SENATE—*Tuesday, March 29, 1988*

(Legislative day of Monday, March 21, 1988)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

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

Let us pray:

Father in Heaven, in the name of the Prince of Peace, we come to Thee this morning in the beautiful words of St. Francis of Assisi.

"Lord, make me an instrument of Thy peace: where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"O Divine Master, grant that I may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life."

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, March 29, 1988.

To the Senate:

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

JOHN C. STENNIS,
President pro tempore.

Mr. REID 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.

RESERVATION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reserved.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin is now recognized.

THE CASE FOR RAISING INTEREST RATES NOW

Mr. PROXMIRE. Mr. President, why has this Federal Government pursued policies that have pushed debt in this country—Federal debt, household debt and business debt—all to alltime highs? We know the Federal debt is the curse of our National Government and a genuine disgrace. We are ashamed of the $2.4 trillion our Government owes, and we should be. A modest, reasonable amount of debt has its vital uses. In wartime or in depression, a country has every reason to borrow money to help defend itself or to push the country out of depression. A family that borrows money to finance a college education for its children deserves commendation. A business that borrows money to finance critical research and development not only helps itself, its stockholders and employees, it also helps our country. It increases productivity. It makes Americans more competitive. But the kind of deep, crushing debt that plagues our country today, the product of our Government living beyond its means, enfeebles it. The much bigger debt accumulated by the American family—a debt that now exceeds $2.9 trillion—and the mammoth American business debt—the biggest debt of all at $3 trillion plus—makes our economy far more fragile, much more likely to collapse into depression, come the next recession.

So what can we do about it? Almost no one will breathe a word of it. But one answer is higher interest rates. A stream of prospective homebuyers contemplating a bigger mortgage at 10 percent interest to buy a house will turn away if the interest rate rises to 12 percent. Push interest up to 15 percent and the stream of potential homebuyers who drop out becomes a flood. That's tough for the homebuilding industry. It knocks millions of workers in the home construction industry out of work. It slows the economy. But it instantly diminishes the rise of household debt. Rising interest rates not only slash borrowing to buy homes, they discourage borrowing to buy cars and television sets and refrigerators. But doesn't that slow the economy? Of course, it does. Put another way it requires more and more people to live within their means.

That is not all it does. This country is not only in trouble because too many Americans are borrowing too much money, too many of our countrymen are building up interest obligations that will cut cruelly into their standard of living later, but Americans are saving little or nothing from their income. Not only has the indebtedness of the American family soared out of sight, the savings of the American family have nosedived as never before. Think of it. Savings which are 20 percent of personal income in Japan, and were traditionally about 6 percent of income in America, have now fallen to a pitiful 3 percent this year. At the same time debt has shot up through the roof. Why do people save? The one big reason—the one real reward for saving—is the interest they receive. Here is the big free market incentive to save. Save because you are paid to save. So what happens when the Fed pursues policies that expand the money supply and reduce interest rates? Americans borrow more. And why not? The price of borrowing is interest. So when interest drops, it is cheaper to borrow. The result: Americans borrow more money. Debt increases. That is not all the damage that a policy of pushing down interest rates does. Why do Americans save? They save because they receive a reward for saving. That reward is interest. The higher the rate of interest, the more effective that reward. As interest rates fall, the reward for savings diminishes and savings fall.

So is there any wonder that sharply falling interest rates in the past 7 or 8 years have increased debt and diminished savings? Of course, this country has lived beyond its means in the private as well as the public sector. Our credit policies have encouraged this profligacy. For the economy as a whole, our credit policies have been at least as disastrous and irresponsible as the reckless fiscal policies that have plunged our Government into its biggest public debt ever.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Obviously, a rise in interest rates would inflict immediate pain on our economy. It would increase unemployment. It would reduce profits. It would lower the American standard of living. This would be especially true if the rise in interest rates was pursued in tandem with a more restrained fiscal policy. Here is a combined policy that no one but a Member of Congress who is retiring and will never seek public office again would espouse. But it is a policy we should pursue, and the sooner the better.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. 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.

The Senator is notified that there are about 2 minutes remaining in morning business.

Mr. WALLOP. The Senator is aware. I appreciate that counsel.

SENATORS URGED TO ATTEND CLASSIFIED BRIEFING

Mr. WALLOP. I would like to take part of that 2 minutes, Mr. President, to urge Senators to attend the classified briefing. It looks from the people on the floor here there does not seem to be such an attempt. Yet we are talking about the fate of nations.

We are talking about the fate of our allies in Europe. We are talking about the exposures of American soldiers and military people in Europe. We are talking about the survival of NATO. We are talking about possible Soviet cheating that exists even in advance of the INF Treaty. It seems to me inconceivable that Senators would dare to vote on matters of such import without bothering to avail themselves of the information that we wish to present to them this morning.

