. The Ombudsman shall represent the concerns of the public, including beneficiaries, with respect to the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII, to the Board and the Commissioner.

"(5)(A) The Board shall appoint such additional attorneys, actuaries, and other employees as it considers necessary to carry out its functions.

"(B) The Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical or professional employees as the Board considers appropriate, and such employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(D) Notwithstanding section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Agency a total number of Senior Executive Service positions equal to 150 percent of the number of such positions existing in the Social Security Administration of the Department of Health and Human Services on the day before the date of the enactment of the Social Security Administrative Reorganization Act, and the total number of such positions authorized for the Agency pursuant to such section 3133 shall not at any subsequent time be less than such number.

"(E) In addition to the positions of the Agency in the Executive Schedule specified in subchapter II of chapter 53 of title 5, United States Code, the Board may establish additional positions at levels IV and V of the Executive Schedule.

"(d)(1) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Agency as the Board considers necessary or appropriate to carry out its functions, except that this paragraph shall not apply with respect to any unit or component established by this Act.

"(2) The Board may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, with respect to the functions of the Board under this section. Within the limitations of such delegations, redelegations, or assignments to officers or employees of the Agency, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"(e) There shall be in the Agency an Office of the Inspector General, to be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(f)(1) The Board, the Secretary, and the Secretary of the Treasury shall consult with each other and shall develop rules, regulations, practices, and forms which, to the extent appropriate for the efficient administration of titles II, XVI, and XVIII and the other provisions of this Act and the applicable provisions of the Internal Revenue Code of 1954, are designed to reduce duplication of effort, duplication of reporting, conflicting or overlapping requirements, and the burden on beneficiaries and other persons of compliance with the provisions of this Act.

"(2) In order to avoid unnecessary expense and duplication of functions, the Board, the Secretary, and the Secretary of the Treasury may make such arrangements or agreements for cooperation or mutual assistance

in the performance of their functions under titles II, XVI, and XVIII and the other provisions of this Act and the applicable provisions of the Internal Revenue Code of 1954 as they find to be practicable and consistent with law.".

(b)(1) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), is amended by adding at the end thereof the following new item:

"Chairperson of the Social Security Board, Social Security Agency.".

(2) Section 5314 of such title (relating to level III of the Executive Schedule) is amended by adding at the end thereof the following new item:

"Members of the Social Security Board, Social Security Agency (4).".

(3) Section 5315 of such title (relating to level IV of the Executive Schedule) is amended by adding at the end thereof the following new items:

"Inspector General, Social Security Agency.

"Chief Actuary, Social Security Agency.

"Director of Policy Analysis and Legislation, Social Security Agency.

"General Counsel, Social Security Agency.

"Ombudsman, Social Security Agency.".

SEC. 303. COMMISSIONER OF SOCIAL SECURITY.

(a) Section 702 of the Social Security Act is amended to read as follows:

"COMMISSIONER OF SOCIAL SECURITY

"SEC. 702. (a) There shall be in the Agency an Office of the Commissioner, to be headed by a Commissioner of Social Security (hereinafter in this title referred to as the 'Commissioner') appointed by the Board. The Commissioner shall be chosen from among individuals who are, by reason of experience and attainment, especially qualified to manage a large-scale organization of the Government.

"(b)(1) The Commissioner shall be appointed for a term of five years, except that—

"(A) an individual appointed Commissioner for a term after the commencement of such term shall be appointed only for the remainder of such term,

"(B) an individual may, with the approval of the Chairperson of the Board, serve as Commissioner after the expiration of his or her term for not more than one year until his or her successor has taken office, and

"(C) the individual first appointed to the Office of Commissioner shall serve for a term ending January 31, 1989.

An individual may be appointed as Commissioner for successive terms, and

"(2) An individual may be removed from the office of Commissioner before completion of his or her term only upon the vote of a majority of the full membership of the Board, pursuant to a finding by the Board of neglect of duty or malfeasance in office. The Board shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(3) Except as provided in paragraph (6) of subsection (c), an individual serving as Commissioner may not, during his or her term as Commissioner, otherwise serve as an officer or employee of any government. If an individual serving as Commissioner becomes an employee of any government, he or she may continue to serve as Commissioner not more than 30 days after the date on which he or she becomes an officer or employee of such government.

"(c) The Commissioner shall—

"(1) constitute the chief operating officer of the Agency, responsible for administering, in accordance with applicable statutes and regulations, the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII,

"(2) establish and maintain an efficient and effective operational structure for the Agency,

"(3) devise and implement long-term plans to promote and maintain the effective implementation of such programs,

"(4) make annual budgetary recommendations of the Agency for the ongoing administrative costs of the Agency and defend such recommendations before the Board and before the appropriate Committees of each House of the Congress,

"(5) advise the Board and the Congress of the effect on the administration of such programs of proposed legislative changes in such programs,

"(6) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund, and

"(7) report in December of each year to the Board and the Congress concerning the administrative endeavors and accomplishments of the Agency.

"(d)(1) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Office of the Commissioner as the Commissioner considers necessary or appropriate to carry out his or her functions.

"(2) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, with respect to the administration of the old-age, survivors, and disability insurance program under title II, the supplemental security income program under title XVI, and the medicare program under title XVIII to such officers and employees as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(3)(A) The Commissioner shall appoint such additional employees as he or she considers necessary to carry out his or her functions.

"(B) The Commissioner may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical or professional employees as the Commissioner considers appropriate, and such employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(D) The Commissioner may delegate such powers of appointment and procurement to any of the employees in the Office of the Commissioner as he or she determines appropriate.

"(4) To the extent requested by the Commissioner, the Director of the Office of Personnel Management shall delegate to the Commissioner, pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section, functions relating to—

"(A) recruitment and examination programs for entry level employees, and

"(B) classification and standards development systems and pay ranges for those job categories identified by the Commissioner in assuming such delegation.

The Director of the Office of Personnel Management shall provide any assistance requested by the Commissioner in assuming any such delegation.".

(b)(1) Section 5313 of title 5, United States Code (relating to level II of the Executive Schedule) is further amended by adding at the end thereof the following new item:

"Commissioner of Social Security, Social Security Agency.".

(2) Section 5315 of such title is amended by striking out the following item:

"Commissioner of Social Security, Department of Health and Human Services.".

SEC. 304. TRANSFER OF FUNCTIONS.

(a) There are transferred to the Social Security Agency all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Agency by reason of this title and the amendments made thereby. The Social Security Board shall prescribe such regulations as are necessary to allocate such functions in accordance with sections 701 and 702 of the Social Security Act (as amended by this title).

(b)(1) There are transferred from the Department of Health and Human Services to the Social Security Board, for appropriate allocation by the Board by regulation in the Social Security Agency—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby, and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) The position of Commissioner of Social Security in the Department of Health and Human Services is abolished.

SEC. 305. TRANSITIONAL RULES.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or his delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board or the Commissioner of Social Security (as the case may be), and

(2) which are in effect at the time this title takes effect,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside,

or repealed by such Board or Commissioner (as the case may be).

(b) The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending at the time this title takes effect before the Secretary of Health and Human Services with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board or the Commissioner of Social Security, except that such proceedings, to the extent that they relate to such functions, shall continue before such Board or Commissioner (as the case may be). Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board or Commissioner (as the case may be), by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced prior to the date this title takes effect; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Agency, or such official of such Agency as may be appropriate, and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(d) This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board or the Commissioner of Social Security.

(e) Orders and actions of the Social Security Board and the Commissioner of Social Security in the exercise of functions vested in such Board or Commissioner (as the case may be) under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately preceding the effective date of this title. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board or Commissioner shall continue to apply to the exercise of such function by such Board or Commissioner (as the case may be).

(f) In the exercise of the functions vested in the Social Security Board or the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Board or Commissioner (as the case may be) shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of the same in such Board or Commissioner, and actions of such Board or Commissioner shall have the same force and effect as when exercised by such Secretary.

SEC. 306. BUDGETARY AND FISCAL AFFAIRS OF THE SOCIAL SECURITY AGENCY.

Section 703 of the Social Security Act is amended to read as follows:

"BUDGETARY AND FISCAL AFFAIRS OF THE SOCIAL SECURITY AGENCY

"SEC. 703. (a) Appropriations requests of the Social Security Agency for staffing and personnel shall be based upon comprehensive work force plans. The entire amount of appropriations provided for the administrative costs of the Social Security Agency shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this section.

"(b)(1) Authority of the Social Security Agency for automated data processing procurement and facilities construction shall be provided in the form of contract authority covering the total costs of such acquisitions, to be available until expended.

"(2) Amounts necessary for the liquidation of contract authority provided pursuant to this section are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund to the extent that the Social Security Board, with the concurrence of the Secretary of the Treasury, determines that any of such amounts to be provided from such Trust Fund are not necessary to meet the current obligations for benefit payments from such Trust Fund.

"(3) Funds appropriated for the Social Security Agency to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Social Security Board and reported to each House of the Congress.

"(c)(1) To the extent requested by the Commissioner, the Commissioner shall have—

"(A) all authorities permitted to be delegated under the provisions of Federal law codified under title 40 of the United States Code, that the Commissioner considers are necessary for the acquiring, operating, and maintaining of the facilities needed for the administration of programs for which the Commissioner is given responsibility under this Act,

"(B) all authorities permitted to be delegated under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to the lease, purchase, or maintenance of automated data processing equipment, and

"(C) the authority to contract for any automated data processing equipment or services which the Commissioner considers necessary for the efficient and effective operation of such programs.

"(2) The Administrator of the General Services Administration shall provide any assistance requested by the Commissioner in assuming the delegations required under paragraph (1).".

SEC. 307. TECHNICAL AND CONFORMING AMENDMENTS; RULES OF CONSTRUCTION.

(a) Title II (other than subsections (a), (b), and (c) of section 201), part B of title XI, title XVI (relating to supplemental security income for the aged, blind, and disabled), and title XVIII (other than subsection (b) of section 1817 and subsection (b) of section 1841) of the Social Security Act are each amended—

(1) by striking out, wherever it appears therein, "Secretary of Health and Human Services" or "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner",

(2) by striking out, wherever it appears therein, "Department of Health and Human Services" or "Department of Health, Education, and Welfare" and inserting in lieu thereof "Social Security Agency",

(3) by striking out, wherever it appears therein, "Department" (but only if it is used in reference to the Department of Health and Human Services or the Department of Health, Education, and Welfare) and inserting in lieu thereof "Social Security Agency", and

(4) by striking out, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services or to the Secretary of Health, Education, and Welfare): "Secretary", "Secretary's", "his", "him", and "he", and inserting in lieu thereof (in the case of the word "Secretary") "Commissioner", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", and (in the case of the word "he") "the Commissioner".

(b)(1) Subsections (a) and (b) of section 201 of such Act are each amended—

(A) by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Commissioner of Social Security", and

(B) by striking out "such Secretary" each place it appears and inserting in lieu thereof "the Commissioner of Social Security".

(2) Section 201(c) of such Act is amended—

(A) in the first sentence, by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof the following: "shall be composed of the Chairperson of the Social Security Board, and the Secretary of the Treasury, ex officio"; and

(B) by striking out "Social Security Administration" in the fourth sentence and inserting in lieu thereof "Social Security Agency".

(c)(1) Section 402 of such Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(2) Section 411 of such Act is amended—

(A) in subsection (a), by striking out "Secretary" and inserting in lieu thereof "Commissioner, at the request of the Secretary,", and by striking out "Social Security Administration" and inserting in lieu thereof "Social Security Agency"; and

(B) in subsection (b), by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner".

(d)(1) Section 704 of such Act is amended—

(A) by inserting "and the Commissioner" after "Secretary" the first place it appears;

(B) by inserting "each" after "shall";

(C) by striking out "the functions with which he is charged" and inserting in lieu thereof "his or her functions"; and

(D) by striking out "of such" each place it appears and inserting in lieu thereof "of each such".

(2) Section 709(b)(2) of such Act is amended by striking out "(as estimated by the Secretary)" and inserting in lieu thereof "(as estimated by the Commissioner)".

(3) Title VII of such Act is further amended by adding at the end thereof the following new section:

"DUTIES OF SECRETARY

"SEC. 713. The Secretary shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security and as to legislation and matters of administrative policy concerning the programs administered by the Secretary and related subjects; except that nothing in this section shall be construed to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Agency.".

(e)(1) Section 1101(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(10) The term 'Commissioner' means the Commissioner of Social Security.".

(2) Section 1102 of such Act is amended by striking out "and the Secretary of Health, Education and Welfare" and inserting in lieu thereof "the Secretary of Health and Human Services, and the Commissioner of Social Security".

(3) Section 1106(a) of such Act is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking out "Federal Security Agency" and inserting in lieu thereof "applicable agency";

(C) by striking out "Administrator" and inserting in lieu thereof "head of the applicable agency"; and

(D) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection and subsection (b)—

"(A) the term 'applicable agency' means—

"(i) the Social Security Agency, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Agency,

"(ii) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department, or

"(iii) the Department of Labor, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department, and

"(B) the term 'head of the applicable agency' means, in the case of the Social Security Agency, the Commissioner of Social Security.".

(4) Section 1106(b) of such Act is amended—

(A) by striking out "Secretary" and inserting in lieu thereof "head of the applicable agency"; and

(B) by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "applicable agency".

(5) Section 1106(c) of such Act is amended—

(A) by striking out "the Secretary" the first place it appears and inserting in lieu thereof "the Commissioner or the Secretary"; and

(B) by striking out "the Secretary" each subsequent place it appears and inserting in lieu thereof "such Commissioner or Secretary".

(6) Section 1106(d) of such Act is amended by inserting "the Commissioner and" after "this section".

(7) Section 1106(e) of such Act is amended—

(A) by striking out "by the Secretary" and inserting in lieu thereof "by the Commissioner, the Secretary,"; and

(B) by inserting "or the Commissioner" after "Secretary" the second and third places it appears.

(8) Section 1107(b) of such Act is amended by striking out "the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "the Commissioner or the Secretary".

(9) Section 1110 of such Act is amended—

(A) by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner";

(B) by striking out "he", "his", and "him" each place they appear and inserting in lieu thereof "the Commissioner", "the Commissioner's", and "the Commissioner", respectively; and

(C) by striking out "or makes them himself", in subsection (b)(1), and inserting in lieu thereof "or the Commissioner makes them".

(10)(A) Subsections (a), (b), and (i) of section 1122 of such Act are each amended by inserting "Commissioner and the" before "Secretary" each place it appears.

(B) Subsections (c), (d), (e), and (f) of such section are each amended—

(i) by striking out "the Secretary" each place it appears and inserting in lieu thereof "the Commissioner or the Secretary (as the case may be)"; and

(ii) by striking out "titles XVIII and XIX" each place it appears and inserting in lieu thereof "title XVIII or title XIX (as the case may be)".

(C) Subsection (j) of such section is amended by striking out "the Secretary" and inserting in lieu thereof "the Commissioner".

(11) Section 1123 of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner".

(12)(A) Section 1124(a)(1) of such Act is amended—

(i) by inserting "(or, with respect to programs established under title XVIII, the Commissioner)" after "the Secretary";

(ii) by inserting ", the Commissioner," after "the Secretary" the first and second places it appears; and

(iii) by striking out "Secretary in" and inserting in lieu thereof "Secretary or the Commissioner, as the case may be, in".

(B) Section 1124(b) of such Act is amended by inserting "or the Commissioner, as the case may be" after "Secretary".

(13) Section 1126 of such Act is amended—

(A) by inserting ", the Commissioner," after "Secretary" each place it appears;

(B) by striking out "in the Department of Health, Education, and Welfare" and inserting in lieu thereof "in the Department of Health and Human Services, or the Inspector General in the Social Security Agency, as the case may be,"; and

(C) by striking out "notify the" and inserting in lieu thereof "notify such".

(14) Section 1127 of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Commissioner".

(15)(A) Subsections (a) and (b) of section 1128 of such Act are each amended—

(i) by inserting "(or, with respect to title XVIII, the Commissioner)" after "Whenever the Secretary",

(ii) by striking out ", the Secretary";

(iii) by inserting "the Commissioner" after "(1)";

(iv) by inserting "the Secretary or the Commissioner (as the case may be)" after "(2)(A)";

(v) by inserting "the Secretary" before "may" in paragraph (2)(A);

(vi) by inserting "the Secretary" after "(B)"; and

(vii) in paragraph (3) of subsection (a) only, by inserting "the Secretary or the Commissioner (as the case may be)" after "(3)".

(B) Subsection (c) of such section is amended by inserting "or the Commissioner, as the case may be," after "Secretary" each place it appears.

(C) Subsection (d) of such section is amended—

(i) by inserting "or the Commissioners, as the case may be," after "Secretary" each place it appears; and

(ii) by striking out "Secretary's final decision" and inserting in lieu thereof "the final decision of the Secretary or the Commissioner, as the case may be,".

(16)(A) Subsection (a) of section 1128A of such Act is amended—

(i) in paragraph (1) by inserting "(or, with respect to claims under title XVIII, the Commissioner)" after "that the Secretary",

(ii) in paragraph (1)(B) by inserting "or the Commissioner" after "Secretary" the first place it appears, and

(iii) in paragraph (1)(B) by striking out "Secretary" the second and third places it appears and inserting in lieu thereof "Commissioner".

(B) Subsections (b) and (c) of such section are each amended by inserting "(or, with respect to claims under title XVIII, the Commissioner)" after "Secretary" each place it appears.

(C) Subsection (d) of such section is amended—

(i) by inserting "or the Commissioner" after "Secretary" each place it appears, and

(ii) by inserting "or the Commissioner's" after "Secretary's".

(D) Subsection (e) of such section is amended—

(i) by inserting "or the Commissioner (as the case may be)" after "the Secretary" the first place it appears, and

(ii) by inserting "or the Commissioner" after "Secretary" the second and third places it appears.

(E) Subsection (f) of such section is amended by inserting "or the Commissioner" after "Secretary" each place it appears.

(F) Subsection (g) of such section is amended by inserting "or the Commissioner's" after "Secretary's".

(17)(A) Section 1129 of such Act is amended by inserting "(in consultation with the Social Security Administration)" after "Secretary" in the second sentence of subsection (a) and in subsection (b)(1).

(B) Section 1129(b)(2) of such Act is amended by striking out "title XVIII or XIX" and inserting in lieu thereof "title XIX and the Commissioner may waive such requirements of title XVIII".

(18)(A) Section 1131 of such Act is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Commissioner".

(B)(i) Subsections (d) and (f) of section 6057 of the Internal Revenue Code of 1954 are each amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner of Social Security".

(ii) The caption of section 6057(d) of such Code is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Commissioner of Social Security".

(f) Section 1817(b) of such Act is amended—

(1) by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof "shall be composed of the Chairperson of the Social Security Board and the Secretary of the Treasury, ex officio";

(2) by striking out "Administrator of the Health Care Financing Administration" and inserting in lieu thereof "Commissioner of Social Security"; and

(3) by striking out "Chief Actuarial Officer of the Health Care Financing Administration" and inserting in lieu thereof "Chief Actuary of the Social Security Agency".

(g) Section 1841(b) of such Act is amended—

(1) by striking out "shall be composed of" and all that follows through "ex officio" and inserting in lieu thereof "shall be composed of the Chairperson of the Social Security Board and the Secretary of the Treasury, ex officio";

(2) by striking out "Administrator of the Health Care Financing Administration" and inserting in lieu thereof "Commissioner of Social Security"; and

(3) by striking out "Chief Actuarial Officer of the Health Care Financing Administration" and inserting in lieu thereof "Chief Actuary of the Social Security Agency".

(h) The Inspector General Act of 1978 is amended—

(1) in section 2(1), by striking out "and the Veterans' Administration" and inserting in lieu thereof "the Veterans' Administration, and the Social Security Agency";

(2) in section 9(a)(1), by striking out "and" at the end of subparagraph (M), and by adding at the end thereof the following new subparagraph:

"(O) of the Social Security Agency, to the extent provided in the Social Security Administrative Reorganization Act, the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, and the medicare program under title XVIII of such Act; and";

(3) in section 11(1), by striking out "or" after "Transportation" and inserting in lieu thereof a comma, and by inserting after "Affairs," the following: "or the Commissioner of Social Security of the Social Security Agency,"; and

(4) in section 11(2), by striking out "or" after "Transportation", and by inserting after "Veterans' Administration," the following: "or the Social Security Agency,".

(i)(1) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, or the medicare program under title XVIII of such Act, such reference shall be considered a reference to the Social Security Agency.