In the opinion of this Senator, the CIA has cooked the figures on the numbers of SS-20's, and I am prepared to try to prove that in this classified session. But it is of absolutely no avail to the Senate, the United States, our allies, or anyone interested in the obligation and job of the U.S. Senate in giving our consent to ratify this treaty if such information is simply ignored and is not available. It is available and it will be made available. I doubt, given the history of this organization, that anybody is going to go back and read the transcripts.

I just urge Senators to come and listen to the arguments as to how the Soviet situation affects the beginnings of the INF Treaty and will create a permanent footnote in the compliance record that will be offered by this Senator from time to time.

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

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

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

ORDER OF PROCEDURE—CLOSED SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that upon completion of the closed session, the transcript, which will be taken by a reporter from the Intelligence Committee, be available for Members to revise their remarks for 1 week in the Intelligence Committee office and thereafter in the Office of the Senate Security, S-407, here in the Capitol, where it will be permanently kept.

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

Mr. BYRD. Mr. President, I ask unanimous consent that there be an expurgated version of the proceedings, that there be deleted therefrom anything which might be classified, and that such expurgated version be made part of the CONGRESSIONAL RECORD.

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

UNANIMOUS-CONSENT REQUEST: STAFF ACCESS TO CLOSED SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that during the closed session, in addition to the Secretary of the Senate, the Assistant Secretary of the Senate, the Legislative Clerk, the Parliamentarian, the Journal Clerk, the Sergeant at Arms, and the Secretaries to the Majority and the Minority, all of whom are authorized access under rule XXIX, the following committee and leadership staff be authorized access to the floor:

G. William Ashworth, David S. Sullivan, Arnold Punaro, Carl M. Smith, Robert G. Bell, Robert F. Bott, Sven Holmes, James Dykstra, George Tenant, Gary Sojka.

Edward Levine, Paul Joyal, Fred Ward, C. Richard D'Amato, Scott Harris, Al Lehn, David Smith, Michael Di Silvestro, Albert Saffold, Theresa M. Martin, Sheila Burke, and James Whittinghill.

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

Mr. BYRD. Mr. President, I read from rule XXIX concerning executive sessions.

Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

Mr. SYMMS. Mr. President, is there any time remaining?

The ACTING PRESIDENT pro tempore. There is no time left.

Mr. BYRD. Does the Senator wish a minute or two?

Mr. SYMMS. I would appreciate it if I could have about 3 minutes.

Mr. BYRD. All right.

Mr. President, I ask unanimous consent that the distinguished Senator from Idaho be allowed to proceed for 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the majority leader, and I will try to be brief. I only wish to add to what the distinguished Senator from Wyoming has said. Then I will ask unanimous consent to insert other material which is unclassified into the RECORD.

WHY WE URGENTLY NEED A CLOSED SESSION OF THE SENATE

Mr. SYMMS. Mr. President, there are many reasons why we need a closed session of the Senate and why we need it urgently, now.

I want to thank the majority leader and I want to do it now in the RECORD, thank him for making it possible that we can have this meeting before any discussion of the INF Treaty takes place.

Here is a summary of what will be reported in the closed session, the unclassified portion. All of these points have been discussed before in open Senate floor session and can be stated in unclassified form:

There are over 1,000 Soviet SS-20's, leaving a covert force of at least 300;

The CIA has attempted to "cook the books" on the SS-20 covert force issue;

The Soviets deliberately falsified their data in the Mutual Balanced Force Reduction negotiations, which are closely related to the INF Treaty, in order to preserve their military advantages with covert forces;

The INF Treaty is not verifiable, yet this conclusion was misleadingly buried in the classified section of an administration report whose unclassified sections have been given to the press;

INF verification hearings have been resisted and delayed several times, in order to try to cover up the conclusion that the INF Treaty is not effectively verifiable;

The INF Red Team correctly warned that the treaty would not be effectively verifiable;

There is conclusive, agreed intelligence evidence of a large SS-20 covert force;

There is strong evidence that the SS-20 covert force could use the SS-20 and SS-25 infrastructure;

In my opinion, contrary to the reports of the chairmen of the Senate Committee on Armed Services and the Senate Select Committee on Intelligence, the INF Treaty is not effectively verifiable.

First, now that the chairmen of the Senate Intelligence and Armed Services Committees have made their formal reports to the Foreign Relations Committee, several rebuttals to misrepresentations and distortions in INF intelligence need to be presented. It is urgent that these misrepresentations and distortions be cleared up immediately, before further myths may set in.