(2) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to—

(A) the Social Security Board, with respect to functions described in section 701 of the Social Security Act (as amended by this title), and

(B) the Commissioner of Social Security, with respect to functions described in section 702 of the Social Security Act (as amended by this title).

(3) Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Agency.

SEC. 308. REPORTS ASSESSING ORGANIZATIONAL CHANGES.

(a) Five years after the date of the enactment of this title, the Social Security Board, the Comptroller General of the United States, and the Secretary of Health and Human Services shall each submit to each House of the Congress a report setting forth in detail an assessment of the organizational changes made by this title and the amendments made by this title.

(b) Not later than one year after the date of the enactment of this title, the Social Security Board, the Comptroller General of the United States, and the Secretary of Health and Human Services shall submit to each House of the Congress their recommendations for further technical and conforming amendments necessary to effectively and efficiently carry out the purposes of this title.

SEC. 309. EFFECTIVE DATE AND INTERIM RULES.

(a)(1) Sections 302, 303, 304, 305, and 307 of this title shall take effect one year after the date of enactment of this title.

(2) Notwithstanding the effective date set forth in paragraph (1), effective on the date of the enactment of this title—

(A) the initial members of the Social Security Board may be appointed before such effective date, after the date of the enactment of this title, and the Commissioner of Social Security, the Inspector General, the Chief Actuary, the Director of Policy Analysis and Legislation, and the General Counsel of the Social Security Agency may be appointed by such Board at any time after such initial members of the Social Security Board have been appointed,

(B) the persons appointed under subparagraph (A) shall be compensated from the date they first take office, at the rates provided for in the amendments to title 5, United States Code, made by sections 302(b) and 303(b) of this title,

(C) such compensation and related expenses of such persons shall be paid from funds available in the Department of Health and Human Services for the functions vested in the Social Security Agency by this title and the amendments made thereby, and

(D) the Social Security Board and the Commissioner of Social Security may each utilize, as appropriate, the services of such officers, employees, and other personnel of the Department of Health and Human Services, and funds appropriated to the functions of such Department to be transferred by this title and the amendments made thereby, for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

(b) The amendment made by section 306 of this title shall apply with respect to fiscal years beginning one year after the date of enactment of this title.

By Mr. GLENN:

S. 2916. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes; referred to the Committee on Labor and Human Resources.

CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING ACT

● Mr. GLENN. Mr. President, I rise today to introduce the Congressional Scholarship for Science, Mathematics, and Engineering Act of 1988. This bill will help strengthen the science base of the United States by encouraging more high school students to pursue careers in science, mathematics, and engineering. These future scientists will play a vital part in determining whether the American economy will be a winner or loser in an increasingly technology-driven global economy. Looking at it on a more practical level, whether we have enough good jobs for all of our citizens in the years ahead will depend largely on the scientific minds working in America's university labs, manufacturing plants, and corporate research and development centers.

This proposal, first advanced in H.R. 5518 by Congressman DOUG WALGREN, is remarkably simple. The bill would direct the National Science Foundation to award college scholarships of up to $5,000 to one female and one male high school senior from each congressional district to study science, mathematics, and engineering at the college of their choice. Modeled in part on congressional appointments to our military academies, these 4-year scholarships represent the Federal Government's parallel interest in assuring that the Nation's science base is well staffed.

Americans still find it difficult to understand and accept that the United States competes in a global economy. Our unchallenged leadership position after World War II and our vast natural resources allowed us the luxury of easily-won gains in our standard of living. For many American businesses, postwar prosperity was achieved without much challenge from our trading partners, many of which were rebuilding their war-damaged economies. Today, however, imports and exports represent twice as large a portion of

our gross national product as they did two decades ago. More than 70 percent of the goods manufactured right here in the United States now compete with merchandise made somewhere overseas. Moreover, our trade deficits are another sorry reminder that there is no longer a truly domestic U.S. economy.

Perhaps most important to America's future economic prosperity is technology. Consider the conclusion of the President's Commission on Industrial Competitiveness—which is often called the Young Commission:

Technology propels our economy forward. * * * Innovation has created whole new industries and the renewal of existing ones. State-of-the-art products have commanded premium prices in world markets, and technological advances have spurred productivity gains. Thus America owes much of its standard of living to U.S. preeminence in technology.

There exists, however, on the horizon a demographic development that poses a direct threat to American preeminence in technology, and necessarily, a threat to our economic prosperity. This country simply does not produce enough scientists, mathematicians, and engineers.

Of the 4 million high school seniors who graduated in 1979, only 15 percent of them were considering a career in the natural sciences or engineering. By the time this senior class graduated from college 4 years later, only 1.5 percent of them earned bachelor degrees in the natural sciences or engineering. Worse yet, only 9,700 members of the high school class of 1979 earned Ph.D.'s, a meager 0.2 percent of the class.

The figures for engineering are not better. The United States and Japan, the two greatest trading nations in the world, both produce about 70,000 engineers every year. But Japan's labor force is half the size of ours. And the Soviet Union turns out more than 300,000 engineers a year. Consider also that 5 years ago the American Electronics Association projected that 200,000 new positions for electrical engineers and computer sciences would be created by 1987. This figure is twice the number our universities graduated during that time.

This bill will not close the scientist gap, but it is a good start. The winners of these 4-year congressional scholarships for science and engineering would serve as highly visible role models for high school students in every congressional district in the Nation—especially if the awards come to symbolize our Nation's stake in science and engineering.

The scholarships will be awarded on the basis of merit and through a competitive selection process administered by a committee of local educators, scientists, mathematicians, and engineers. The National Science Foundation would be entirely responsible for its implementation.

The initial cost of the program would be about $5.5 million, growing to about $18 million when the program is fully operational. The bill authorizes 870 4-year scholarships worth as much as $5,000 per year. Given the importance of technology to our future prosperity, the cost of this program is well within our means.

It is my intent that these scholarships not collect dust on some guidance counselor's book shelf. I envision the National Science Foundation, in cooperation with the schools, making a strong effort to bring this scholarship to the attention of the Nation's school children, using, for example, slick marketing devices such as posters and public service radio and television announcements. The announcement of winners will come with great fanfare and publicity, designed to heighten the community's awareness of the awards themselves and the purpose behind them. The scholars will be role models in the same way that service academy appointees are.

Mr. President, I ask that a copy of this legislation be printed in the RECORD following my remarks.

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

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Scholarships for Science, Mathematics, and Engineering Act".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to strengthen the United States science, mathematics, and engineering base by offering opportunities to pursue postsecondary education in science, mathematics, and engineering;

(2) to encourage role models in scientific, mathematics, and engineering fields for young people; and

(3) to strengthen the United States scientific, mathematics, and engineering potential by encouraging equal participation of women with men in scientific, mathematics, and engineering fields.

SEC. 3. CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING.

(a) ESTABLISHMENT OF PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall establish and implement a competitive, merit-based program for selecting one male and one female from each congressional district of the United States each year to receive a four-year Congressional Scholarship for Science, Mathematics, and Engineering.

(b) NOTIFICATION OF SECONDARY SCHOOLS.—The Director shall notify all public and private secondary schools and all institutions of higher education in the United States annually of the availability of scholarships under this Act.

(c) NOMINATING COMMITTEES.—The Director shall establish for each congressional district, or, to the extent a contiguous group of congressional districts reflects a geographic region similar in demographics, geography, and economic status and activity, for each such group of congressional districts, a broad-based committee of educators, scientists, mathematicians, and engineers who shall submit to the Director nominations of one male and one female from each congressional district for scholarships under this Act. The membership of each committee shall reflect geographic distribution within its area.

(d) ELIGIBILITY.—Only individuals who—

(1)(A) are citizens or nationals of the United States, or

(B) are aliens lawfully admitted to the United States for permanent residence; and

(2) have either applied or been accepted for admission to an institution of higher education in the United States that is accredited by a nationally recognized accrediting Agency or association,

shall be eligible for scholarships under this Act.

(e) CRITERIA FOR NOMINATION AND SELECTION.—Individuals shall be nominated and selected for scholarships under this Act on the basis of potential to successfully complete a postsecondary program in science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. The Director shall determine the criteria for measuring the potential and motivation of nominees.

(f) NATURE AND AMOUNT OF SCHOLARSHIPS.—Scholarships awarded under this Act may be used only for tuition, fees, and room and board expenses. Such scholarships shall be limited to a maximum of $5,000 per year, except as necessary to accommodate a recipient completing a four-year academic program in less than four years.

(g) MAINTAINING ELIGIBILITY.—(1) In order to maintain eligibility to receive funds pursuant to a scholarship awarded under this Act, a student must—

(A) be enrolled at an institution of higher education in the United States that is currently accredited by a nationally recognized accrediting agency or association;

(B) major in any field of science, mathematics, or engineering;

(C) maintain academic performance in good standing, as determined by such institution; and

(D) except as provided in paragraph (2), carry a full-time academic work load, as determined by the institution in which the student is enrolled under standards applicable to all students enrolled in that student's program.

(2) The Director shall make exceptions to the requirement under paragraph (1)(D) in the case of—

(A) active duty as a member of the armed services;

(B) disability certified by a qualified physician; or

(C) exceptional personal circumstances or emergencies, as determined by the Director.

(h) MONITORING IMPLEMENTATION AND COMPLIANCE.—The Director shall monitor the implementation of and compliance of the nominating committees with this Act.

SEC. 4. NONDISCRIMINATION.

(a) SOLICITATION, NOMINATION, AND SELECTION OF STUDENTS.—The Director shall ensure that the solicitation, nomination, and selection of students for the program established by this Act shall be carried out

without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, marital status, parental status, or sexual preference.

(b) SELECTION OF NOMINATING COMMITTEES.—The Director shall ensure that the selection of nominating committees under section 3(a) shall be carried out without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, sex, marital status, parental status, or sexual preference.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Science Foundation for the purpose of carrying out this Act $5,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.●

By Mr. GORE (for himself and Mr. BREAUX):

S. 2917 A bill to implement the recommendations of the Interagency Committee and the technical study group on cigarette and little cigar fire safety, and for other purposes; referred to the Committee on Commerce, Science, and Transportation.

FIRE SAFE CIGARETTE IMPLEMENTATION ACT

● Mr. GORE. Mr. President, I rise today to introduce a new legislative initiative. Today I am submitting legislation, along with my distinguished colleague, Senator BREAUX of Louisiana, to implement the findings of the Interagency Committee on Cigarette and Little Cigar Fire Safety, created to study the feasibility of introducing a more fire safe cigarette.

Mr. President, every year thousands of fires are started through the careless handling of cigarettes and little cigars. To address this problem, Congress authorized the formation of the Interagency Committee on Cigarette and Little Cigar Fire Safety in 1984.

The Interagency Committee was directed to study fire safety with regard to cigarette composition. The goal of the study was to determine two things: First, the possibility of developing a cigarette that would have a significantly reduced propensity to ignite materials with which it came in contact and, second, the commercial feasibility of marketing such a cigarette.

The Interagency Committee reported the results of its study in December 1987. It found that it is technically feasible to develop a less fire-prone cigarette. This can be done through four cigarette modifications; a smaller circumference, lower density tobacco, less porous paper and a reduction of the citrate addition to cigarette paper. However, in consideration of the marketability of such a cigarette, the Interagency Committee determined that further testing and study are needed.

Additionally, researchers found that as many as 1,500 deaths, 7,000 serious burn injuries and nearly $500 million in property losses could be prevented each year in the United States if a less fire-prone cigarette could be developed and marketed. Finally, the committee found that further study is needed to determine the health effects of the modified cigarette.

Mr. President, the bill I am introducing today would implement the recommendations of the Interagency Committee. This legislation would establish an advisory committee to continue the study begun in 1984. The advisory committee would be directed to report its findings to Congress within 18 months of its authorization. If the committee determined that still more time was needed to complete the study, an additional 18 months would be allotted.

Mr. President, this is literally a life and death matter. The issue of fire safety should be treated with the utmost seriousness. It is appropriate that we complete this research, as recommended by the Interagency Committee. As chairman of the Consumer Subcommittee, I am concerned that we are doing everything possible to minimize the risk of cigarette-related fires. To this end, one thing we can do is establish minimum fire safety standards for cigarettes. I believe the results of this study will be invaluable in the consideration of reasonable cigarette modifications. Toward that end, I anticipate that when the study is completed, the Consumer Product Safety Commission or the Food and Drug Administration or some other body will be prepared to implement standards.

I urge my colleagues to join Senator BREAUX and me in supporting this bill to complete the unfinished research on cigarette fire safety. I ask that the text of the legislation be printed in the RECORD.

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

S. 2917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Fire Safe Cigarette Implementation Act of 1988".

(b) FINDINGS.—The Congress finds that—

(1) the Interagency Committee and the Technical Study Group on Cigarette and Little Cigar Fire Safety have submitted reports to the Congress, as required by the Cigarette Safety Act of 1984, on the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars having a minimum propensity to ignite upholstered furniture and mattresses,

(2) those reports indicate that the Technical Study Group, during the period specified by the Congress, made substantial progress in its work and urge that the Federal effort with respect to cigarette and little cigar fire safety be continued in certain specified areas, and

(3) there is a need for Federal legislation to complete the work mandated by the Cigarette Safety Act of 1984, implement the recommendations of the Technical Study Group, and address other issues.

SEC. 2. INTERAGENCY COMMITTEE AND IMPLEMENTATION TASK FORCE.

(a) INTERAGENCY COMMITTEE.—The Interagency Committee on Cigarette and Little Cigar Fire Safety (hereinafter referred to as the "Interagency Committee"), created by the Cigarette Safety Act of 1984, is reestablished for the purpose of overseeing and reviewing the work of the Implementation Task Force (hereinafter referred to as the "Task Force") established under subsection (b). The Interagency Committee may request the head of any Federal department or agency to assist the Interagency Committee or the Task Force, or both, in carrying out their responsibilities. The Interagency Committee also may retain or contract with such consultants as may be deemed necessary without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and the Act of June 10, 1936 (known as the Walsh-Healey Act) (41 U.S.C. 35-45). The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(b) IMPLEMENTATION TASK FORCE.—There is established an Implementation Task Force which shall consist of—

(1) 2 scientists having expertise in the development of a valid and reliable method for testing the ignition propensity of cigarettes and little cigars, one of whom shall be appointed by the Chairman of the Consumer Product Safety Commission from among the employees of the Commission and the other of whom shall be appointed by the Director of the Center for Fire Research of the National Bureau of Standards from among the employees of the National Bureau of Standards,

(2) 2 scientists having expertise concerning the possible consequences for smokers of any cigarette or little cigar modification, one of whom shall be appointed by the Director of the National Institutes of Health from among the employees of the National Institutes of Health and the other of whom shall be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from a list of individuals submitted by the American Health Foundation,

(3) 2 scientists having expertise in the chemistry and physics of combustion to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from lists of individuals submitted by the International Association of Fire Chiefs and the International Association of Fire Fighters,

(4) 2 scientists having expertise in the content and characteristics of soft furnishings and fabrics to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association and the Business and Institutional Furniture Manufacturers Association, and

(5) 5 scientists having expertise in the manufacture and design of cigarettes and little cigars to be appointed by the Chairman of the Interagency Committee, with the advice and consent of the Interagency Committee, from a list of individuals submitted by The Tobacco Institute.

The persons appointed to serve on the Task Force may designate, with the advice and

consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Task Force's functions under section 3.

SEC. 3. RESPONSIBILITIES, REPORTING.

(a) TASK FORCE RESPONSIBILITIES.—The Task Force, subject to oversight and review by the Interagency Committee, shall continue the work specified by the Cigarette Safety Act of 1984, including implementing the recommendations contained in the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety. Such activities shall include—

(1) developing a validated test method to determine the ignition propensity of cigarettes and little cigars when in contact with upholstered furniture or mattresses,

(2) developing representative performance data for current market cigarettes, using the validated test method decribed in paragraph (1), to serve as a baseline to compare future cigarette performance,

(3) continuing laboratory studies on, and computer modeling of, ignition physics relating to cigarettes, little cigars, soft furnishings, and fabrics,

(4) designing and implementing a study or studies to collect baseline and follow-up data about the characteristics of cigarettes and little cigars, products ignited, and smokers involved in cigarette and little cigar fires,

(5) developing systematic knowledge (from existing or new sources as appropriate) on changes in the composition of smoke of modified cigarettes and little cigars and societal costs of injuries stemming from fires involving cigarettes of little cigars, and

(6) assessing the commercial feasibility and economic impact of manufacturing and marketing cigarettes and little cigars with reduced ignition propensity.

(b) HEARINGS.—For purposes of carrying out the functions described in subsection (a), the Interagency Committee and the Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Interagency Committee or the Task Force deems appropriate.

(c) CONFIDENTIALITY.—

(1) Any information provided to the Interagency Committee or to the Task Force under subsection (a) that is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and shall not be revealed except as provided by paragraph (2). No member of the Interagency Committee or Task Force, and no person assigned to or consulting with such entities, shall disclose any such information to any person who is not a member of, assigned to, or consulting with the Interagency Committee or Task Force unless the person submitting such information specifically and in writing authorizes such disclosure.

(2) Paragraph (1) does not authorize the withholding of any information from any duly authorized committee or subcommittee of the Congress, except that if a committee or subcommittee of the Congress requests access to confidential information that has been submitted to the Interagency Committee or the Task Force, the Chairman of the Interagency Committee shall promptly notify the person who provided the information of the request and shall not disclose the information until ten days have elapsed from such person's receipt of written notice that the information is to be disclosed.

(3) The Interagency Committee shall adopt, on a vote of a majority of its members, reasonable procedures to protect the confidentiality of trade secret and confidential information as defined in this subsection and shall be responsible for ensuring that the Task Force follows such procedures in its handling of trade secret and confidential information.

SEC. 4. DEFINITIONS.

As used in this Act, the terms "cigarettes" and "little cigars" shall have the meanings given such terms by section 3 of the Federal Cigarette Labeling and Advertising Act.

SEC. 5. REPORTS, TERMINATION.

The Interagency Committee shall submit to the Congress 18 months after the date of enactment and funding of this Act a report prepared by the Task Force describing the Task Force's progress in carrying out the work described in section 3. The Interagency Committee shall submit to the Congress no later than 18 months thereafter a final study report prepared by the Task Force. The Interagency Committee shall provide to the Congress, within 60 days after the submission by the Interagency Committee of the Task Force's final report, any policy recommendations the Interagency Committee may deem appropriate. The Interagency Committee and Task Force shall terminate one month after the submission of such policy recommendations.●

By Mr. GORE:

S. 2918. A bill to provide for a national plan and coordinated Federal research program to ensure continued United States leadership in high-performance computing; referred to the Committee on Governmental Affairs.

NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY ACT

● Mr. GORE. Mr. President, I rise today to introduce the National High-Performance Computer Technology Act of 1988, a bill to help address the economic and technological challenge of ensuring America's leadership in advanced computing. Advanced computers—supercomputers—are not just useful inventions. The supercomputer will be the locomotive of the information age just as the steam engine drove the Industrial Revolution.

Properly harnessed and directed, massive computing power can change the way America does business and conducts research. Supercomputers will allow us to create more accurate models of global climate change, to test new molecules for medical value, to design more efficient automobile engines, to analyze computer chip performance, and to enhance oil recovery, just to list a few examples. With high-speed computer networks, a surgeon in Nashville can send a CAT scan picture to a colleague at the Mayo Clinic and get a second opinion instantly. A particle physicist in California can check on an experiment being run at Fermilab in Illinois without having to leave his office.

However, in computer technology, the development of the hardware typically outpaces the development of the software, and the software outpaces public policy. We have been slow to react to the pace of progress in this field, and we cannot afford to delay. Even as we are just starting to realize the productivity gains the computer revolution can provide, we must take advantage of our computing technology and to cope with problems like computer security, software copyrights, and network development.

This legislation takes the first critical steps to address thoroughly the Federal Government's role in promoting high-performance computing. Over the next several months, we can refine this legislation. But we must act. The United States has maybe a 1-year lead over our closest competitors in the high-performance computing field. We cannot afford to hesitate in crafting a blueprint to ensure that lead for the next dozen years of this century and to position ourselves for the next century. Representatives from industry, academia, and Federal agencies should discuss what needs to be done, using this bill as a framework for action.

The National High-Performance Computer Technology Act of 1988 would expand and improve Federal support for research, development, and the application of high-performance computer technology. Specifically, this act would establish a high-capacity national research computer network, develop and distribute software, develop artificial intelligence programs, stimulate the development of hardware, and invest in basic research and education.

The act would define the Federal Government's role in high-performance computing. The act would provide for a 3-gigabit-per-second national network, develop Federal standards, take into account user views, examine telecommunications policy, build an information infrastructure composed of data bases and knowledge banks, create a national software corporation to develop important software programs, establish a clearinghouse to validate and distribute software, promote artificial intelligence data bases, increase research and development projects, study export controls affecting computers, review procurement policies to stimulate the computer industry, and enhance computer science education programs. It also clearly defines agency missions and responsibilities with respect to high-performance computing.

Finally, this bill would authorize funding to carry out the purposes of the act. Mr. President, I feel strongly that we cannot afford not to invest in computer technology. According to the proposed authorization, the National Science Foundation [NSF] would receive $50 million for fiscal year 1990 for its work on the national network. The NSF would receive an

additional $350 million through fiscal year 1994, enough money to establish the 3-gigabit-per-second national network. Furthermore, the act would authorize $150 million over 5 years for a national software corporation, $750 million over 5 years for a high-performance computer software developer, $450 million over 5 years for high-performance computer technology, and $150 million for basic research and education in universities to improve the training of scientists and engineers in computer science and computational science. Clearly, in this time of fiscal restraint, we must scrutinize additional funding. However, the return on this investment would be immense, and I believe it is essential.

I want to discuss further some of the elements of this bill. We must create a high-capacity, national fiber optic network to link supercomputer centers throughout the United States. We talk about infrastructure, referring to highways, bridges, and sewers. While we need those things, we must also recognize that the infrastructure we will need in the 21st century goes beyond traditional public works projects. I envision a national computer network linking academic researchers and industry, clustering research centers and businesses around network interchanges, and using the Nation's vast data banks as the raw material for increasing industrial productivity and creating new products. The High-Performance Computer Technology Act addresses the broad range of network concerns and speeds up the linking of the United States.

We must address the bottlenecks in computer software development. To alleviate that problem, one title of this act emphasizes the research, development, and application of high priority software projects, creating a corporation to provide seed money for critical projects. In addition, the bill would create a clearinghouse to validate and distribute federally funded software and other software in the public domain, including federally funded educational and training software.

The bill would support hardware development by such means as investment in R&D programs. Furthermore, the bill would promote adequate funding for research and development across the board. Finally, the bill recognizes and emphasizes education; we must educate and train our youth, giving students the skills and talents that will help us participate in the information revolution.

There are other possibilities. I see the Federal Government as a catalyst, of the nexus of industry, university, users, and manufacturers. Another idea we could explore within the framework of the bill includes naming a super-advisory board composed of the widest possible range of interested parties to advise the Congress, the Office of Science and Technology Policy, and the National Science Foundation.

High-performance computing promises to enhance the flexibility of U.S. industry. It promises unimagined breakthroughs in virtually all scientific disciplines. But we must realize that these benefits spring from the use of supercomputers.

Computational science represents a new field of scientific inquiry. The National High-Performance Computer Technology Act is an attempt to develop a long-term strategy to take full advantage of the possibilities computers offer us. I urge my colleagues to join with me to promote advanced computing and to set out clearly our role in this vital field.

I ask 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. 2918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National High-Performance Computer Technology Act of 1988".

SEC. 2. Congress finds and declares the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national security, and scientific advancement.

(2) The United States currently leads the world in development and use of high-performance computer technology for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and improved computer research networks are necessary to maintain United States leadership in the field of high-performance computing.

(4) In order to strengthen America's computer industry and to assist the entire manufacturing sector, the Federal Government must provide leadership in the development and application of high-performance computer technology. In particular, the Federal Government should support the development of a high-capacity, national research computer network; facilitate the development of software for research, education, and industrial applications; continue to fund basic research into the development and application of high performance computer technology; and provide for the training of computer scientists and computational scientists.

(5) Several Federal agencies have ongoing high performance computer technology programs. Improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

(6) A recent report by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multiagency computer technology program.

SEC. 3(a) The overall purpose of this Act is to ensure America's leadership in high-performance computer technology. This Act expands

Federal support for research, development, and application of high performance computing technology and improves the planning and coordination of Federal research and development on high-performance computing.

(b) The specific purposes of the Act are—

(1) to establish a high-capacity national resarch computer network.

(2) to develop and distribute software.

(3) to develop artificial intelligence programs.

(4) to stimulate the development of hardware.

(5) to invest in basic research and education.

TITLE I—NATIONAL HIGH-PERFORMANCE COMPUTER TECHNOLOGY PLAN

SEC. 101. (a)(1) The President, through the Office of Science and Technology Policy shall develop and implement a National High-Performance Computer Technology Plan (hereafter in this title referred to as the 'Plan') in accordance with the provisions, findings, and purpose of this title. Consistent with the responsibilities set forth under this section, the Plan shall contain recommendations for a 5-year national effort, to be submitted to Congress within 1 year after the date of enactment of this title and to be revised at least once every 2 years thereafter.

(2) The Plan shall—

(A) establish the goals and priorities for a Federal high-performance computer technology program for the fiscal year in which the plan (or revised plan) is submitted and the succeeding 4 fiscal years;

(B) set forth the role of each Federal agency and department in implementing the Plan;

(C) describe the levels of Federal funding and specific activities, including research activities, hardware and software development, operating expenses for computers and computer networks, and education, required to achieve such goals and priorities; and

(D) consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments—

(A) the National Science Foundation;

(B) the Department of Commerce, particularly the National Institute of Standards and Technology;

(C) the National Aeronautics and Space Administration;

(D) the Department of Defense, particularly the Defense Advanced Research Projects Agency, the Office of Naval Research, and, as appropriate, the National Security Agency;

(E) the Department of Energy;

(F) the Department of Health and Human Services, particularly the National Institutes of Health; and

(G) such other agencies and departments as the President or the Chairman of the Council considers appropriate.

(b) The Council shall—

(1) serve as lead entity responsible for development and implementation of the Plan;

(2) coordinate the high-performance computing research and development activities of Federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

(3) prior to the President's submission to Congress of the annual budget estimate, review each agency budget estimate in the context of the Plan and make the results of that review available to each agency and to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget;

(4) work with Federal agencies, with the National Research Council and with academic, State, and other groups conducting research on high-performance computing; and

(5) consult with actual and potential users of such research;

(c) The Plan shall set forth activities to carry the purposes of each title of this Act and shall ensure coordination among these various activities and agency programs.

(d)(1) The Plan shall take into consideration, but not be limited to, the following agency missions and responsibilities—

(A) The National Science Foundation shall continue to be responsible for basic research in all areas of computer science, materials science, and computational science. The Foundation shall continue to solicit grant proposals and award grants by merit review for research in universities, nonprofit research institutions, and industry. The National Science Foundation shall also be responsible for providing researchers with access to supercomputers and establishing, by 1994, a 3 gigabit per second national computer network. Additional responsibilities include development of an information infrastructure of data bases connected to the network, facilitating the validation and distribution of software over the national research network, and promoting science and engineering education.

(B) The National Institute of Standards and Technology shall be responsible for ensuring interoperability between computer networks run by different agencies of the Federal Government and for establishing, in conjunction with industry, benchmark tests and standards for higher-performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235), the National Institute of Standards and Technology shall continue to be responsible for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(C) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of computational science.

(D) The Department of Defense, through the Defense Advanced Research Projects Agency, the Office of Naval Research, and other agencies, shall continue to conduct basic and applied research in high-performance computing, particularly in computer networking, semiconductor technology, and large-scale parallel processors. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980, as amended, the Department shall ensure that nonclassified computer technology research is readily available for American industry. The National Security Agency, pursuant to the Computer Security Act of 1987, shall continue to provide, where appropriate, technical advice and assistance to the National Institute of Standards and Technology for the development of standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(E) The Department of Energy shall continue to conduct basic and applied research in high-performance computing, particularly in software development and multiprocessor supercomputers. Pursuant to the Stevenson-Wydler Technology Innovation Act of 1980, as amended, and other appropriate statutes, the Department shall ensure that nonclassified computer technology research is readily available for American industry.

(2) The Plan shall reflect the need for collaboration among agencies with respect to—

(A) ensuring interoperability between computer networks run by the agencies;

(B) distributing software among the agencies; and.

(C) distributing federally-funded, nonclassified software to industry and universities.

(e)(1) Each Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its high-performance computing activities, which—

(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities. The Office of Management and Budget shall ensure that a copy of the President's annual budget estimate is transmitted to the Chairman of the Council at the same time as such budget estimate is submitted to Congress.

SEC. 102. The Chairman of the Council shall prepare and submit to the President and the Congress, not later than January 31 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

(1) a summary of the achievements of Federal high-performance computing research and development efforts during that preceding fiscal year;

(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

(3) a copy or summary of the Plan and any changes made in such Plan;

(4) a summary of agency budgets for high-performance computing activities for that preceding fiscal year; and

(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.

TITLE II—NATIONAL RESEARCH COMPUTER NETWORK

(1) The National Science Foundation shall work for the research, development, and implementation of a 3 gigabit per second national research computer network. This national network shall—

(A) link government, industry, and higher education communities;

(B) be developed in close cooperation with the computer and telecommunications industry;

(C) be designed and developed with the advice of potential users in government, industry, and higher education;

(D) be phased out when commercial computer networks meet the networking needs of American researchers.

(2) the National Science Foundation will convene an advisory committee to advise on network user needs.

(3) the National Telecommunications and Information Administration shall determine to what extent current Federal telecommunications regulations hinder or facilitate private industry participation in the data transmission field. Within a year of the enactment of this Act, the NTIA shall report to Congress its findings.

(4) the National Institute of Standards and Technology will develop, in cooperation with the National Security Agency and other relevant agencies, a common set of standards for network activities to provide inter-operability, common user interfaces to systems, and enhanced security.

(5) the National Science Foundation, in cooperation with the Office of Science and Technology Policy, will, within one year, determine the most efficient mechanism to provide operating funds for the long-term maintenance and use of the national research computer network. The proposed funding mechanism should consider user fees, industry support, and continued federal investment.

In addition to such sums as may be authorized to be appropriated to the National Science Foundation by other Acts, there are authorized to be appropriated to the National Science Foundation for the research, development, and implementation of the national information infrstructure, including the national research computer network referred to in this Title, in accordance with the purposes of this Act, $50,000,000 for fiscal year 1990, $50,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, $100,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994.

TITLE III. NATIONAL INFORMATION INFRASTRUCTURE

Under the direction of the Office of Science and Technology Policy, and in cooperation with the National Science Foundation, DoD, and other relevant agencis, there shall be developed an information infrastructure of services, data bases, and knowledge banks accessible through the research computer network. Such an infrastructure shall include—

a directory of network users;

improved access to unclassified Federal scientific data bases, including weather data, census data and remote sensing satellite data;

provision for rapid prototype of computer chips and other devices using centralized facilities connected to the network, and

data bases and knowledge banks for use by artificial intelligence programs.

TITLE IV. SOFTWARE

PART A

There is established within the executive branch of the Federal government a National Software Corporation.

ESTABLISHMENT OF CORORATION

SEC. . (a) There is established within the executive branch of the Federal Government a National Software Corporation (hereafter in this act referred to as the "Corporation").

(b) The Corporation shall be operated under the general direction and supervision

of a board of directors which shall consist of—

(1) the Director of the National Science Foundation, and the Director of the Office of Science and Technology Policy, or their designees; and

(2) twelve individuals appointed by the President with the advice and consent of the Senate:

A vacancy in the board shall be filled in the manner in which the original appointment was made. Members of the board may be removed by the President for good cause.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, those members of the board of directors appointed pursuant to subsection (b)(2) of this section shall be appointed for terms of six years.

(2) Of the members first appointed pursuant to such subsection—

(A) three shall be appointed for a term of six years;

(B) three shall be appointed for a term of five years;

(C) three shall be appointed for a term of four years; and

(D) three shall be appointed for a term of three years.

(3) Any member of the board of directors appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiraiton of his term until his successor has taken office.

(e) The President shall appoint the Chairman of the board of directors.

(f) The board of directors shall meet at the call of the Chairman or a majority of its members. Ten members of the board shall constitute a quorum. A majority vote of the board shall be necessary to approve the actions of the Corporation under this Act. Members of the board may vote by written proxy or written assignment of proxy.

(g) The board of directors shall appoint an executive director who shall be responsible for the management and administration of the Corporation.

(h) Members of the board of directors appointed by the President shall each be paid at a daily rate equal to the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule and shall be entitled to travel expenses and a per diem in lieu of subsistence in accordance with subchapter I of chapter 57 of title 5, United States Code.

(i) Members of the board of directors who are full-time officers or employees of the Federal Government shall receive no additional pay by reason of their service on the board.

PRINCIPAL FUNCTIONS OF THE CORPORATION

SEC. . Subject to the availability of appropriations therefor, the Corporation shall—

(1) develop corporation participation criteria for the selection of high-quality computer software for high-performance computing.

(2) secure investment capital for projects, selected by the Corporation as warranting its assistance, to develop such software;

(3) make appropriate and reasonable investments in projects for the development of such software, subject to the limitations contained in this Act.

(4) enter into contracts and make grants to assist in the development of such software and

(5) engage in such other operations and activities as the board of directors determines to be necessary and appropriate to encourage the development and use of such software.

GENERAL AUTHORITIES OF THE CORPORATION

SEC. 5. In carrying out its functions under section 4, the Corporation is authorized—

(1) to adopt and use a corporate seal, which shall be judicially noticed;

(2) to sue and be sued in its corporate name;

(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

(4) to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate;

(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their corporation activities.

(7) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities);

(8) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

(9) to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates;

(10) to determine the character of and the necessity for its obligation and expenditures, and the manner in which such obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; and

(11) to take such sections as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

PROVISIONS CONCERNING INVESTMENTS BY THE CORPORATIONS

SEC. 6. (a) Any investment made by the Corporation under section 4(3) in a project for the development of high-quality, classified software for high-perfect computer must be based on a finding by the board of directors that—

(1) the proceeds of the investment will be used only to cover the initial capital needs of the project, except as otherwise specified in this Act;

(2) the project has a reasonable chance of success;

(3) the Corporation's investment is necessary to the success of the project because funding for the project is unavailable in the traditional or venture capital markets, or because funding has been offered on terms that would substantialy hinder the success of the project; and

(4) there is a reasonable possibility that the Corporation will recoup at least its initial investment.

(b) No investment shall be made by the Corporation unless the board of directors determines that a reasonable good faith effort has been made to secure a professional investor, in lieu of the Corporation, to make an adequate investment in the project, and that such effort was unsuccessful. Subject to the requirements of this Act, nothing shall prohibit the Corporation from making an investment in a project as a coventure with professional investors if the Corporation determines that such investment is appropriate to the success of the project.

(c) The Corporation shall not make any investment by which it exercises or has the power to exercise any voting rights under an equity security.

(d) For purposes of this section, the term "professional investor" means any bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources a substantial amount is dedicated to investing in securities or debt instruments and whose net worth exceeds $250,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated to carry out this Act $30,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.

PART B

This title establishes a clearinghouse to validate and distribute unclassified federally-funded software and other software in the public domain, including federally-funded educational and training software. This clearinghouse will work in conjunction with the National Software Corporation for the distribution of the software, and with the National Science Foundation supercomputer centers and the National Institute of Science and Technology to validate and evaluate software.

PART C

The National Institute of Standards and Technology will develop standards for software programs purchased by the Federal government.

PART D

The Office of Science and Technology Policy, as indicated in the Plan, will oversee the cooperative efforts of Federal departments and agencies in the research and development of high-performance computer software. Among the applications these projects could include would be programs focused on astrophysics, engineering, materials, plasma physics, and weather and climate forecasting.

PART E

There are authorized to be appropriated to the Office of Science and Technology Policy for distribution to the National Science Foundation, Department of Defense, Department of Energy, National Aeronautics and Space Administration, and other relevant agencies the research and development of high-performance computer software, in accordance wtih the purposes of this Title, $50,000,000 for fiscal year 1990, $100,000,000 for fiscal year 1991, $150,000,000 for fiscal year 1992, $200,000,000 for fiscal year 1993, and $250,000,000 for fiscal year 1994.

TITLE V. ARTIFICIAL INTELLIGENCE

For the purposes of this title, "artificial intelligence" shall be defined as the development of software and hardware which can be used for computer systems that learn, exhibit knowledge of itself and its environment, display creativity, or mimic other aspects of human intelligence. Artifi-

cial intelligence includes, but is not limited to expert systems, neural networks, natural language processing programs, translation programs, and higher-level programming languages.

Not less than ten percent of the funds authorized to be appropriated for high-performance computer software research and development in title IV shall be allocated to research and development of artificial intelligence and for joint research programs among government, industry, and the higher education community to develop artificial intelligence applications.

As described in title III, there shall be an information infrastructure which shall include data bases and knowledge banks for use by artificial intelligence programs.

This title establishes, through the National Science Foundation, ten regional university demonstration programs to increase the development and use of artificial intelligence applications. The university programs shall be training programs for industry, established in cooperation with industry.

TITLE VI. HARDWARE

The National Science Foundation shall continue to fund a national supercomputer centers program to provide researchers access to supercomputers.

Where appropriate, Federal agencies shall procure prototype or early production models of new high-performance computers to stimulate hardware and software development in the American supercomputer industry.

The Department of Commerce shall review export controls that hinder the development of foreign markets for American manufacturers of supercomputers and other high-performance computer technology.

The Federal government shall invest in research and development programs to develop high-performance computer technology. There are authorized to be appropriated, in accordance with the purposes of this title, $30,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, $120,000,000 for fiscal year 1993, and $150,000,000 for fiscal year 1994. These funds shall be distributed by the Office of Science and Technology Policy to individual agencies.

TITLE VII. RESEARCH AND DEVELOPMENT AND EDUCATION

The Office of Science and Technology Policy shall work with relevant departments to create technology transfer mechanisms to ensure that the results of basic research are readily available to American industry.

To support basic research and education in universities and to improve training of scientists and engineers in computer science and computational science, there are authorized to be appropriated to the National Science Foundation for education in high-performance computer technology, $10,000,000 for fiscal year 1990, $20,000,000 for fiscal year 1991, $30,000,000 for fiscal year 1992, $40,000,000 for fiscal year 1993, and $50,000,000 for fiscal year 1994.●

ADDITIONAL COSPONSORS

S. 708

At the request of Mr. PROXMIRE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

SENATE JOINT RESOLUTION 344

At the request of Mr. BURDICK, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 344, a bill to designate the week of November 20 through November 26, 1988, as "National Family Week."

SENATE JOINT RESOLUTION 372

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 372, a joint resolution to designate the week beginning November 21, 1988, through November 27, 1988, as "National Adoption Week."

SENATE JOINT RESOLUTION 381

At the request of Mr. BOND, the names of the Senator from Alabama [Mr. HEFLIN], the Senator form Wyoming [Mr. WALLOP], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 381, a joint resolution to designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery".

SENATE JOINT RESOLUTION 393

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. INOUYE], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 393, a joint resolution to designate December 7, 1988, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. WILSON, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution expressing the sense of the Congress concerning support for amateur radio and amateur radio frequency allocations vital for public safety purposes.

SENATE RESOLUTION 492

At the request of Mr. NICKLES, his name was added as a cosponsor of Senate Resolution 492, a resolution to express concern about the Soviet bloc governments.

SENATE RESOLUTION 503—COMMENDING KENNETH A. McLEAN FOR HIS SERVICE TO THE SENATE

Mr. PROXMIRE (for himself, Mr. ARMSTRONG, Mr. BOND, Mr. CHAFEE, Mr. CRANSTON, Mr. DIXON, Mr. DODD, Mr. GARN, Mr. GRAHAM, Mr. GRAMM, Mr. HECHT, Mr. HEINZ, Mr. KARNES, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH) submitted the following resolution; which was considered and agreed to:

S. RES. 503

Whereas Kenneth A. McLean has ably and faithfully served the United States Senate since 1967;

Whereas Kenneth A. McLean has executed his duties as the Staff Director of the Senate Committee on Banking, Housing and Urban Affairs with the utmost of integrity, perseverance, and personal dedication;

Whereas Kenneth A. McLean has clearly exemplified the honorable nature of an outstanding career in public service; and

Whereas Kenneth A. McLean has earned the highest respect of his colleagues and this institution: Now therefore be it

Resolved, That Kenneth A. McLean is hereby commended for his tireless and exemplary service to his country and to the United States Senate.