Second, we have attempted to extract all of the most important agreed intelligence related to the INF Treaty, and to put it in one place for interested Senators. Our report needs to be presented urgently, because we believe it to be of overriding importance. Most of our intelligence material is extracts from NIE's or draft NIE's—agreed national intelligence assessments.

Third, our extracts contain unique material not even considered by the committee reports. Some of this material is from draft NIE's not available even to the Senate Select Committee on Intelligence.

Fourth, by giving our extracts now to the whole Senate, we not only hope to both inform Senators of some unique materials, but also to stimulate debate and dialog. We would be delighted to hear comments and opposing views related to our unique material.

Fifth, the only way for us to present this material is in closed session of the Senate.

OFFICIAL UNCLASSIFIED AND OPEN SOURCES FOR SENATOR HELMS' FEBRUARY 8, 1988 CHART ON SOVIET CONCEALED SS-20 MISSILES

Mr. President, as the Senate nears consideration of the proposed INF Treaty on the Senate floor and in closed sessions in the Old Senate Chamber, we need to keep in mind that the Soviets falsified much of their data in this treaty, in order to maintain a covert force of 300 to 500 SS-20's.

I would like to describe for the Senate in more detail the sources behind the unclassified chart and chart description on the Soviet covert SS-20 force that Senator HELMS has prepared.

There are multiple, pre-existing, official, unclassified, sources for the most important data in the HELMS' chart:

A letter to Senator HELMS from the Secretary of State;

The open testimony of the Chairman of the Joint Chiefs of Staff;

And an authoritative series of Defense Department reports.

These official, unclassified sources are the basis for the HELMS' chart estimates of 840, 950, and 1,200 Soviet SS-20's.

There are several pre-existing press reports as sources for the HELMS' chart estimates of 950 and 1,200 SS-20's in the context of a July 1987 National Intelligence Estimate [NIE] and a January 1988 Draft National Intelligence Estimate.

There are several pre-existing press reports as sources for the HELMS' chart estimates of 550 and 700 Soviet SS-20's in the context of the respective NIE's.

Unclassified pre-existing official correspondence to Senator HELMS from the White House and from the CIA Director has referred to these NIE's, even by identification numbers, which are not used in the Helms chart.

Finally, multiple pre-existing press reports are the sources for the estimate in my chart of 2,250 Soviet SS-20's.

Mr. President, I ask unanimous consent that a memorandum from Senator HELMS to all Senators regarding the detailed sourcing of the SS-20 chart, together with its enclosures, be printed in the RECORD for the information of all Senators.

Mr. President, I ask unanimous consent that a memorandum from Senator HELMS to all Senators regarding the detailed source of the SS-20 chart, together with its enclosures, be printed in the RECORD for the information of all Senators and all staff.

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

MARCH 28, 1988.

MEMORANDUM

To: All Senators.

From: Senator Jesse Helms of North Carolina.

Re: Unclassified and open sources of SS-20 estimates.

SUMMARY

On March 21, an analysis of open-source discrepancies in the estimates of Soviet SS-20s produced was distributed to all Senators. Subsequently, the assertion was made that the analysis and attached chart revealed or confirmed code-word sensitive data. The fact is that neither the analysis nor the chart contained code-word sensitive data, and was based entirely on authoritative open testimony, official (unclassified) letters from the White House, the Secretary of State and the Director of Central Intelligence, unclassified DOD documents, and press accounts going back as far as 1976. The analysis and the covering letter clearly labelled the estimates as those "appearing in the public press" and "in open testimony." No suggestion was made that the estimates given were the actual estimates. Each Senator can decide for him or herself whether the unclassified numbers are accurate enough for public discussion of important public issues. It was highly inappropriate for one Senator to characterize unclassified numbers as identical to classified numbers, whether such a characterization was correct or incorrect. That is why I took strong exception to the Senator's declaration that the data in my analysis "are assessments that we heard at the time of code level" and that they were "figures . . . given in that session." My analysis was carefully drawn to avoid confirmation, but to allow public discussion. Classification is intended to protect sources and methods, and not to stifle public debate of national security issues.

INTRODUCTION

The unclassified description of concealed SS-20 missiles and accompanying chart was discussed on the Senate Floor on March 4, 1988, by Senators Symms and Wallop, in the course of debate of a Symms-Wallop-Helms amendment relating to the Soviet covert SS-20 force. Attached is the Congressional Record debate, in which assurances were given by the proponents that no classified material was involved—assurances that were accepted by the Chairman and Vice Chairman of the Intelligence Committee. (See enclosure No. 1.)

The analysis and accompanying chart were first released publicly on February 8, 1988. It was the subject of a story in Diario Las Americas on February 9, 1988, attached. (See enclosure No. 2.) It was also released to the press on February 9, 1988, in Concord, New Hampshire, after a speech on the INF Treaty given on that date. (See enclosure No. 3.)