SENATE RESOLUTION 504—COMMENDING RONALD L. TAMMEN FOR HIS SERVICE TO THE SENATE

Mr. PROXMIRE submitted the following resolution; which was considered and agreed to:

S. RES. 504

Whereas Ronald L Tammen has ably and faithfully served the United States Senate since 1972;

Whereas Ronald L. Tammen has executed his duties as Administrative Assistant to Senator William Proxmire with unparalleled integrity, intelligence, and dedication to the ideals of the United States Senate;

Whereas Ronald L. Tammen has consistently served the interests of the citizens of the State of Wisconsin;

Whereas Ronald L. Tammen has earned the utmost respect of his colleagues in this institution: Now therefore be it

Resolved, That Ronald L. Tammen is hereby commended for his unfailing and exemplary service to his country, the State of Wisconsin and to the United States Senate.

SENATE RESOLUTION 505—AUTHORIZING PRINTING OF ADDITIONAL COPIES OF A SENATE DOCUMENT

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 505

Resolved, that there shall be printed as a Senate document "Accomplishments of the 100th Congress—Report by the Senate Democratic Policy Committee," and that an additional 500 copies be printed for distribution to the Members of the Senate as an official document.

SENATE RESOLUTION 506—AUTHORIZING PRINTING OF REMARKS RELATING TO SENATOR ROBERT C. BYRD

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 506

Resolved, That the statements of Senators appearing in the Congressional Record, as well as other related remarks, in tribute to Senator Robert C. Byrd upon his departure from the position of Majority Leader of the Senate be printed as a Senate Document.

SEC. 2. Such document shall be such style, form, manner, and binding, and shall include such other related remarks as directed by the Secretary of the Senate.

SEC. 3. There shall be printed 300 copies for use of the Senate.

SENATE RESOLUTION 507—TO REFER S. 1964 TO THE CHIEF JUDGE OF THE U.S. CLAIMS COURT FOR A REPORT

Mr. BYRD (for Mr. EXON and Mr. KARNES) submitted the following resolution; which was considered and agreed to:

S. RES. 507

Resolved, That the bill S. 1964 entitled "For the Relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimant from the United States.

SENATE RESOLUTION 508—AUTHORIZING CERTAIN APPOINTMENTS

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 508

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AMENDMENTS SUBMITTED

NATIONAL MUSEUM OF THE AMERICAN INDIAN

INOUYE AMENDMENT NO. 3739

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 1722) to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes; as follows:

That this Act may be cited as the "National American Indian Museum and Memorial Act".

SEC. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas, specifically Indians, Eskimos, and Aleuts:

(2) although the Smithsonian Institution employs 5,500 people, operates 19 museums, galleries, and major research facilities, and sponsors extensive American Indian programs, none of its museums are devoted specifically to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Native American art objects and artifacts and is one of the largest such collections in the world;

(4) the library of the Museum of the American Indian, Heye Foundation, houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens, and books is inadequatley housed in 3 separate facilities with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) access to the collections of the Museum of the American Indian, Heye Foundation, the Native American collection of the U.S. Department of the Interior, and the Native American collection of the Smithsonian Institution would—

(A) create opportunities for all Americans to learn of the cultural legacy and historic grandeur of Native American people; and

(B) provide—

(i) meeting places for scholars,

(ii) significant national facilities for the exhibition of American Indian art and artifacts,

(iii) stages for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

(v) traveling exhibitions to other areas of the country;

(8) skeletal remains of American Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by order of the Surgeon General of the United States Army and were later transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired a vast collection of Native American skeletal remains through—

(A) archaeological excavations,

(B) transfers from the United States Army Medical Museum of specimens collected during the era of the Indian wars, and

(C) donations from individuals and museums;

(10) the collection is estimated to contain the remains of approximately 18,000 American Indians, Eskimos, and Aleuts, and has concerned many Indian tribes and bands and Alaska Native villages who are determined to provide an appropriate resting place for their ancestors;

(11) a national memorial should be constructed in a suitable location on the National Mall in the District of Columbia for the purposes of—

(A) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and

(B) recognizing American Indian and Alaska Native people and the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(1) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for the construction of a suitable building in which to house the National Museum of the American Indian; and

(13) within the National Museum of the American Indian there should be a memorial to the American Indian and Alaska Native people as the First Americans.

SEC. 103. (a) There is established within the Smithsonian Institution a living memorial to Native American people and their traditions which shall be known as the "National Museum of the American Indian" (hereinafter referred to in the Act as the "Museum") which shall provide for—

(1) the advancement of the study of Native peoples of the Americas and the study of their languages, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

(b) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Board of Regents of the Smithsonian Institution as the permanent site of the Museum.

(c) The Board of Regents of the Smithsonian Institution is authorized—

(1) to accept for the Museum all assets of the Museum of the American Indian, Heye Foundation, established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916 in the city of New York;

(2) to access the Native American collection of the United States Department of the Interior for purposes of research, exhibition and display in the Museum;

(3) to access the Native American collection of the National Museum of Natural History for purposes of research, exhibition and display in the Museum;

(4) to prepare architectural and engineering designs, plans, and specifications, and to construct or otherwise acquire—

(A) a free standing public museum building at the site specified in subsection (b) of this section,

(B) a building suitable for the care, conservation and study of the Museum's collection and other collections to which the Museum has access at the Museum Support Center of the Smithsonian Institution in Suitland, Maryland, and

(C) an extension of the Museum in the Old U.S. Custom House at One Bowling Green in New York City, New York (hereinafter referred to in the Act as the Custom House),

all of which together shall aggregate not less than 400,000 square feet;

(5) to designate the building authorized to be constructed pursuant to subsection (c)(4)(A) of this section at the site specified in subsection (b) of this section as the "National Museum of the American Indian";

(6) to designate the building acquired pursuant to section 109(a)(1) as the "National Museum of the American Indian, George Gustav Heye Center";

(7) to enter into affiliation agreements with the Department of the Interior museums and other public and private museums for the establishment of regional facilities of the Museum, and for the exhibition and display in such regional facilities, the Museum's collection or other collections to which the Museum has access;

(8) to prepare a plan for the exhibition in the Museum of the Heye collection and the other collections to which the Museum has access; and

(9) to exercise all other powers incident to the administration, maintenance, operation, and preservation of the Museum.

SEC. 104. (a) The identity of the collection of the Museum of the American Indian, Heye Foundation, shall at all times be retained and preserved, and the nature, objects and purposes of the trust established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916 in the City of New York as set forth in section 109(a)(1) shall be preserved in perpetuity.

(b) Subject to limitations expressly provided by law, and in the case of a gift, subject to applicable restrictions under the terms of such gift and provided that such gift is made upon terms and conditions that are in harmony with the purposes of the Heye Foundation deed, the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

(c) All endowments for the benefits of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

SEC. 105. The Secretary of the United States Department of the Interior is authorized to—

(a) prepare an inventory of all items in the Native American collection of the Department;

(b) transmit a report on the inventory conducted pursuant to subsection (a) of this section to the Secretary of the Smithsonian Institution;

(c) enter into an agreement with the Secretary of the Smithsonian Institution for the access by the Museum to the Department's Native American collection; and

(d) enter into an agreement with the Secretary of the Smithsonian Institution to provide for exhibition of the Museum's collections in the regional museum facilities of the Department of the Interior.

SEC. 106. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Board of Trustees of the National Museum of the American Indian (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall recommend annual operating budgets and provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, maintenance, operation, and preservation of the Museum; and

(2) subject to general policy established by the Board of Regents of the Smithsonian Institution, shall have authority to—

(A) approve expenditures from the Museum's endowment or of income generated therefrom;

(B) raise funds for the Museum and determine the purpose to which those funds shall be applied;

(C) loan, exchange, sell or otherwise dispose of any part of the Museum's collection, provided that funds generated by any disposition shall be used only for acquisitions for the Museum's collections or additions to the Museum's endowment;

(D) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the Museum's collections;

(E) recommend policy with respect to the utilization and method of display of the Museum's collections;

(F) recommend policy with respect to the restoration, preservation, and maintenance of the Museum's collections; and

(G) consult with and advise the Director of the Museum on annual operating budgets to be recommended to the Board of Regents of the Smithsonian Institution and otherwise consult with, advise, and support the Director in the operation of the Museum.

(b) The Board of Trusteees shall—

(1) adopt bylaws to carry out its functions;

(2) designate a chairman from among its members, and such other officers as may be provided for in the bylaws; and

(3) report annually to the Board of Regents on the acquisition, disposition, and display of artifacts and on other matters within its discretion.

(c) The Board of Trustees shall consist of twenty-four members as follows:

(1) The Secretary of the Smithsonian and an Assistant Secretary, and the Secretary of the Interior, who shall serve as ex officio members;

(2) fifteen members of the Board of Trustees of the Museum of the American Indian, Heye Foundation who are serving as of the date of the transfer authorized in section 103(c)(1) and are willing to serve as Trustees of the National Museum of the American Indian; and

(3) six other members appointed by the Board of Regents of the Smithsonian Institution.

Those members of the Board of Trustees serving under the authority of subsections (c)(2) and (c)(3) of this section shall serve terms of three years.

(d) the successor members for the Board of Trustees serving under subsections (c)(2) and (c)(3) of this section shall be appointed by the Board of Regents of the Smithsonian Institution from a slate nominated by the initial Board of Trustees which shall include in its nominations, American Indians and Alaska Natives and scholars in the fields of American Indian history and culture. Of the successor members of the Board of Trustees, at least seven members shall be of American Indian or Alaska Native ancestry.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of successor members of the Board of Trustees shall be designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years.

(f) Any members appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(g) A majority of the members of the Board of Trustees, not including ex officio members, shall constitute a quorum and any vacancy in the Board of Trustees shall not affect its power to function.

(h) Members of the Board of Trustees shall be reimbursed for travel, subsistance, and other necessary expenses incurred by them in the performance of their duties.

SEC. 107. (a) The Secretary of the Smithsonian Institution may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, maintenance, operation, and preservation of the Museum.

(b) The Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of the United States Code.

(c) All of the employees of the Museum of the American Indian, Heye Foundation, who are serving on the date of the transfer authorized pursuant to section 103(c)(1) shall be offered employment by the Smithsonian Institution under its usual terms of employment and may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of the United States Code.

SEC. 108. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents of the Smithsonian Institution and the Board of Trustees of the Museum, so that the Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public.

SEC. 109. (a) The Administrator of the General Services Administration shall—

(1) make the Old U.S. Custom House at One Bowling Green, New York City, New York available to the Board of Regents of the Smithsonian Institution for use of the National Museum of the American Indian, George Gustav Heye Center, for the purpose of providing the means in the State of New York for carrying out the nature, objects, and purposes of the Heye Foundation Deed, executed and delivered by George Gustav Heye on May 10, 1916 in the City of New York, for—

(A) the advancement of the study of the native peoples of the Americas and the study of their languages, literature, history, art and life;

(B) the collection, preservation, study, research, and exhibition of all things connected with the native peoples of the Americas; and

(C) programs of research and study;

(2) be responsible for the maintenance and security of the Old U.S. Custom House, and such other functions as may be mutual-

ly agreed to by the Administrator and the Board of Regents of the Smithsonian Institution;

(3) consistent with the study and plan conducted by the Board of Regents of the Smithsonian Institution pursuant to section 103(c)(8), administer for Federal purposes such other portions of the Customs House that are not required for the use of the National Museum of the American Indian, George Gustav Heye Center; and

(4) consistent with the study and plan conducted by the Board of Regents of the Smithsonian Institution pursuant to section 103(c)(8), accept payment from the City of New York and the State of New York of not less than one-half of the capital costs associated with the repairs and alterations of the Custom House for use of the National Museum of the American Indian, George Gustav Heye Center.

(b) Upon final approval from the courts of New York of the plan submitted to the courts of New York by the Board of Trustees of the Museum of the American Indian, Heye Foundation pursuant to section 111, the City of New York and the State of New York shall each make payments to the Administrator of the General Services Administration of not less than one-half of the capital costs associated with the repairs and alterations of the Custom House for use of the National Museum of the American Indian, George Gustav Heye Center;

SEC. 110. (a) Effective October 1, 1988, there is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this title;

(b) Effective October 1, 1988, there is authorized to be appropriated to the Department of the Interior the sum of $1,000,000, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this title;

(c) Any sums appropriated to carry out the purposes of this title may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and to take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 111. The provisions of this title shall become effective when—

(a) The Board of Regents of the Smithsonian Institution—

(1) prepares a plan for the preservation, study, research, exhibition, curation and storage of the collection of the Museum of the American Indian, Heye Foundation which provides the means for carrying out the nature, objects, and purposes as set forth in section 109(a)(1);

(2) within ninety days of enactment of the Act, submits the plan developed pursuant to section 111(a)(1) to the Board of Trustees of the Museum of the American Indian, Heye Foundation for submission to the courts of New York; and

(b) The Board of Trustees of the Museum of the American Indian, Heye Foundation, has received final approval from the courts of New York to carry out the transfer authorized in section 103(c)(1).

SEC. 112. For purposes of this Act—

(1) The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act) which—

(A) is recognized by the Federal government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(6) The term "Custom House" means the Old United States Custom House, located at One Bowling Green in New York City, New York.

TITLE II

SEC. 201. Before the close of the fifth fiscal year following the date of enactment of the National American Indian Museum and Memorial Act, the Smithsonian Institution shall—

(a) identify to the fullest extent possible, the geographic and tribal origin of all human skeletal remains of American Indians and Alaska Natives in its possession; and

(b) submit to the Congress a report on the identity of those remains.

SEC. 202. There is authorized to be appropriated to the Smithsonian Institution, $1,000,000 annually for five fiscal years to carry out the purposes of this title.

AWARDS FOR COST SAVINGS DISCLOSURES

GLENN (AND ROTH) AMENDMENT NO. 3740

Mr. BYRD (for Mr. GLENN, for himself and Mr. ROTH) proposed an amendment to the bill (H.R. 4574) to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. EXPIRATION DATE OF PROGRAM.

(a) Section 4514 of title 5, United States Code, is amended to read as follows:

"§ 4514. Expiration of authority

"No award may be made under this subchapter after September 30, 1990.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:

"4514. Expiration of authority.".

SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

CRANSTON (AND WILSON) AMENDMENT NO. 3741

Mr. BYRD (for Mr. CRANSTON, for himself and Mr. WILSON) proposed an amendment to the amendment of the House to the bill (S. 795) to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, and intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the city of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act as a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested from time to time by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside of the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in Title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable :

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjuction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the deliver of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the secretary shall report to the Committee on Interior and Insular Affairs of the House of Reprsentatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considerd to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may

deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920, (16 U.S.C. 791a et seq.), commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon. . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617-617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canal foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works;

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the

conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsection (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.—

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractors other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;

(2) seasonal rate differentials;

(3) dry year surcharges;

(4) increasing block rates; and

(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;

(2) identify actions which could be undertaken to improve habitat at the refuge;

(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and

(4) described current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Amend the amendment of the House to the title so as to read: "An Act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes."

NATIONAL VOLUNTARY REUNION REGISTRY DEMONSTRATION PROGRAM

LEVIN AMENDMENT NO. 3742

Mr. BYRD (for Mr. LEVIN) proposed an amendment to the bill (S. 2010) to establish a National Voluntary Reunion Registry Demonstration Program; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is to provide for the establishment of a program which shall facilitate on a voluntary request basis, the reunion of birth parents and adopted persons, birth siblings or birth grandparents of adopted persons, through a centralized computer network.

SEC. 2. DUTIES OF THE SECRETARY.

(a) The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary") is authorized, in accordance with the provisions of this Act, to establish a National Voluntary Reunion Registry with the Department of Health and Human Services under the direction of a designee of the Secretary.

(b) The Secretary shall submit to Congress an annual report of all activities carried out under this Act. The report shall include the following:

(1) The total amount of fees collected.

(2) The number of applications submitted by birth parents, adopted parents, birth siblings, or other birth parents.

(3) The number of inquires ending in a successful match.

SEC. 3. VOLUNTARY REUNION REGISTRY.

(a) The National Voluntary Reunion Registry authorized under this Act shall provide centralized nationwide capacity, utilizing computer and data processing methods. Participation in the registry shall be voluntary by all parties involved.

(b)(1) The registry authorized under this Act shall provide that—

(A) a birth parent, or an adopted person over the age of 21 may initiate the matching process by submitting an application to the agency operating the system;

(B) a birth sibling or birth grandparents of an adopted person may also initiate the matching process whenever—

(i) the birth parent of an adopted person is deceased or his or her whereabouts is unknown;

(ii) the birth parent of an adopted person has consented in writing to the initiation of the matching process; or

(iii) under such other circumstances as the Secretary may determine to be appropriate after taking into consideration the privacy rights and interest of all parties who may be affected; and

(C) no attempt shall be made to facilitate a match unless both individuals involved in the match have initiated the process required to facilitate a reunion.

(2) The Secretary shall establish specific procedures for the purpose of, to the maximum extent feasible, protecting the confidentiality and privacy rights and interests of all parties participating in the program authorized by this Act. The Secretary shall establish procedures that provide that only information necessary to facilitate a match shall be contained in the registry, and the National Voluntary Reunion Registry shall not attempt to make contact for the purpose of facilitating a reunion, with any individual who is not entered into or participating in the registry program.

(3) Information pertaining to any individual which is maintained in connection with any activity carried out under this Act shall be confidential and not be disclosed for any purpose without the prior written, informed consent of the individual with respect to whom such information applies or is maintained.

(4) Reasonable fees, established by taking into consideration the costs of services provided for individuals under this Act and the income of such individuals, shall be collected for all services provided under this Act.

(c) The National Voluntary Reunion Registry may include the operation of a similar statewide identification computer system in a State which chooses to participate in the voluntary reunion registry and agrees to provide—

(1) provide necessary coordination with the voluntary identification system provided for in subsection (a) of this section;

(2) provide such financial participation as the Secretary may prescribe by the State; and

(3) establish standards and procedures for the operation of the statewide system which are consistent with those provided for in this Act.

(d) Any individual or entity found to have disclosed or used confidential information in violation of the provisions of this section shall be subject to a fine of $5,000 and imprisonment for a period not to exceed 1 year, and the provisions of section 3571 of title 18, United States Code, shall not apply to such violations.

SEC. 4. COUNSELING SERVICES.

(a) The Secretary may promulgate regulations that require the National Voluntary Reunion Registry established under this Act to include referral to existing programs that provide counseling services.

(b) If the Secretary promulgates regulations under subsection (a), on application to the registry, an applicant shall receive a referral list of licensed agencies, professionals, and adoption triad support groups that provide counseling services. Such services may include adoption peer support groups, community social service agencies, health professionals, and agencies providing family counseling.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary shall issue interim regulations necessary to carry out the provisions of this Act. The Secretary shall issue final regulations not later than 180 days after the date of enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and such sums as may be necessary for each of the final years 1990 and 1991.

HUMPHREY AMENDMENT NO. 3743

Mr. DOLE (for Mr. HUMPHREY) proposed an amendment to the bill S. 2010, supra; as follows:

On page 3, strike out lines 3 through 6 and insert in lieu thereof the following:

(A) the birth mother, or birth father (with the written consent of the birth mother) or an adoptee over the age of 21 may initiate the matching process by submitting an application to the agency operatign the system;

On page 3, line 24, strike out ", to the maximum extent feasible,".

On page 5, at the end of the page, insert the following new sections:

SEC. 5. WAIVER AUTHORITY.

The Secretary may waive the requirements of section 3(b)(1)(A) under such circumstances as the Secretary may determine to be appropriate.

SEC. 6. CONSTRUCTION.

Nothing in this Act—

(1) authorizes the Secretary to initiate or participate in any legal or administrative action to open a closed or sealed adoption record, unamended birth certificate, or other sealed document; or

(2) invalidates or limits any law of a State or political subdivision of a State concerning adoption and the confidentiality of records with regard to a document referred to in paragraph (1).

On page 6, line 1, strike out "5" and insert in lieu thereof "7".

On page 6, strike out lines 7 through 11 and insert in lieu thereof the following new section:

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for each of the fiscal years 1989, 1990, and 1991.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS

CHILES AMENDMENT NO. 3744

Mr. BYRD (for Mr. CHILES) proposed an amendment to the amendments of the House to the bill (S. 2215) to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1988".

SEC. 2. POLICY; FINDINGS AND PURPOSE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended by striking out "the Congress" and inserting "the United States Government".

(b) FINDINGS AND PURPOSE.—Section 3 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) is amended in subsection (a) by inserting "Government-wide" before "procurement policies".

SEC. 3. AUTHORITY AND FUNCTIONS OF THE OFPP ADMINISTRATOR.

(a) IN GENERAL.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

(1) in subsection (a), by striking out "which shall be implemented in the single system of Government-wide procurement regulations and shall be" and inserting a period and the following: "These policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation and shall be";

(2) in subsection (b)—

(A) by inserting after "timely manner" the following: ", including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a),"; and

(B) by striking out "may" and inserting "shall";

(3) in subsection (d) by striking out paragraphs (4) and (5) and inserting the following:

"(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

"(B) ensuring executive agency compliance with the record requirements of section 19;

"(5) providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;"; and

(4) in subsection (f) by striking out "The Director of the Office of Management and Budget" and inserting "The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency or agencies concerned,".

(b) REAUTHORIZATION.—Section 11 of such Act (41 U.S.C. 410) is amended by striking out "for each of the three succeeding fiscal years" and inserting "such sums as may be necessary for each succeeding fiscal year".

(c) CONFORMING AMENDMENT.—Section 4 of such Act is amended by striking out paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

SEC. 4. FEDERAL ACQUISITION REGULATORY COUNCIL.

The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATORY COUNCIL

"SEC. 25. (a) ESTABLISHMENT.—There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the 'Council') to assist in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government.

"(b) MEMBERSHIP.—(1) The Council shall consist of the Administrator for Federal Procurement Policy and—

"(A) the Secretary of Defense,

"(B) the Administrator of National Aeronautics and Space; and

"(C) the Administrator of General Services.

"(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official (A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies; or (B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. No other official or employee may be designated to serve on the Council.

"(c) FUNCTIONS.—(1) Subject to the provisions of section 6 of this Act, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.), shall jointly issue and maintain in accordance with subsection (f) of this section a single Government-wide procurement regulation, to be known as the 'Federal Acquisition Regulation'.

"(2) Any other regulations relating to procurement issued by an executive agency shall be limited to (A) regulations essential to implement Government-wide policies and procedures within the agency, and (B) additional policies and procedures required to satisfy the specific and unique needs of the agency.

"(3) The Administrator, in consultation with the Council, shall ensure that procurement regulations promulgated by executive agencies are consistent with the Federal Acquisition Regulation and in accordance with the policies set forth in in section 2 of this Act or any policies issued pursuant to section 6(a) of this Act.

"(4)(A) Under procedures established by the Administrator, a person may request the Administrator to review any regulation relating to procurement on the basis that such regulation is inconsistent with the Federal Acquisition Regulation.

"(B) Unless the request is frivolous or does not, on its face, state a valid basis for such review, the Administrator shall complete such a review not later than 60 days after receiving the request. The time for completion of the review may be extended if the Administrator determines that an additional period of review is required. The Administrator shall advise the requester of the reasons for the extension and the date by which the review will be completed.

"(5) If the Administrator determines that a regulation relating to procurement is inconsistent with the Federal Acquisition Regulation or that the regulation should otherwise be revised to remove an inconsistency with any policies issued under section 6(a) of this Act or the policies set forth in section 2 of this Act, the Administrator shall rescind or deny the promulgation of the regulation or take such other action authorized under section 6 as may be necessary to remove the inconsistency. If the Administrator determines that such a regulation, although not inconsistent with the Federal Acquisition Regulation or such policies, should be revised to improve compliance with such Regulation or policies, the Administrator shall take such action authorized under section 6 as may be necessary and appropriate.

"(6) The decisions of the Administrator shall be in writing and made publicly available. The Administrator shall provide a listing of such decisions in the annual report to Congress required by section 8 of this Act.

"(d) ADDITIONAL RESPONSIBILITIES OF MEMBERSHIP.—Subject to the authority, direction, and control of the head of the agency concerned, each official who represents an agency on the Council pursuant to subsection (b) shall—

"(1) approve or disapprove all regulations that are, after 60 days after the date of enactment of this section, proposed for public comment, promulgated in final form, or otherwise made effective by such agency relating to procurement before such regulation may be promulgated in final form, or otherwise made effective, except that such official may grant an interim approval, without review, for not more than 60 days for a procurement regulation in urgent and compelling circumstances;

"(2) carry out the responsibilities of such agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as that term is defined in section 3502(11) of title 44, United States Code) that relates to procurement rules or regulations; and

"(3) eliminate or reduce (A) any redundant or unnecessary levels of review and approval, in the procurement system of such agency, and (B) redundant or unnecessary procurement regulations which are unique to that agency.

The authority to review and approve or disapprove regulations under paragraph (1) of this subsection may not be delegated to any person outside the office of the official who represents the agency on the Council pursuant to subsection (b).

"(e) GOVERNING POLICIES.—All actions of the Council and of members of the Council shall be in accordance with and furtherance of the policies of section 2 and the policies prescribed under section 6(a) of this Act.

"(f) GENERAL AUTHORITY WITH RESPECT TO FAR.—Subject to section 6(b), the Council shall manage, coordinate, control, and monitor the maintenance of, and issuance of and changes in, the Federal Acquisition Regulation.

"(g) REPORTS.—The Administrator for Federal Procurement Policy shall—

"(1) publish a report within 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations to be issued in accordance with subsection (c) of this section;

"(2) include in each report published under paragraph (1)—

"(A) the status of each such regulation;

"(B) a description of those regulations which are required by statute;

"(C) a description of the methods by which public comment was sought with regard to each proposed regulation in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code;

"(D) regulatory activities completed and initiated since the last report;

"(E) regulations, policies, procedures, practices, and forms that are under consideration or review by the Office of Federal Procurement Policy;

"(F) whether the regulations have paperwork requirements;

"(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

"(H) such other matters as the Administrator determines would be useful; and

"(3) report to Congress within 180 days after the date of the enactment of this section, in consultation with the Administrator

of the Office of Information and Regulatory Affairs, regarding—

"(A) the extent of the paperwork burden created by the Federal procurement process, and

"(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while at the same time maintaining recordkeeping and reporting requirements necessary to ensure the integrity and accountability of the system.".

SEC. 5. COST ACCOUNTING STANDARDS BOARD.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"COST ACCOUNTING STANDARDS BOARD

"SEC. 26. (a) ESTABLISHMENT; MEMBERSHIP; TERMS.—(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the 'Cost Accounting Standards Board' (hereinafter referred to as the 'Board'). The Board shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows:

"(A) two representatives of the Federal Government—

"(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

"(ii) one of whom shall be an officer or employee of the General Services Administration appointed by the Administrator of General Services; and

"(B) two individuals from the private sector, each of whom shall be appointed by the Administrator and—

"(i) one of whom shall be a representative of industry; and

"(ii) one of whom shall be particularly knowledgeable about cost accounting problems and systems.

"(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

"(i) of the initial members, two shall be appointed for terms of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years;

"(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

"(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the agency from which he or she was appointed.

"(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

"(C) The initial members of the Board shall be appointed within 120 days after the date of enactment of this section.

"(b) SENIOR STAFF.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"(c) OTHER STAFF.—The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

"(d) DETAILED AND TEMPORARY PERSONNEL.—(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(e) COMPENSATION.—Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1), shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the Member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) COST ACCOUNTING STANDARDS AUTHORITY.—(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States in excess of $500,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(3) Not later than 180 days after the date of enactment of this section, the Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

"(4) The Board is authorized—

"(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

"(B) to establish procedures for the waiver of the requirements of this section with respect to individual contracts and subcontracts.

"(g) REQUIREMENTS FOR STANDARDS.—(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

"(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A);

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B);

"(ii) provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

"(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

"(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments.

"(2) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall have the full force and effect of law, and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of the contractor or subcontractor after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall be accompanied by prefatory comments and by illustrations, if necessary.

"(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(h) IMPLEMENTING REGULATIONS.—(1) The Board shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f). Such regulations shall be incorporated into the Federal Acquisition Regulation and shall require contractors and subcontractors as a condition of contracting with the United States to—

"(A) disclose in writing their cost accounting practices, including methods of distin-

guishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

"(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

"(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs (as defined by the Board). In no case shall the Government recover costs greater than the increased cost (as defined by the Board) to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

"(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period. Such interest shall accrue from the time payments of the increased costs were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

"(i) REPORTS TO CONGRESS.—The Board shall report to the Congress not later than one year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

"(j) EFFECT ON OTHER STANDARDS AND REGULATIONS.—(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

"(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this Act.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that no regulation or proposed regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section by rescinding or denying the promulgation of any such inconsistent regulation or proposed regulation and taking such other action authorized under section 6 as may be appropriate.

"(4) Costs which are the subject of cost accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) EXAMINATIONS.—For the purpose of determining whether a contractor or subcontractor has complied with cost accounting standards promulgated under this section and has followed consistently the contractor's or subcontractor's disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is repealed.

SEC. 6. PROCUREMENT INTEGRITY.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"SEC. 27. (a) PROHIBITED CONDUCT BY COMPETING CONTRACTORS.—During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly—

"(1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

"(2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or

"(3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement.

"(b) PROHIBITED CONDUCT BY PROCUREMENT OFFICIALS.—During the conduct of any Federal agency procurement of property or services, no procurement official of such agency shall knowingly—

"(1) solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor;

"(2) ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing contractor for such procurement; or

"(3) disclose any proprietary or source selection information regarding such procurement directly or indirectly to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(c) DISCLOSURE TO UNAUTHORIZED PERSONS.—During the conduct of any Federal agency procurement of property or services, no person who is given authorized or unauthorized access to proprietary or source selection information regarding such procurement, shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(d) CERTIFICATION AND ENFORCEMENT MATTERS.—(1) A Federal agency may not award a contract for the procurement of property or services to any competing contractor, or agree to any modification or extension of a contract, unless the officer or employee of such contractor responsible for the offer or bid for such contract, or the modification or extension of such contract, as the case may be—

"(A)(i) certifies in writing to the contracting officer responsible for such contract that such officer or employee of the competing contractor has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(ii) discloses to such contracting officer any and all such information and certifies in writing to such contracting officer that any and all such information has been disclosed; and

"(B) certifies in writing to such contracting officer that each officer, employee, agent, representative, and consultant of such competing contractor who has participated personally and substantially in the preparation or submission of such bid or offer, or in such modification or extension of such contract, as the case may be, has certified to such competing contractor that he or she—

"(i) is familiar with, and will comply with, the requirements of subsection (a) and applicable implementing regulations; and

"(ii) will report immediately to the officer or employee of the competing contractor responsible for the offer or bid for any contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or such applicable implementing regulations, pertaining to such procurement.

"(2) A Federal agency may not award a contract for the procurement of property or services, or agree to any modification or extension of any such contract, unless the contracting officer responsible for such procurement—

"(A) certifies in writing to the head of such agency that the contracting officer has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) discloses to the head of such agency any and all such information and certifies in writing that any and all such information has been disclosed.

"(3) The head of a Federal agency may require any procurement official or any competing contractor, at any time during the conduct of any Federal agency procurement of property or services—

"(A) to certify in writing to the head of such agency that such procurement official or the officer or employee of the competing contractor responsible for the offer or bid for such contract or the modification or extension of such contract, as the case may be, has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) to disclose to the head of such agency any and all such information and to

certify in writing that any and all such information has been disclosed.

"(4) If a procurement official leaves the Government during the conduct of such a procurement, such official shall certify that he or she understands the continuing obligation not to disclose proprietary or source selection information.

"(5) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file—

"(A) all certifications made by procurement officials and competing contractors with regard to such procurement, as required by this subsection; and

"(B) a record of all persons who have been authorized by the head of the agency or the contracting officer to have access to proprietary or source selection information regarding such procurement.

"(6) Any person making a certification required by this subsection shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification.

"(7)(A) This subsection applies only to contracts, extensions, and modifications in excess of $100,000.

"(B) This subsection need not be applied to a contract—

"(i) with a foreign government or an international organization that is not required to be awarded using competitive procedures pursuant to section 303(c)(4) of the Federal Property and Administrative Services Act of 1949 or section 2304(c)(4) of title 10, United States Code; or

"(ii) in an exceptional case, when the head of the Federal agency concerned determines in writing that this subsection should be waived pursuant to procedures and criteria established in implementing regulations issued pursuant to subsection (m) and notifies the Congress in writing of such determination.

The authority to make determinations under clause (ii) of this subparagraph may not be delegated.

"(e) RESTRICTIONS ON GOVERNMENT OFFICIALS AND EMPLOYEES.—No Government official or employee, civilian, or military, who has participated personally and substantially in the conduct of any Federal agency procurement or who has personally reviewed and approved the award, modification, or extension of any contract for such procurement shall—

"(1) participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the period ending 2 years after the last date such individual participated personally and substantially in the conduct of such procurement or personally reviewed and approved the award, modification, or extension of any contract for such procurement.

"(f) CONTRACTUAL PENALTIES.—(1) Regulations issued pursuant to subsection (m) shall require that each contract awarded by a Federal agency contain a clause specified in such regulation that provides appropriate contractual penalties for conduct of any competing contractor prohibited by subsection (a) and for any such conduct of any officer, employee, agent, representative, or consultant of such contractor.

"(2) The following remedies are authorized to be included in, and shall be considered in the development of, such regulations:

"(A) Denial of payment of all or any portion of the profit component of amounts otherwise payable to the contractor by the Federal agency under the contract and recovery of all or any portion of the profit component of amounts paid to the contractor by the Federal agency under the contract.

"(B) Termination of the contract for default.

"(C) Any other appropriate penalty.

"(g) ADMINISTRATIVE ACTIONS.—(1) If an agency receives a disclosure of information pursuant to subsection (d) or otherwise receives or obtains information providing a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of this section—

"(A) in the case of a procurement in which a contract has not been awarded, the agency shall determine whether to terminate the procurement or take other appropriate actions;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine whether to void or rescind the contract, to terminate the contract for default, to impose sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with, and to the extent provided in, the Contract Disputes Act of 1978, or to take other appropriate actions; and

"(C) if the agency determines that such a knowing violation has occurred, the agency, pursuant to procedures specified in the Federal Acquisition Regulation—

"(i) may impose an immediate suspension, and

"(ii) shall determine whether to initiate a debarment proceeding,

against the competing contractor or other person who committed such violation.

"(2) Any procurement official of a Federal agency who engages in conduct prohibited by subsection (b) or (c) shall be subject to removal or other appropriate adverse personnel action pursuant to the procedures specified in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(3) The actions taken under paragraph (1) or (2) may be suspended by the agency head upon the request of the Attorney General pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i).

"(h) CIVIL PENALTIES.—Any person who engages in conduct prohibited by subsection (a), (b), (c), or (e) shall be subject to the imposition of a civil fine in a civil action brought by the United States in an appropriate district court of the United States. The amount of any such civil fine for such violation may not exceed—

"(1) $100,000 in the case of an individual; or

"(2) $1,000,000 in the case of a competing contractor (other than an individual).

"(i) CRIMINAL PENALTIES.—Whoever, during the conduct of a Federal agency procurement of property or services—

"(1) being a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains, directly or indirectly, from any officer or employee of such agency any proprietary or source selection information (as such terms are defined in subsection (n) and in regulations prescribed pursuant to subsection (m)), or

"(2) being an officer or employee of such agency, knowingly and willfully discloses or promises to disclose, directly or indirectly, to any competing contractor or any officer, employee, representative, agent, or consultant of a competing contractor any proprietary or source selection information,

shall be imprisoned for not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(j) TRAINING.—The head of each Federal agency shall establish a procurement ethics program for its procurement officials. The program shall, at a minimum—

"(1) provide for the distribution of written explanations of the provisions of subsection (b) to such procurement officials; and

"(2) require each such procurement official, as a condition of serving as a procurement official, to certify that he or she is familiar with the provisions of subsection (b), and will not engage in any conduct prohibited by such subsection, and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations.

"(k) REMEDIES NOT EXCLUSIVE.—Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, contract penalties, or remedies.

"(l) NO AUTHORITY TO WITHHOLD INFORMATION.—Nothing in this section shall be construed to authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an Inspector General of a Federal agency.

"(m) IMPLEMENTING REGULATIONS AND GUIDELINES.—Government-wide regulations and guidelines deemed appropriate to carry out this section shall be issued in the Federal Acquisition Regulation within 180 days after the date of enactment of this section.

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'during the conduct of any Federal agency procurement of property or services' means the period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract, and includes the evaluation of bids or proposals, selection of sources, and conduct of negotiations.

"(2) The term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any other person acting on behalf of such an entity.

"(3)(A) The term 'procurement official means any civilian or military official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the

procurement, as further defined by applicable implementing regulations.

"(B) For purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser (other than a competing contractor) acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned.

"(4) The term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings.

"(5) The term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

"(6) The term 'proprietary information' means—

"(A) information contained in a bid or proposal;

"(B) cost or pricing data; or

"(C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer.

"(7) The term 'source selection information' means information determined by the head of the agency or the contracting officer to be information—

"(A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

"(B) which is required by statute, regulation, or order to be secured in a source selection file or other restricted facility to prevent such disclosure;

as further defined by regulations issued pursuant to subsection (m) of this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 7. PROFIT METHODOLOGY STUDY.

(a) IN GENERAL.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) CONTRACTORS' FINANCIAL DATA.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors' financial data.

SEC. 8. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

SEC. 9. ESTABLISHMENT OF THE COMMERCIAL PRODUCTS ADVOCATE.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"ADVOCATE FOR THE ACQUISITION OF COMMERCIAL PRODUCTS

"SEC. 28. There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Products. The Advocate shall report directly to the Administrator. The Advocate for Acquisition of Commercial Products shall—

"(1) review all proposed procurement regulations and report to the Administrator as to whether such regulations will encourage or discourage the acquisition of commercial products by Federal agencies;

"(2) provide recommendations to the Administrator as to which procurement regulations should be rescinded or modified to encourage the acquisition of commercial products; and

"(3) provide recommendations to the Administrator as to methods of simplifying procurement regulations governing acquisition of commercial products, including the most efficient method to apply, modify, or waive the certification requirements of section 27 of this Act with respect to contracts for such products.".

SEC. 10. STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

SEC. 11. ELEVATION OF PRESIDENTIAL APPOINTEES WITHIN THE OFFICE OF MANAGEMENT AND BUDGET.

(a) EXECUTIVE SCHEDULE, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Management and Budget.".

(b) EXECUTIVE SCHEDULE, LEVEL II.—Section 5313 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Deputy Director of the Office of Management and Budget."; and

(2) by striking out "Director of the Office of Management and Budget.".

(c) EXECUTIVE SCHEDULE, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Administrator for Federal Procurement Policy. "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget."; and

(2) by striking out "Deputy Director of the Office of Management and Budget.".

(d) EXECUTIVE SCHEDULE, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator for Federal Procurement Policy."; and

(2) by striking out "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 20, 1989.

SEC. 12. TRAVEL EXPENSES UNDER CERTAIN GOVERNMENT CONTRACTS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended—

(1) by redesignating such section as subsection (a) of section 24; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of subsection (a) shall not apply to any agreement between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose for conducting federally sponsored research and related activities.

"(2) Under any agreement described under paragraph (1), costs incurred by personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent that such costs do not exceed—

"(A) charges normally allowed by the respective institution in its regular operations as a result of an institutional policy; and

"(B) the limits and principles as are provided for by government-wide regulation of such costs established by the Director of the Office of Management and Budget.

"(3) The regulation under paragraph (2)(B) shall specifically provide that in the absence of an institutional policy regarding travel costs, the rates and amounts established under subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provisions of such subchapter shall apply to agreements between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose of conducting federally sponsored research and related activities.".

SEC. 13. FEDERAL EMPLOYEE BENEFITS FOR CERTAIN EMPLOYEES OF FORMER PRESIDENTS AND VICE PRESIDENTS.

(a) RETIREMENT BENEFITS.—(1) Section 8331(1) of title 5, United States Code, is amended by—

(A) striking out "and" at the end of subparagraph (I);

(B) by inserting "and" after the semicolon at the end of subparagraph (J); and

(C) inserting after subparagraph (J) the following new subparagraph:

"(K) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

(2) Section 8401(11) of title 5, United States Code, is amended by striking out "or (J)" and inserting in lieu thereof "(J), or (K)".

(b) LIFE INSURANCE.—Section 8701(a) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) by inserting "and" after the semicolon at the end of paragraph (9); and

(3) inserting after paragraph (9) the following new paragraph:

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;".

(c) HEALTH BENEFITS.—Section 8901(1) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (F); and

(2) inserting after subparagraph (G) the following new subparagraphs:

"(H) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(I) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

HAZARDOUS WASTE REDUCTION ACT

LAUTENBERG AMENDMENT NO. 3745

(Ordered referred to the Committee on Environment and Public Works.)

Mr. LAUTENBERG (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill (S. 1429) to improve the Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about waste reduction, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Waste Reduction Act of 1988".

TABLE OF CONTENTS

SEC. 1. Short title and table of contents.
SEC. 2. Findings and policy.
SEC. 3. Definitions.
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SEC. 6. Source reduction clearinghouse.
SEC. 7. Source reduction and recycling data collection.
SEC. 8. Waste stream survey.
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SEC. 12. Implementation.
SEC. 13. Sunset provision.
SEC. 14. Conforming amendments.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that:

(1) The United States of America annually produces millions of tons of toxic chemical waste and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce the generation of waste at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw materials, waste management, and liability costs as well as help to protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multimedia management of waste; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(b) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States, that wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any toxic chemical on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1986.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5) The term "multi-media" means air, water, and land.

SEC. 4. EPA ACTIVITIES.

(a) AUTHORITIES.—The administrator shall establish in the Environmental Protection Agency an office to carry out the functions of the Administrator under this Act. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multi-media approach to source reduction. The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) FUNCTIONS.—The Administrator is authorized to carry out a source reduction and recycling demonstration program to carry out the following functions:

(1) The Administrator shall ensure that the Environmental Protection Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review proposed regulations of the Environmental Protection Agency to determine their effect on source reduction.

(2) The Administrator shall coordinate source reduction activities in each Environmental Protection Agency Office.

(3) The Administrator shall investigate methods of coordinating and streamlining data collection requirements under existing environmental statutes. The Administrator shall develop an inventory of existing data, consider developing common nomenclature, consistent reporting formats, and compatible data storage and retrieval systems.

(4) The Administrator shall determine what capabilities the Environmental Protection Agency should have to measure waste generation and management practices in the United States. The Administrator shall determine what, if any, changes are needed in existing agency practices with respect to the collection and handling of data regarding the generation and management of waste.

(5) The Administrator shall facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this Act to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques.

(8) The Administrator shall establish a senior level liaison group with industry, public interest groups, and State source reduction program officials to provide guidance to the Administrator, to provide outreach to the industrial community, and to provide a liaison group for the educational community to promote the introduction of source reduction principles into engineering and management curricula.

(7) The Administrator shall establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to imporve collection and dissemination of data.

SEC. 5. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS.

(a) GENERAL AUTHORITY.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) CRITERIA.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following.

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to businesses seeking assistance.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) MATCHING FUNDS.—Federal funds used in any State program under this section shall provide no more than 50 percent of the funds made available to a State in each year of that State's participation in the program.

(d) EFFECTIVENESS.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of the source reduction techniques by businesses.

(e) INFORMATION.—States receiving grants under this section shall make information

generated under the grants available to the Administrator.

SEC. 6. SOURCE REDUCTION CLEARINGHOUSE.

(a) AUTHORITY.—The Administrator shall establish a Source Reduction Clearinghouse to compile information generated by States receiving grants on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer;

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 5 on the operation of success of State source reduction programs.

(b) PUBLIC AVAILABILITY.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this Act and such other pertinent information and analysis regarding source reduction as the Administrator deems appropriate, on a cost reimbursable basis. It shall be within the Administrator's discretion to determine the most feasible method for making such information available, including the use of computers.

SEC. 7. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) REPORTING REQUIREMENTS.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year if such facility is within one of the 5 two-digit SIC Code classifications producing the highest quantity of toxic chemical releases, or having the highest volume of toxic chemicals entering waste stream, or both. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under sectin 313(c) of that Act. This section shall take effect with the annual report filed under sectin 313 for the first full calendar year beginning after the enactment of this Act.

(b) ITEMS INCLUDED IN REPORT.—The source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The report filed for any facility which produces only a single product and for which reporting the quantity of chemical entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year. When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraphs (1) and (2) for the 2 calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. It shall not be necessary to indicate the units on which the ratio is based. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical.

(6) The techniques which were used to identify source reduction and recycling opportunities. Techniques listed should include, but are not limited to employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction and recycling listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA PROVISIONS.—The provisions of section 322, 325(c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) ADDITIONAL OPTIONAL INFORMATION.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other waste management techniques in earlier years.

(e) AVAILABILITY OF DATA.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available, on a cost reimbursable basis.

SEC. 8 WASTE STREAM SURVEY.

(a) WASTE STREAM SURVEY.—The Administrator shall collect the following information from a representative sample of facilities of at least 6000 facilities, required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986. The sample shall be drawn from the five two-digit SIC code classifications producing the highest quantity of toxic releases, or having the highest volume of toxic chemicals entering the waste stream, or both.

(1) For each waste stream each facility selected for the facility shall report for the last full calendar year and the percentage change from the previous year—

(A) the volume of the waste generated after source reduction but prior to recycling and treatment.

(B) the volume of the waste after recycling but prior to treatment.

Any facility which produces only a single product and for which reporting the quantity of waste entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year.

(2) The cost and effectiveness of the source reduction, recycling and treatment practices being used or being considered at each facility selected for the survey. The effectiveness should be evaluated in terms of the ability to reduce the volume of waste, and the ability to reduce or eliminate chemicals from the waste stream. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformation or redesigns of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(3) A ratio of production in the reporting year to production in the previous year.

(4) The technical, institutional, statutory, regulatory, and economic obstacles to source reduction, recycling and treatment at each facility selected for the survey.

(5) Other information that the Administrator determines is needed to estimate the amount of source reduction, recycling and treatment that firms are currently able to achieve, and how much can firms reasonably be expected to achieve.

SEC. 9. EPA REPORT.

(a) EPA shall report to Congress on information collected under section 7 and section 8 within 30 months of the date of enactment of this Act. EPA shall include in its report at a minimum the following.

(1) An analysis of the data collected under section 7 and section 8 on an industry-by-industry basis, including an evaluation of trends in source reduction and recycling by industry, firm size, product and other useful measures.

(2) An evaluation of regulations and laws that may inhibit source reduction recycling and treatment and of opportunities within existing programs.

(3) An evaluation of priority industries and pollutants that require assistance in multi-media source reduction, recycling and treatment.

(4) Recommendations as to incentives needed to encourage investment and research and development in source reduction, recycling and treatment.

(5) An evaluation of the cost and technical feasibility by industry and processes of source reduction, recycling and treatment opportunities and current activities.

(6) Recommendations as to permanent reporting on source reduction, recycling and treatment.

SEC. 10. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator $4,000,000 for each of the 3 fiscal years beginning after the enactment of this Act for functions carried out under this Act (other than State grants) and $8,000,000 for each of the three fiscal years after enactment of this Act for the State grant program.

SEC. 12. IMPLEMENTATION.

The Administrator is authorized to issue such rules, regulations, and orders as may be necessary to carry out the provisions of this Act.

SEC. 13. SUNSET PROVISION.

This Act shall be repealed on the date 30 months after the date of enactment of this Act. Nothing in the repeal of this Act shall affect any authorities or obligations of the Administrator with respect to any matter under any other provision of law and nothing in the repeal of this Act shall affect or impair the authority under other provisions of law of any office established within the Environmental Protection Agency before the enactment of this Act.

SEC. 14. CONFORMING AMENDMENTS.

(a) The requirement for minimization of waste under this act shall be in addition to those imposed by section 1003(b), 3002(b), 3005(h), and 8002(r), of the Resource Conservation and Recovery Act.

(b) Nothing contained in this act shall be construed, interpreted or applied to supplant, displace, preempt or otherwise diminish the responsibilities and liabilities under other State or Federal law, whether statutory or common.

ADDITIONAL STATEMENTS

FOREIGN EXCHANGE VISITOR PROGRAM PROBLEMS NEEDED TO BE ADDRESSED BY U.S. INFORMATION AGENCY

● Mr. DIXON. Mr. President, today I rise to call my colleagues' attention to a series of problems which have come to my attention recently regarding the U.S. Information Agency's administering of the Foreign Exchange Visitor Program; specifically, I am concerned about that Agency's policies for waiving the 2-year foreign residency requirement.

My colleagues may recall that this summer I worked to resolve the immigration case of Margarida Magalhaes Silverman, a Portuguese doctor who had married a United States Citizen in Illinois. At the time of her original admission to the United States, Margarida agreed that after completing her medical training in the United States, she would return to her home country and take back those skills she gained in the United States for a minimum of 2 years. However, during her years of medical study, she met and married her U.S. citizen husband. She naturally wanted to remain together with her husband, and he had no desire to move to Portugual and divide his family.

After applying for a waiver of the 2-year rule, Margarida and her husband were stunned to learn that the U.S. Information Agency denied their request, citing foreign policy considerations. This didn't make sense to me, Mr. President, since Margarida's own Portuguese Government had issued a letter stating they had no objection to Margarida remaining in the United States with her husband. Only after intense media pressure and the personal intervention of President Ronald Reagan did USIA reverse its decision and agree to waive Margarida's foreign residency requirement.

Since the successful resolution of Margarida's case, I have been contacted by dozens of individuals across the country with problems similar to Margarida's. For example, Amarjit Singh, a native of India, married a United States citizen several years ago and has since had two United States citizen children. He is a productive member of our society, working as an emergency room physician at St. Bernard Hospital in Chicago. His wife, Rebecca manages the CAT scan department at Loyola University Medical Center. And even though Dr. Singh also had a letter of no objection from the Government of India, the USIA denied his request. Mr. President, this just does not make sense to me.

Mr. President, this case has begun to receive media attention like the Silverman case did. I call your attention to a Chicago Tribune article from October 10, and I ask that it be printed in the RECORD at the conclusion of my remarks. Perhaps given this attention, the Singh case will also be favorably resolved. However, I think it is unfair to the many families in a similar situation, who have been unable to have a newspaper write a story about them. If the large number of such cases that have been brought to my attention are any indication of the magnitude of the problem, I believe that the USIA must review their procedures for considering these cases in the first place.

I have therefore sent a letter to Charles Wick, Director of the USIA, asking for a review of both this case in particular and the entire waiver process as a whole. I want to know why the Agency is denying waivers to aliens who have an immediate relationship to a U.S. citizen and a letter of no objection from their home government. It seems to this Senator that a waiver should be routinely granted in such cases, and I look forward to receiving an early reply from the USIA.

The article follows:

[From the Chicago Tribune, Oct. 10, 1988]

DOCTOR FACES DEPORTATION

(By Patricia M. Szymozak)

Like a prisoner seeking a reprieve, Amarjit Singh waits. He waits for lawyers, for government bureaucrats, for someone to commute a sentence that would send him back to his native India, separating him from his wife and two children.

"Every six months it's another gut-wrencher," said Singh, an emergency room physician at St. Bernard Hospital, 326 W. 64th St. "I'm miserable. My wife is miserable. The kids don't know what's going on."

Singh, who lives in Lombard, had been threatened with deportation if he didn't leave the United States voluntarily by Oct. 22. But last week, after U.S. Sen. Alan Dixon intervened with the U.S. Immigration and Naturalization Service, he got a six-month reprieve pending the appeal of a case his lawyers have before the 7th U.S. Circuit Court of Appeals in Chicago.

Singh's lawyers compare his situation to that of Margarida Magalhaes, a Portugese physician who entered the United States on the same J-1 visa program as Singh, and like Singh, met and married a U.S. citizen and decided to stay.

A J-1 visa requires a foreign national to return home for two years after finishing professional training in the United States. The person can apply for permanent residency in the U.S., but only after having spent the two years back home.

And, from the viewpoint of the United States Information Agency (USIA), which administers the J-1 program, marrying an American doesn't change things.

Magalhaes and her husband, Dr. William Silverman, found that out when their request for a waiver of the two years was turned down repeatedly. Magalhaes eventually won a waiver, but only after President Reagan intervened when the case got national media attention.

"USIA is not doing an adequate job of reviewing these cases," said Dixon, who also intervened in Magalhaes' case. "I've been involved in 10 of these cases this year alone."

Singh hasn't been as lucky as his Portuguese counterpart, though his lawyer, Stanley Horn, who also represented Magalhaes, thinks Singh's is the better case.

"It's a similar situation," Horn said. "But the Silvermans didn't have children. Singh has two children, and his wife made a good faith attempt to live in India." That was in 1985 when, after repeated rebuffs from the U.S. government for a waiver, Mrs. Singh decided to try to make a home in India with her husband.

Five months' preganant at the time, she said she and her 2-year-old son went to live with her husband's family in New Delhi. "I got sick. My son got sick. I was afraid I would lose the baby," said Mrs. Singh, who lived in India two months.

Morevoer, Singh is a Sikh, a religious group involved in frequently violent clashes with the Hindu majority in India.

The Indian Consulate in Chicago and the Indian government denied Mrs. Singh permission to enter Punjab, the national state of the Sikhs where Singh feels he could live most safely, during her 1985 stay, according to a motion filed by Jan M. Pederson, a Washington, D.C., attorney who asked the USIA to reconsider the Singh case.

Horn's appeal argues that the federal court can review a case if the USIA has abused its powers of discretion and that there was abuse in the Singh case because the agency wouldn't consider developments such as the birth of children or the wife's attempt to move to India.

After marrying Singh, Mrs. Singh said she filed with the Immigration Service to sponsor her husband for citizenship. She also said that her husband will be granted per-

manent resident status, but only after his two-year-return to India.

"I've threatened to go to the Russian Embassy. They'd love the story," Mrs. Singh said. "The President talks a lot about human rights in Russia, but we don't see what's happening in our own country."●

OMNIBUS ANTI-SUBSTANCE ABUSE ACT OF 1988

● Mr. DODD. Mr. President, over the past several days, House and Senate Members have been working to iron out differences in the Omnibus Anti-Substance Abuse Act of 1988, which the Senate passed on Friday. I believe their efforts will produce a bill that can be placed on the President's desk before the week is out.

Only a week ago, many in this Chamber doubted we would reach this point. However, although there were and are strong differences on a number of issues related to this bill, the vast majority of us in this body believed those differences were outweighed by the need to pass a strong, core bill directed at one of the most serious threats to this country's children and families and to our long-term health as a nation.

The drug threat knows no classes and no boundaries. It threatens all of us. From our wealthiest families to our poorest, from professionals to the least educated members of our society, from our factories to our public transportation systems, from our schoolyards to our jails, the drug threat is pervasive and unrelenting. Families are destroyed, individuals are killed or crippled, our citizens are intimidated, and our industrial competitiveness declines as the efforts and talents of promising young minds are lost to criminal activity.

I believe this legislation will make a difference. Without it, our war on drugs will continue to be disorganized, uneven and ineffective. With it, we will have a coordinated national drug policy under a Director for National Drug Control Policy. The legislation authorizes major new resources for drug interdiction and law enforcement, and major penalties for drug dealers and for those who commit murder while engaging in drug trafficking. Perhaps more important, it authorizes 60 percent of funds to the "demand" side, providing increased education and treatment to prevent our children from being lured into drug use, and to provide support for those who seek to free themselves from drug addiction. It also provides new civil penalties for drug uses.

While there was wide agreement on the core issues, there were tough choices on the margin. This body revisited an issue we debated last June—whether to impose a Federal death penalty for drug-related killings. There is no question that this issue posed the most wrenching decision for may of us in this body. But I believed it was important, in this bill, to demonstrate a toughness and resolve to use the most severe criminal penalties at our disposal against drug profiteers who commit murder in the course of their illicit activities. Because of the enormous amounts of money involved, these criminals have engaged in cold-blooded, premeditated murders of law enforcement officers. In many cases, these are efforts by drug kingpins to intimitate those brave and dedicated officers we ask to do battle in the streets and at our borders each day.

I supported Senator SIMON's amendment, which acknowledged that the murder of a law enforcement officer is the most reprehensible kind of crime. I also supported Senator KENNEDY's amendment on racial justice, which would have ensured further safeguards against discriminatory application of capital punishment. However, in view of the many other safeguards provided in the original bill, I concluded the capital punishment provision should be retained, so that it remains available for those murders that are especially heinous.

Certain other provisions are problematic, for example, Senator GRAMM's amendment on Federal benefits, as we discussed in the debate last Friday, and Senator WILSON's testing amendment. I believed these provisions needed more work. It is important that we maintain the strongest public support for our efforts in our war against drugs, and we undermine that support with overly broad penalties that are potentially unfair and inconsistent in their application.

But this legislation, overall, deserves the strong support it received from this body. It not only addresses the sale and use of illegal substances, but in a number of provisions addresses alcohol abuse—in many ways a more pervasive health problem for this Nation's children and families than drug addiction. I was very pleased that the leadership accepted my amendment to authorize innovative alcohol abuse education programs for children of alcoholics. In addition, the leadership accepted my amendment giving States greater flexibility in the way they spend Federal dollars under the Alcohol, Drug Abuse, and Mental Health Administration block grant program for mental health services.

I applaud the leadership and the managers on both sides for their work, and I am confident their continued efforts this week will produce a final package which will be signed by the President. Just as important, I believe all of us recognize that this is a first step in what must be a renewed national effort on the part of all of us to attack the scourge of drug trafficking and drug addiction and return our streets, schoolyards and communities to law-abiding and productive citizens.●

THE GENOCIDE CONVENTION

● Mr. DODD. Mr. President, last Friday the Senate finally completed the process of our country's accession to the Genocide Convention. Although we gave advice and consent to the ratification of the Convention in 1986, it was accompanied by the proviso that the President cannot complete the ratification process until implementing legislation has been enacted. With the passing of S. 1851 the Senate has now discharged all its responsibilities with respect to the Convention.

Mr. President, I spoke on the Genocide Convention many times on the floor and in the Foreign Relations Committee and now, that the task is completed, I do not want to repeat myself. I want to take this opportunity, however, to pay special tribute to two individuals whose contributions were crucial in what we finally accomplished.

It was a superb gesture to name the implementing legislation the Proxmire Act. The tenacity of BILL PROXMIRE in fighting for this Convention is one of the lasting legends of the Senate of our era. He set a standard in principled selfless statesmanship.

I also want to pay tribute to a friend and a great moral leader of our country, Elie Wiesel. Without his splendid self-imposed mission of keeping the memory and the lessons of the Holocaust alive we would be much less able to grasp and articulate the importance of joining the other nations of the civilized world in adhering to the Genocide Convention. We are all indebted to him for his inspirational leadership.

Mr. President, I ask that the statement Elie Wiesel made before the Foreign Relations Committee at the March 5, 1985, hearing on the Genocide Convention be printed at this place in the RECORD.

The statement follows:

STATEMENT OF HON. ELIE WIESEL, PROFESSOR, BOSTON UNIVERSITY

Mr. WIESEL. Mr. Chairman, Senator Boschwitz, Senator Dodd, I thank you very much not only for what you said so graciously about me and my work, but for inviting me to appear before your committee today to give testimony on an issue that seems to me of vital importance to our generation and to the world today.

I speak to you not as a professor of law—I am not a professor of law—nor as a professor of political science—I am not a professor of political science. I am a professor in the humanities, and I would like to speak to you, Mr. Chairman and my friends, in the name of humanity. And it is in the name of humanity that I humbly urge you to approve this treaty.

I speak to you as an American. I came here, like the Senator, as a refugee, stateless person, without passport, and it is in this country that I found haven and hope and all the possibilities offered a young man, to

work and to try to justify his work for the sake of his contemporaries in this nation and outside of this nation.

As a Jew, I grew up believing in justice and carrying with me memories of fire and anguish and trying to do something with those memories of fire and anguish in order to reduce fire and to curtail anguish.

But above all, Mr. Chairman, I speak as a witness. I speak as someone who has seen genocide at work. Of all my predecessors here at this table who have the privilege to speak to you and before you, I think I am the only one who has seen the results and the workings of genocide. I have seen it recently in Cambodia where I went to see what was happening. I have seen in a way the Miskito Indians and their suffering. But above all, what I have seen from 40-odd years ago should not be seen nor endured by anyone alive ever.

And this is why I came to be with you today.

It happened some 40-odd years ago, Mr. Chairman. In Bibical terms, as surely you know, 40 years mark a generation. So a generation ago hundreds and hundreds of communities were wiped out in a tempest of blood and steel and reduced to ashes. When the Jews of my town arrived at the place unknown to us then, Auschwitz, the death factories annihilated 10,000 human beings a day. At times their success was so great that the figure was much higher, 17,000; and once they recorded for their history 22,000 a day.

Mr. Chairman, I have seen the flames. I have seen the flames rising to nocturnal heavens; I have seen parents and children, teachers and their disciples, dreamers and their dreams, and woe unto me, I have seen children thrown alive in the flames. I have seen all of them vanish in the night as part of a plan, of a program conceived and executed by criminal minds that have corrupted the law and poisoned the hearts in their own land and the lands that they had criminally occupied.

Then it was called the final solution. Today it is called genocide.

Mr. Chairman, it is the honor of our country to have lead the war, and what a heroic and noble war, against those who practiced genocide. Tens of thousands of young Americans have given their lives to defeat Nazis, and their war, our war, was not a political war. It was a moral war. And therefore, it is still being glorified and extolled by all of us with justified pride.

I submit to you, Mr. Chairman, friends, that my plea today is also morally inspired and not politically. I am governed by moral considerations only. Though a consequence of political and economic machinations, genocide transcends them all and becomes as a reminder and warning, a powerful call to conscience, and therefore, I urge you to ratify the convention against genocide. In doing so you will declare for all to hear, yes, crimes against entire people did indeed occur.

I insist on that, Mr. Chairman, because we live now in a time where morally perturbed minds all over the world, even in our own country, to our embarrassment and shame, dare to claim that it did not occur, that Jewish people did not die in gas chambers. And what really do they think? We are still here. What happened to our people? But what happened to our parents? What happened to the 15,000 Jews of my city? And what happened to the 10,000 cities in Eastern Europe? Yet they place us in an untenable position that we have to defend our own testimony and say yes, it happened.

We don't do it with pleasure. We do not like to open wounds in public.

So to accept this convention. Mr. Chairman, and friends, would serve a warning, yes, what we say, what we witnesses say is true, we are true witnesses, and this would be an act of morality, Mr. Chairman, that all of us would appreciate fully and totally.

Furthermore, in adopting this convention you will say that yes, it occurred, but it must never occur again, ever. By evoking the past, you will protect not only the memory of humankind but also its future. You will protect our children and their children from further shame and death.

Naturally, although I am a humanist, I am not excessively naive, not to the point of assuming that laws, however, lofty, could stop planned mass murder, but I am certain that the absence of such laws would encourge mass murder as it has in the past.

Do I need to remind you, who know so much of history, that Hitler and Himmler and Eichmann and their acolytes were convinced that what they were doing was decent, legal, and even beneficial to society? In his diaries, Goebbels, the arch propagandist for Hitler, mentioned his conviction that the Allies were pleased, he said it, that the Allies were pleased with the final solution's theoreticians and practitioners for doing the dirty work for them.

The fact that the killers could kill and go on killing, without protest or interference from the outside world was interpreted in Berlin as tacit consent to their policies.

Well, that doesn't mean that if the law were to be accepted and ratified, as I am sure it will, a law on genocide would stop future attempts to commit genocide against other people. But at least we, as a moral Nation whose memories are alive, must make the statement that we are against genocide, that we cannot tolerate a world in which genocide is being perpetrated, and whoever engages in genocide, wherever that is, places himself outside the human community.

Now, why has this convention not been ratified by the United States? I told you, I am not a political scientist; I don't know. But I can tell you as a witness in all sincerity, Mr. Chairman and friends, this question, why not, has been a permanent trouble to us, to me. Our attitude is being questioned both at home, in schools and abroad, wherever I go.

I teach in other universities, in France, and in Scandinavia. After all, that is my vocation. I am a passionate teacher. I believe that what we have received we must communicate. And I am proud to appear everywhere as a teacher from an American university who is involved in our political life and who believes in our system and in our ideals. But when they ask me why, explain to me why hasn't the United States ratified the convention, what could I say? And in my own schools here in the United States, when my students ask me, you who preach humanism, and you who glorify the moral asset, the moral conviction of our Nation, how do you explain that we have not ratified for 19 years something which is so simple and urgent and vital. I, their teacher, find it difficult to come up with a logical answer.

Therefore, I urge you to give me that answer, the right answer, and reaffirm our common belief that we have been and remain a nation governed by moral principles. When those principles were jeopardized, we had the courage to defend them. Now I am asking you, isn't genocide the greatest threat to those principles? Isn't genocide the greatest peril to civilization's ideals and visions of peace and compassion?

A French philosopher, Jean Rostand, once remarked, and I quote him, "Kill a man and you are an assassin. Kill a town and you are a conquerer. Kill a people and you are a god."

Now, isn't it our obligation to stand up to those who wish to become gods by murdering people?

Mr. Chairman and distinguished Senators, murder is evil. We all know that. But genocide is absolute evil, and therefore, we have no choice there; we as citizens of this country and teachers to our generation, both in the field of politics, of statesmanship and education, we must tell the young people today, yes, we are against absolute evil, and we are absolutely against that evil.

To outlaw genocide means to justify our faith in faith. We owe it to our children, and we must tell them that we shall do whatever to our children, and we must tell them that we shall do whatever we can to see to it that they will never be confronted by the darkness that is piercing our light and by the wounds that plague our nightmares.

I know the Genocide Convention will not bring back the dead. Mr. Chairman, friends, I know that. The dead, it is too late for the dead. But at least in signing such a convention we could remember the dead without shame. Not to remember them would mean to betray them and betray ourselves.

If we do not remember them, we, too, shall be forgotten.

In conclusion, Mr. Chairman, and in thanking you for your graciousness and kindness for listening to me this afternoon, I urge you that the Genocide Convention, when ratified, would become not only an act of justice, but above all, a solemn and noble act of remembering.

I thank you.●

JUSTICE DENIED: THE CASE OF JOSEPH DOHERTY

● Mr. DODD. Mr. President, in July 1986 I registered my strong objections to the supplementary extradition agreement with the United Kingdom. The primary purpose of that agreement was to undermine the political offense exception doctrine and to replace it with what the National Law Journal called the dangers of a court-administered system of "uneven and politically motivated justice." In opposing the 1986 agreement, the editors of the National Law Journal argued persuasively along the following lines:

In foreign policy, no one expects government to treat friends and foes alike. But American courts, in the exercise of the police power over individuals, should not be enlisted into administering uneven and politically motivated justice. They should, instead, continue to neutrally administer the objective principles of a uniform political-offense doctrine that is well-grounded in this country's revolutionary past.

Mr. President, these concerns are not hypothetical. They cannot be dismissed as theoretical or academic. Quite the contrary. These concerns are very real, and they affect real

people. Just think about the case of Joseph Doherty.

Mr. Doherty's mailing address is the Metropolitan Correctional Center in New York City. He has been at that address for more than 5 years, interrupted only by two stints of something called nonpunitive solitary confinement, the most recent one for 71 days, at Otisville Federal Correctional Institute in upstate New York.

With over 5 years at the Metropolitan Correctional Center, Mr. Doherty has earned a place in the Guinness Book of World Records. No other prisoner, in the entire history of that facility, has ever been incarcerated there for such an extended period of time. In theory at least, it is a facility designed exclusively for short-term, pretrial confinement. So much for the theory.

Now, if you think that is curious, consider this: Throughout the entire period of Doherty's confinement, he has never been charged with any criminal offense, not even a misdemeanor—let alone, convicted of anything. No; Joe Doherty is charged with nothing more than having entered the United States illegally. For that reason and that reason alone, he was arrested in June 1983 in New York City. He has been behind bars ever since.

Mr. President, the truth of the matter is that Joseph Patrick Thomas Doherty is the victim of "uneven and politically motivated justice," thanks in very large part to the former Attorney General and like-minded colleagues in this administration. Concern for individual liberties, due process of law, and other constitutional guarantees has never been very high on their agenda. The Doherty case proves that beyond a shadow of a doubt.

Time after time over the past 5 years, Joe Doherty has gone to court. Time after time our courts and immigration authorities have found in his favor. And time after time the Department of Justice has found a way to subvert those decisions and to thwart the intent of our judicial processes. When Doherty's extradition to the United Kingdom was denied, administration officials negotiated new ground rules with the Thatcher government. When Doherty's request to be deported to the Republic of Ireland was approved, administration officials unsuccessfully appealed those rulings.

In the aftermath of the normal appeal process, the case was then referred to the Attorney General for his personal review. For 13 months, Ed Meese let the matter sit. In the meantime, Joseph Doherty remained in his cell and entered his fifth consecutive year of confinement. When the Attorney General finally ruled, he ordered—contrary to every other decision previously rendered—that Mr. Doherty be returned to the United Kingdom.

Insofar as the Doherty case is concerned, Mr. President, this administration has made it clear that it is fully prepared to act as surrogate judge and jury for the British Government, while willfully disregarding any questions about the protection of individual rights and basic constitutional safeguards.

From the administration's standpoint, like that of the Thatcher government, the central fact is that Doherty served in the Irish Republican Army and killed a British Army captain in a shootout in Belfast in 1980. Nothing else matters in this case. Accordingly, the administration has turned a blind eye and a deaf ear to the behavior of the Royal Ulster Constabulary, as well as Britain's own security forces involved in the Northern Ireland issue. As the Stalker investigation made abundantly clear, however, those forces at least since 1982 have employed a "shoot to kill" policy with respect to IRA suspects.

Just recently, in March of this year, we had a vivid reminder of that policy. British Special Air Services commandos, members of the same elite unit Joseph Doherty confronted in Belfast, gunned down three IRA suspects in broad daylight on the streets of Gibraltar. The three—who by all accounts did not resist arrest and who were unarmed—died in a hail of bullets fired at near pointblank range.

Mr. President, incidents such as the Gibraltar shooting should serve as a strong reminder that between the operations of the Irish Republican Army and those of the security forces of the United Kingdom, there is no moral high ground left to claim when it comes to the conflict in Northern Ireland. The rights and wrongs of that conflict, however, are not before us. What Joe Doherty did in 1980 on Belfast's Antrim Road, or what British commando forces did earlier this year in Gibraltar, are not issues in this case.

What is at issue, Mr. President, is the question of fundamental rights and basic guarantees. But because this administration is determined to take sides in the political violence that besets Northern Ireland, it continues to deny those rights and guarantees to Joe Doherty. Through the Department of Justice, it continues to administer "uneven and politically motivated justice," and it continues in its endeavors to intimidate the courts and administrative legal authorities in an effort to get them to do the same thing. In short, the Justice Department continues to violate the spirit of the law, if not the letter of it as well.

Mr. President, for more than 5 long years our courts and our immigration authorities have consistently ruled against the ongoing exercise of the police power in the case of Joseph Doherty. And because of those rulings, he continues to harbor the hope that the constitutional rights and guarantees which we proudly display as our beacon of freedom to the rest of the world will yet be accorded to him.

The rule of law, Mr. President, demands that Joseph Doherty should have to wait no longer. Any real commitment to fundamental fairness and equity requires that either he be awarded political asylum, or that, alternatively, he be allowed to return to the country of his choice. We owe it to ourselves, if not to Joe Doherty, to fulfill that commitment.●

EASTERN STAR

● Mr. LUGAR. Mr. President, it is my pleasure to commend the Indiana chapter, Order of the Eastern Star for their outstanding charitable work.

In the fall of 1884, Rev. William Davidson of Oxford, OH, formed the Leah Court, the first Eastern Star Chapter in Indiana.

During the grand session in South Bend, IN, in 1908, a resolution was passed to purchase a home for its indigent members and orphans. Subsequently 43 acres of farm land was purchased in Grand County near Marion, IN. Although the home no longer stands, a small lake, pavillion, and picnic area still exist.

The Indiana chapters of the Order of the Eastern Star have maintained a long history of providing aid to the less fortunate, providing scholarships to students and are actively engaged in numerous community and civic involvements.

I want to take this opportunity to urge my colleagues to salute a great institution as they celebrate their centennial on the 29th of October in the Indiana Convention Center.●

ADMINISTRATION UNDERMINING WHALE CONSERVATION EFFORTS

● Mr. BIDEN. Mr. President, an extraordinary effort is underway to free three California gray whales trapped in the ice near Point Barrow, AK. A 185-ton barge, with assistance from a heavy-lift helicopter, is being sent to break a 7-mile exit route through the ice pack. An unlikely alliance of the oil industry, environmentalists, the Defense Department, and Eskimo whalers are all contributing to the effort.

Even those involved with the mission have a tough time explaining why they are going to such lengths for so few whales. Whatever the reason, this most improbable mission to save just three of these endangered mammals has caught the public's attention and support. A cost-benefit analysis would

completely miss the justification for trying.

Mr. President, we all hope the mission succeeds against the long odds, it is facing. But I cannot help but note the regrettable and stark contrast between the extraordinary efforts of private individuals underway in Alaska and the less than exemplary efforts of public officials in Washington to save other endangered whales.

A whaling moratorium declared by the International Whaling Commission [IWC] was to have started 2 years ago. The United States supported the moratorium and has a crucial role in giving teeth to the IWC efforts since the Commission has no enforcement powers of its own. Unfortunately, this administration has failed to meet the challenge and has been too willing to allow other countries to continue their whaling under the thinnest of pretexts.

The most glaring excuse accepted by the administration in some countries' claim that they are performing research on the whales. The IWC allows member countries to write their own special permits for scientific research on whales, but while this may be a legitimate option at times, it is a loophole that is subject to increasing abuse.

Iceland, Norway, and Japan have all continued their whaling operations since the moratorium was to have started. In response, the administration has gone through great contortions to avoid imposing tough sanctions on these countries, even though their actions reduce the effectiveness of the IWC's conservation efforts. Once with Japan and once with Iceland, the administration has reached a bilateral agreement that allowed the whaling to continue. In the case of Iceland, the agreement blocked the imposition of sanctions as called for by the Pelly amendment.

Steps have been taken outside the executive branch to improve the flexibility and effectiveness of the U.S. response. Provisions in the Marine Mammal Protection Act, which recently passed the Senate, expand the scope of sanctions that can be imposed on countries that continue to whale. In addition, a coalition of environmental groups have filed suit against the Secretaries of Commerce and State to require certification of countries that act to weaken the International Whale Conservation Program.

Mr. President, Iceland has reportedly completed its whaling season. The damage of the bilateral agreement is done. But proposals by Japan and Norway to continue whaling under various disguises are possible and Iceland may return with another research hunt. Icelandic fishermen have killed more than 75 whales under that pretext this year. Japan has asserted that it should be able to kill up to 875 whales per year for research. Norway claims its research required killing about 30 whales in 1988, but may have to be expanded in the years ahead.

The IWC's Scientific Committee has rejected the proposed research hunts of the three countries as making no contribution to science. But the willingness or ability of the next administration to continue the practice of bilateral agreements which preclude sanctions remains. The United States cannot, on one hand, continue to abdicate its role as a leading force in protecting endangered whale species and, on the other, expect to see improvements in their numbers. Bilateral agreements that remove any cost for countries that hunt whales in violation of the IWC moratorium should not be pursued.

There may be an attitude change on the part of the next administration in using the bilateral agreements to circumvent the Pelly amendment. If there is not, I intend to review legislative options that will eliminate this end run on international conservation efforts. I am of the growing belief that the repeated use of bilateral agreements on whaling issues is taking on such importance that congressional review of the agreements may be proper.

The commitment of the scientists, conservationists, Eskimos, oil industry employees, and others in battling to save the three whales in subzero weather conditions is outstanding. I believe that commitment is shared by many Americans.

I hope we can soon celebrate the release of the whales from their icy trap, but I also hope we can soon release hundreds of other endangered whales from certain death by restoring American leadership in support of an effective, international moratorium on whaling.●

SENATOR MOYNIHAN DISCUSSES CHILDREN IN POVERTY

● Mr. GLENN. Mr. President, our colleague, DANIEL PATRICK MOYNIHAN, has written about our children in an article recently published in the New York Times. Senator MOYNIHAN describes for us a startling situation. One of four children is born poor, one of three children will sometime be on welfare, and one of two children will live in a single-parent, female-headed household.

During this Congress, with the leadership of Senator MOYNIHAN, we have taken a step in the right direction through the passage of the Family Welfare Reform Act of 1987. As we end the 100th Congress, Senator MOYNIHAN reminds us of the serious work ahead.

Mr. President, I commend this article to my colleagues. I ask that the text of the article by Senator MOYNIHAN from the September 25, 1988, edition of the New York Times be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The article follows:

HALF THE NATION'S CHILDREN: BORN WITHOUT A FAIR CHANCE—AN ISSUE FOR THE NO-ISSUE CAMPAIGN

(By Daniel Patrick Moynihan)

WASHINGTON.—To talk about the condition of children is by definition to talk about the families in which they live. That is why we are going to have to learn to talk about two kinds of children, because—of a sudden, in a flash—we have become a society divided into two kinds of families.

Call it a dual family system.

In this dual family system, roughly half our children, somewhat randomly, but inexorably, are born without a fair chance. We know precious little about what to do about it.

In a society with more than enough to go around, poverty is a form of bad luck. Children have the most of it. About 10 years ago, we became the first nation in history in which the poorest group in the population was the children. This is intensifying. Today, the poorest children are the youngest children.

To say again, and it needs to be said again and *again:* This is new.

At any given moment about one child in four is born poor. Over time upward of one in three will be on welfare at some point. One in two will live in a single-parent, female-headed household. The "normal" family is no longer normal. The Bureau of Census projects that only 39 percent of children born in 1987 will live with both natural parents until age 18.

We may be entering an era in which this dual family system defines the gradations of social class in America. Years ago, the social scientist William Graham Sumner observed that social class breaks down into people with habits. These include the habit of having money, which is beginning to define social class as never before.

We make a great fuss over regular income—partly because we measure it precisely (thanks to the income tax) and partly because it is what most of us live on. In reality, regular income is a sometime thing. It bounces around, especially at lower levels. Wealth—real estate, stocks, bonds and capital assets—endures.

Wealth produces assets that live on, independent of the individual. It can be used to nurture children for whatever success is said to require, be it tuition or orthodontia. Wealth is an insurance policy that gives not only physical but psychological comfort to a developing child.

We appear to be a country in which wealth is accumulating mightily in the upper reaches. The top 10 percent of the population owns 65 percent of all net worth, the bottom half a mere 4 percent.

Families are the means by which wealth is passed from one generation to another. Families that remain intact accumulate wealth. By contrast, single-parent families seem to accumulate little or no wealth. When last measured, black female heads of households with income under $11,000 had a median net worth of minus $18.

Some such families start poor. A quarter of female-headed families commence with a "premarital birth." An old misfortune. But new and central to the dual family system is the devastation that awaits divorced women.

The Urban Institute, a nonprofit research organization, reports that in the year following a divorce, the living standard of children and women typically falls to about two-thirds of its former level.

We simply do not know how much life styles pass from one generation to another. Single-parent families can be as good or better than the alternative. But researchers such as Irv Garfinkel and Sarah McLanahan, of the Institute for Research on Poverty, find patterns—educational, economic and what might be called ecological—that are clearly negative.

Among whites, for example, daughters of single parents are 53 percent more likely to marry as teen-agers, 111 percent more likely to have children as teenagers, 164 percent more likely to have a premarital birth and 92 percent more likely to divorce than daughters of two-parent families.

Upward of half our children run into the troubles that go with a single parent, low-income family life. Many overcome this; some seem hardly to notice. In each cohort, many individuals will move up into the "stable" regions of our new social class structure—but many will move down. Yet at any given time, half our children are surely better off than the other half.

If you first get these things straight, it is a little easier to rough out a policy response. Some things you surely don't do. Unhappily, one of the things you surely don't do we have just done.

We've trashed the nation's finances—not so much by the tax cuts of the Reagan Administration but by the borrowing that followed. Interest is beginning to eat us alive: Debt service next year will be greater than the deficit. For the foreseeable future, it will require one-quarter of each citizen's personal income tax to pay the interest on money borrowed during the past eight years. This is elementally a transfer of wealth from working single parents in the Bronx to holders of long-term Treasury bonds living in Palm Beach.

In such ways, Government policy intensifies the social structures that work against giving all youngsters a fair chance in life.

For all this, welfare is the greatest obstacle. The present system began as a temporary widows' pension. The typical recipient was represented as a West Virginia miner's widow. No question of alimony or child support payments arose; the father of the family was dead. No question of employment arose; women did not work in coal mines. A half century later the same arrangements support a wholly different population.

Today's typical welfare recipients head families where the male parent is simply absent, not dead, and the female parent is fully employable, if helped into the labor market. In New York City, for example, there are 64,000 adult welfare recipients who have never had one day's work. Forty-five percent of the children in New York City schools are on welfare (less than Hartford, Conn., and greater than Minneapolis, but many cities now are in this range.) We have let the median state's welfare payment drop by one-third since 1970.

In the next two weeks in Congress, we could secure the first real change in welfare since the program began. Both houses have enacted measures that respond to the new dual family system. We would take the present maintenance system and turn it into an employment program, with child support from absent fathers, transitional child care and health benefits for mothers leaving welfare and unprecedented automatic funding for education and training.

A mother cannot work without child care. A mother cannot work without skills. The cost of providing these is manageable: $3 billion to $4 cost of not doing it is far greater and unacceptabe: Every other American child will be born into a single-parent family, born to bad luck; every third American child will be doomed to spend part of his childhood on welfare, in poverty. In less than 20 years, these children will have children of their own. And so forth.

From almost the moment the dual family system appeared, successive Congresses and Presidents have tried to respond, with welfare the central symbol of the problem. Often we have come close but, so far, always we have failed. The central reason for this is that we have only slowly come to recognize and accept the new social reality we are dealing with.

The present welfare legislation addresses the present reality. Success or failure will be a form of reality testing. If we fail this time—a millimeter from victory—I would be inclined to think this is something American society can't handle. Which means we will have spoiled the next century.●

PAYING TRIBUTE WITH ACTION

● Mr. SIMON. Mr. President, more than 42,000 Americans have died of AIDS. Another 32,000 are living with the disease. The AIDS quilt recently on display on the Ellipse was a moving tribute to all those who have died—a reminder that behind every statistic was a human being who was loved and cherished. On a more personal note, a young man who spent a year working on my staff recently died of AIDS. I wrote a column about his life and death although his parents asked that I not use his name. I ask to have it printed in the RECORD.

The column follows:

PAYING TRIBUTE WITH ACTION

Statistics about diseases lack much meaning until they hit someone you know.

The other day I received the following letter:

"I wanted to inform you that my close friend and your former colleague John Jones (not his real name) died this morning (Sunday) after several months of his final battle with his illness.

"On Friday morning, his last lucid day, I was discussing funeral arrangements with John and he dictated the following to you:

"Dear Senator, "I feel it very pretentious of me on the one hand; on the other hand I felt close to you during the time I worked in the Senate. As currently planned, my funeral will be held in Washington and the burial in Chicago. I hope you would do me the high honor of lending your presence to either event. With warm regards and many thanks, John."

The letter was signed by this friend.

I was at the funeral, but that is only part of the story.

In June, my wife and I attended a meeting at which I spoke. In the audience was John Jones, an employee of a federal agency who had taken a one-year leave about three years ago to do some specialized work for my office.

He did excellent work, but I had not seen him since he left our office.

I asked him how he was doing, one of those general questions we routinely ask each other, not expecting anything substantial by way of reply. When I asked, he replied, "Not too well, I have AIDS."

I was stunned.

I knew nothing about his private life other than seeing him in the office, or at an office picnic or party. A little shy, but well-liked by everyone in the office, he showed great ability on tasks assigned to him.

He was 38 when he died.

It is one thing to know that more than 42,000 Americans have died of AIDS. That is tragic, but it remains a statistic until suddenly someone you know and respect meets an untimely end because of this dread killer.

Forty-four people die each day in this country from AIDS.

Next year we'll spend more to test nuclear weapons than to find a cure for AIDS.

Conquering AIDS and cancer and arthritis and heart disease and a host of other health problems that kill people takes resources.

And those resources will be available when we make a priority of using them for these causes. The question is one of national will.

John is dead. I regret that I did not see him from the June day he told me he had AIDS until his death in October.

But the best way of paying tribute to him is not with pleasant words, but with action so that others do not die needlessly.●

THE DEPARTMENT OF VETERANS' AFFAIRS ACT OF 1988

● Mr. DECONCINI. Mr. President, I rise in complete support for the conference report on H.R. 3471, the Department of Veterans' Affairs Act of 1988. I would like to commend the chairmen and ranking members from the Senate Committees on Governmental Affairs and Veterans' Affairs for their fine leadership and hard work on this bill, especially during the conference. The elevation of this Agency to Cabinet status is long overdue.

I would also like to commend the distinguished senior Senator from South Carolina for his persistence on this very important issue. I am proud to have been an original cosponsor of each of his efforts over the past several years.

Mr. President, perhaps no other piece of substantive legislation has more support than Senator THURMOND's VA Cabinet status bill. And well it should. I knew of no opposition to his bill, and am glad that the House conferees accepted most of its provisions. The establishment of the Veterans' Administration to a Cabinet status department is simply the right thing to do.

Since the Administration was created in 1930, the Administration has grown to become the third largest employer in the Federal Government, today employing over a quarter of a million Americans. After 13 Administrators, it is time to have a Secretary of Veterans' Affairs to take charge over the largest health care system in

the free world, the fifth largest life insurance program in the United States, and the other vital services which in some manner directly affects over a third of all Americans.

Size alone does not dictate that the VA should become a Cabinet-level position. If that were true, then we might not have a Secretary of Education or Transportation today. In short, the foundation for raising this Agency to a Cabinet post lies in its particular mission, and its need to improve management efficiency for such an important agency that serves over 28 million veterans, and nearly one-third of all Americans.

Mr. President, what is at stake is the direct access to the President unfettered by control by other Federal agencies, most recently by the Office of Management and Budget. Without this bill, the line of authority of the Administrator will continue to be unclear and subject to the political whims of agencies less familiar with needs of our veterans.

Therefore, I urge my colleagues to vote for this most important legislation for those who have borne the battle in defense of our liberty.●

IMPLEMENTING THE GENOCIDE CONVENTION

● Mr. WILSON. Mr. President, last week, the Senate gave its overwhelming approval to S. 1851, a bill that would make genocide a crime under U.S. law, and the House should be taking similar action before the end of this week.

This legislation, which will implement the provisions of the International Convention on the Prevention and Punishment of Genocide, has enjoyed wide support from groups including the American Jewish Committee, the Armenian Assembly of America, Amnesty International, B'nai B'rith International, and the American Bar Association.

Although the Genocide Convention and this implementing legislation cannot correct the wrongs of the past, it will serve as a powerful tool to prevent the repetition of genocide in the future and punish those who attempt to commit such acts.

In addition, our past failure to become a signatory to the Genocide Convention has allowed the Soviets to distort America's human rights record and undermine our negotiating power through propaganda campaigns conducted in advance of summits and other bilateral meetings. In recent testimony before the Senate Judiciary Committee, Ambassador Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs, said that the "human rights violators have persistently levied unfair charges of hypocrisy or insincerity against the United States" for its failure to sign the Genocide Convention. "For our adversaries, and those who believe that human rights are merely hollow words, S. 1851 will eliminate a criticism that is now used to deflect attention from legitimate concerns over their own human rights abuses," Schifter said.

Congressional approval of S. 1851 will permanently take that topic off the Soviet agenda and strenghten the human rights stance of the United States in future talks with the Soviets.

And so now we have a moment of celebration. With the passage of the Genocide Convention Implementation Instruments, the Congress of the United States has declared that the martyred millions of yesteryear—those brave men and women who were felled simply because of what they believed or the cultures into which they were born—did not die in vain. With this legislation, Congress nobly keeps alive the hope that agony suffered by the just may yet bring triumph.●

WHISTLEBLOWER PROTECTION ACT

● Mr. LEVIN. Mr. President, on October 7, 1988, the Senate passed the final version of S. 508, the Whistleblower Protection Act of 1988. The House has since passed that bill as well, and it is now on the President's desk, awaiting his signature.

At the time the Senate acted, I said in my floor statement that I was including in the RECORD a copy of a letter sent to me by Congresswoman PAT SCHROEDER regarding ex parte contacts by the special counsel. The copy of that letter was mistakenly left out of the RECORD at that time. I, therefore, ask that the October 5, 1988, letter from Congresswoman SCHROEDER be placed in the RECORD in full at this time.

The letter follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1988.

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

DEAR SENATOR: Since House passage of S. 508, the whistleblower legislation, a question has been raised about certain language in the Joint Explanatory Statement which we prepared.

Specifically, at the end of item 3 concerning Special Counsel intervention in adverse action and independent right of action cases, the Joint Explanatory Statement states that the Special Counsel may not engage in ex parte contacts. Obviously, this prohibition is applicable as well to item 4, concerning Special Counsel release of information about investigations.

If you agree with this view, I request that you place this letter in Congressional Record during Senate consideration of S. 508.

With kind regards,
Sincerely yours,

PAT SCHROEDER,
Chairwoman.●

INFORMED CONSENT: WEST VIRGINIA

● Mr. HUMPHREY. Mr. President, today I would like to have printed in the RECORD two letters sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letters come from the State of West Virginia.

The letters are as follows:

WESTOVER, WV,
March 2, 1987.

DEAR SENATOR HUMPHREY: It has recently come to my attention that you are trying to introduce a federal Informed Consent bill. May I applaud you for undertaking this action.

I would also like to tell you of my abortion experience in the hopes that it will help other women not go into this "option" blindly.

In April 1973 I found out I was pregnant. Abortion had just been legal a few months so maybe the counseling would be different today, but I will tell you only what I know. Actually, I remember going to a place where the woman was a Methodist minister and, feeling at the time that there was no other option, I also felt that if this minister was saying it was ok then it must be ok!

Never once was I shown a picture of a developing baby growing inside of me that only needed time to be like me.

Never once was I told about the helpless feelings, nightmares, or of hearing babies cry.

Five years after my abortion I gave birth to my daughter. She is a healthy eight year old now but never once was I told that there was a chance I might never have another child or be able to carry it to term.

Now I don't know about anyone else, Senator Humphrey, but I would never undergo an operation without knowing all the facts. But somehow the Supreme Court has decided that women are under enough stress already in a crisis pregnancy situation, and that they can't handle the facts. That's incredulous to me. That's when they need the facts more if you ask me.

I have recently started volunteering at a local crisis pregnancy center so that I can tell these girls what to expect. At least they can make their decision with their eyes open and knowing all the facts.

If you need anyone to testify for a Senate Committee I would be glad to help you in any way I can.

Sincerely,

JO BETH WYLIE.

PARKERSBURG, WV.

DEAR MR. HUMPHREY: I was 24 yrs. old; 1975 when I found out I was pregnant, after two divorces, I felt like I had really hit rock bottom. I had just met a wonderful guy, the nicest I'd ever met. I was pregnant before I met him and didn't know it, til a few weeks after we met.

When I found out I was pregnant the 3rd time my situation was as follows:

I wasn't married, I made very little money to live on and support my children, I had very little self-worth, and no knowledge at all about abortions.

I only knew I couldn't afford another baby. I saw a phone number in a newspaper ad about abortions, so I called and got the financial details and made an appointment. I really thought it was the only option I had.

It was the scariest thing I ever went through. I had mixed feelings as I sat in line waiting my turn to go in that awful room. I was talking to two other girls who were just as scared as I was. They didn't know what to expect either. We were all told it was not painful and that it was just tissue. When I got on the table, I wanted to back out and the nurse took hold of my hand and said it wouldn't hurt and it would be over soon. I know I dug my fingernails in her hand! It hurt bad, and I got nothing for pain. I did get a small injection of valium that seemed to only last about a minute, my nerves were really on edge. I heard that awful suction that I'll never forget. Soon it was over.

I was put in another room for ten minutes to lie down, eat a pretzel, drink a cup of pop, get a shot, and then rushed out so someone else could have the bed. It was so cold in that place, (not temperature wise).

I was home about two weeks and started bleeding bad, and I had to be put in the hospital for a D and C.

Today, since I've become born again, I can't even imagine how I ever did it! It was another person and not me Thank Jesus for that!

In 1979 I gave birth to another beautiful and healthy baby boy. The birth was difficult, I had to have a "C" Section after 17 and a half hours of labor. I almost died, and was in critical condition for a couple of days, and also had to have a blood transfusion.

Now all is well and Jesus has changed our lives for him. I am a Christian Contemporary singer, and my husband is a minister. "What a mighty God we serve."

Yours in Christ Jesus,

DONNA L. CRISPEN.●

CHICAGO CITY COUNCIL RESOLUTION HONORING CARL AND MARGUERITE STOCKHOLM

Mr. SIMON. Mr. President, I rise to bring to the Senate's attention an honor accorded to Mr. and Mrs. Carl Stockholm, constituents of mine who reside in River Forest, IL. On October 14th, at a session of the Chicago City Council, Mayor Eugene Sawyer presented Carl and Marguerite Stockholm with a resolution honoring them for their service of Veterans organizations, the city of Chicago and various other charitable groups. Carl Stockholm was also cited for his outstanding service record in both World War I and World War II. Mr. and Mrs. Stockholm are celebrating their 54th wedding anniversary this year, and Carl's 92d birthday, I extend my congratulations to them, and ask that the resolution sponsored by Alderman George J. Hagopian and members of the Chicago City Council be printed in the RECORD.

The city council resolution follows:

RESOLUTION ON CARL AND MARGUERITE STOCKHOLM

(Presented by Alderman George J. Hagopian)

Whereas, Carl Stockholm, was born on March 4, 1897, and dedicated to the City, State and Nation, he loves; and

Whereas, Carl Stockholm, the proud son of Mr. & Mrs. Stockholm, at a tender young age, determined thru the love of his parents, to establish respect to the name of "Stockholm", in the world of sports and to serve the country he loves; and

Whereas, Carl Stockholm married his gracious wife, Marguerite Stockholm and are the proud parents of two sons and two daughters, Ray, Jon, Gail and Nancy, each distinguishing themselves in the business world and the field of law; and

Whereas, Carl Stockholm, distinguished himself during World Wars I and II in the United States Navy, and as a Commander, Co-service with his "Pacific—Fleet Security Command", life long priceless friend the late distinguished "George S. Halas", founder of the "Chicago Bears" football team, and whom he had the honor of serving with; and

Whereas, Carl Stockholm, with his inherited desire to serve his country and due to his honorable illustrious government service, characterized by integrity in his war service security experience was prevailed by his government to return to serve in World War Two, with additional service, "Over and beyond the call of duty" with the famous Illinois 133rd Infantry, 33rd Division, wounded in defense of his nation, recipient of "Purple Heart", Honorariums and "Badges" and decorations; and

Whereas, Irv Kupcient in his recent Chicago Sun-Times "Kup's Column" paid tribute to "Carl Stockholm," for these awards; and

Whereas, Carl Stockholm, young bicycle rider set all records in his athletic field was honored as "State of Illinois-Outstanding Athlete"; and

Whereas, Carl Stockholm, with his lovely wife, Marguerite, have a consistent desire to help those in need, give of their time, talents and social courtesies and civilities always extended by a perfect host with respect and esteem shown to all that come in contact with them; such as their service in creating, assisting and answering the call of the late Mayor to establish and serve the "Chicago Servicemen's Centers", to promote "Chicago" as their home away from home; and

Whereas, Carl Stockholm honored by two Assistant Secretary's of the United States Navy, Secretary Gates and Secretary Thomas by receiving two (2) "Navy Distinguished Service Awards", for service to his country. Carl Stockholm served as National President of "Navy League of the United States", still serving on the National Board of Directors; and

Whereas, Carl Stockholm assisted by his gracious wife Marguerite, returned home, after serving his country in two World Wars, became a prominent businessman with an untarnished reputation, still serving at age 92; now be it further

Resolved, That this long over-due public acknowledgement is hereby confirmed upon Carl Stockholm, and that we, the Mayor and members of the City Council assembled on the 14th day of October, 1988; do now therefore be it finally

Resolved, That a suitable copy of this resolution be made available to the distinguished Carl Stockholm and his gracious wife Marguerite, and we extend our warmest best wishes to them as they celebrated their recent wedding anniversary the proud great grand parents of Ashly Powers and the award of the "Purple Heart", as well as two Navy decorations, "70 years late", but "70 years deserving."●

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader as to whether or not the following calendar items on the Executive Calendar have been agreed upon on his side: Calendar Orders No. 953 and 954 under Department of Health and Human Services on page 6; Calendar Orders No. 955 and 956 under Department of Treasury on page 6.

Mr. DOLE. Mr. President, each of those have been cleared on this side.

Mr. BYRD. Mr. President, I thank the leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned calendar items en bloc, that they be confirmed en bloc, the motion to reconsider en bloc laid on the table, the President be immediately notified of the confirmation of the nominees, and that the Senate return to legislative session.

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

The nominations considered en bloc and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mary T. Goedde, of Ohio, to be an Assistant Secretary of Health and Human Services, vice Ronald F. Docksai, resigned.

Malcolm M. B. Sterrett, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Ronald E. Robertson, resigned.

DEPARTMENT OF THE TREASURY

Charles H. Dallara, of Virginia, to be an Assistant Secretary of the Treasury, vice Alfred Hugh Kingon.

Edith E. Holiday, of Georgia, to be an Assistant Secretary of the Treasury, vice Margaret DeBardeleben Tutwiler, resigned.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, we are about ready to go out until tomorrow.

The distinguished Republican leader, Mr. DOLE, Senator CRANSTON, and I have met with the Speaker and the leadership on the other side to discuss how we can make the best progress on the drug bill and on the tax technical corrections bill.

We had a good meeting, and I think we have made progress.

There will be meetings continuing into the evening. There will be various small meetings of what I refer to now as the bicameral leadership group.

We will have two Senators, one Republican, one Democrat; the House will have a small number of Members. And that group, in consultation with other Members, Republican and Democratic, on both sides of the Hill, will proceed to narrow the issues and make the final decisions, as I say, in consultation with other Members. Staff will be small. It is our hope that by noon tomorrow or early afternoon a final package can be agreed upon by the bicameral joint leadership group.

I understand it will take about 24 hours for the legislative counsel to put into form the agreed-upon package. I would hope that if we can achieve that goal by tomorrow, then that will give us 24 hours after which the two Houses would then, hopefully, act finally upon the drug bill.

In the meantime, it is hoped that the tax technical corrections bill, which is also a very important bill, can be moved along to final action.

I also understand that the differences in connection with that bill have been narrowed considerably and that it is possible to have that bill also ready for action.

This would see us complete our action on tomorrow. This is a rather healthy hope, but just as the Little Engine said, "I think I can do it; I think I can do it; I think I can, I think I can, I think I can," that is the attitude we are taking and the Little Engine, as you know, finally did it.

So, we hope we can do it.

There will not be any rollcall votes as far as I can see tomorrow. It may very well be we can finalize these packages and act on them with a voice vote.

But we cannot rule out a rollcall vote in the end. I hope it will not come to that. But I believe we could safely say that, unless the Republican leader would feel we ought to keep open the possibility that we could even finish it tomorrow evening in which case if there is a rollcall vote then we have to have it.

But Senators will, I am sure, keep in mind that if there is a rollcall vote, this means getting our colleagues back and that might not be too easy to do. It might take a little longer for us to have a final judgment on the bill.

But I think if we leave it like that, Senators will not be disappointed if we can finalize this measure and do it by voice vote.

Mr. DOLE. If the leader will yield, I think the important thing is there is a determination by the joint leadership, House and Senate, to get the drug bill done, hopefully, by Friday.

Mr. BYRD. Yes.

Mr. DOLE. So that is an indication that the leadership on both sides of the aisle are serious about it, both sides of the Capitol are serious about it, and though there was not much focus on the technical corrections bill, I think that there was an indication we have from now until, hopefully, Friday and that puts pressure on the Ways and Means conferees and the Finance Committee conferees.

So I am encouraged and meetings will start again at 6 tonight with Members. There will be Senator RUDMAN on this side, with a limited number of staff, and they will be in consultation with other Members. So there will not be anybody ignored in the process.

But I think the structure the majority leader recommended here earlier worked quite well, with a core group on both sides, total bipartisanship.

Again, I cannot think of what we might have a rollcall vote on tomorrow. I talked to staff and I think there is a lot of drafting to be done.

Mr. BYRD. So it could not possibly be ready for final action tomorrow.

That being the case, I think I should just say there will not be any rollcall votes tomorrow.

I should add a postscript: I wandered into one of the rooms. On the premises was quite a group of Members, Republicans and Democrats, and it was a bicameral meeting. They were making great progress on some of the more thorny issues that remain to be decided.

I have been greatly encouraged by the progress that that group is making.

Mr. President, I thank the Republican leader.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 98-399, as amended by Public Law 99-284, appoints the Senator from Missouri [Mr. DANFORTH] to the Martin Luther King, Jr., Federal Holiday Commission, with the appointment to be effective as of June 27, 1988.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, is it agreeable with the leader of the Senate on the other side of the aisle to go out until, say, noon tomorrow, or even later tomorrow?

Mr. DOLE. One.

Mr. BYRD. Mr. President, the Republican leader has suggested 1 o'clock tomorrow.

ORDER FOR RECESS UNTIL 1 P.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 1 p.m. tomorrow.

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

RECESS UNTIL TOMORROW AT 1 P.M.

Mr. BYRD. Mr. President, if the Republican leader has nothing further, I move in accordance with the order just entered that the Senate stand in recess until the hour of 1 p.m. tomorrow.

The motion was agreed to; and at 5:39 p.m., the Senate recessed until Thursday, October 20, 1988, at 1 p.m.

NOMINATIONS

Executive nomination received by the Senate October 19, 1988:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DONALD W. JONES, xxx-xx-xxxx U.S. ARMY

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 1988:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARY T. GOEDDE, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

MALCOLM M. B. STERRETT, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

CHARLES H. DALLARA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EDITH E. HOLIDAY, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.