A. Official Unclassified Sources for SS-20 Estimates and NIEs.

1. An unclassified CIA estimate provides evidence for over 450 SS-20 launchers. Attached is an excerpt from "Soviet Strategic Force Developments, "which was testimony before a Joint Session of the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Armed Services Committee and the Defense Subcommittee of the Senate Committee on Appropriations, June 26, 1985, by Robert M. Gates, then the Deputy Director of CIA for Intelligence. This official unclassified source stated: "The SS-20 force of intermediate-range ballistic missiles is expected to expand to over 450 deployed launchers by 1987." (See enclosure No. 4. This testimony was reported in the press to be the declassification of the NIE.

2. The Defense Department's annual official unclassified publication "Soviet Military Power" from 1981 through 1987 also provides authoritative official unclassified estimates of SS-20 production. First, "Soviet Military Power" 1984 states that "each SS-20 unit is assessed to be equipped with refire missiles—one per launcher." (See enclosure No. 5.)

3. Combining these two pieces of CIA and DOD official unclassified data, we can easily arrive at an official unclassified SS-20 production estimate of about 900 to 950. This result is achieved merely by multiplying 2 times the 450 SS-20 launchers estimated, and adding another fifty for approximation.

4. Second, "Soviet Military Power" 1984 states that "The number of deployed SS-20 launchers could increase by at least 50 per cent by the late 1980s." (See enclosure No. 6.) The same document stated that there were then 378 SS-20 launches. Multiplying 50% of 378 and adding it to 378 yields 567 SS-20s estimated by the late 1980s. Multiplying this estimate by 2 for refires makes 1,134 SS-20s. This is approximately 1,200.

5. Third, by another method we can arrive at 1,000 to 1,200 SS-20s. Totalling up SS-20 production from all "Soviet Military Power" editions yields totals of between 1,000 and 1,200, assuming series production began in

1975. Indeed, there are two references to Soviet production of 1,000 LRINF missiles from 1976 through 1986. (See enclosure No. 7.) This Department of Defense series is thoroughly coordinated within the Intelligence Community, and thus it can be regarded as an unclassified NIE. One further piece of data is assumed for these estimates—that no SS-4s and SS-5s are included in these production estimates, which is reasonable because these systems were being deactivated beginning about 1970, according to open sources. Thus the only "LRINF missile" system being produced in this 1975-1986 period was the SS-20.

6. In sum, using three official unclassified methods and official unclassified estimates and data, we can arrive at authoritative SS-20 production estimates of about 900 to 950 or about 1,000 to 1,200.

7. The purpose of classification is to protect intelligence sources and methods. If official unclassified SS-20 production estimates range from about 900-950 to 1,000-1,200, then any lower estimates should be regarded as "sanitized." Any SS-20 estimates lower than these official unclassified estimates should not be considered classified, because they are transcended by higher official unclassified estimates. Thus lower estimates would not reveal sources and methods if higher official unclassified estimates exist and do not reveal sources and methods. Conversely, any higher estimates might be equally unclassified, if derived from open sources.

8. The attached December 23, 1987 unclassified letter to me from the White House establishes the fact that specific National Intelligence Estimates can be referred to in public, even by identification number, because the letter refers to "National Intelligence Estimate 11-3-8-87." (See enclosure No. 8.) Moreover, the attached unclassified letter to me of January 25, 1988, from CIA director Webster also refers to "a recent draft of Volume II of National Intelligence Estimate 4/11-88," also using the identification number. (See enclosure No. 9.) A book entitled "The Soviet Estimate," by John Prados, was published in 1982 describing many NIEs in great detail, and attached is a relevant chart extracted from the book. (See enclosure No. 10.) Thus, in sum, it is possible to discuss NIEs and draft NIEs in public, especially if no identifying NIE numbers are used. My chart did not use NIE identification numbers.

B. Unclassified Sources for Specific Estimate of 2,250.

1. According to an authoritative 12 year old press account written by a former Assistant Secretary of Defense, there were "about 1,200 SS-20s now being produced in Soviet factories" in 1976. Given later deployment during the execution of the 1976-1980 Five Year Plan of what turned out to be about 220 SS-20 launchers, it seems reasonable to associate about 220 SS-20 launchers with the production of 1,200 SS-20s. There seemed to be a ratio of production of 5 SS-20 missiles for each SS-20 launcher. If about twice as many SS-20 launchers were later deployed, including another 220 in the subsequent 1981-1985 Five Year Plan for a total of about 441 SS-20 launchers, then it would seem reasonable to associate another 1,200 SS-20s with this increment, or a total of about 2,400 SS-20s. Alternatively, 5 times 441 is 2,205 S-20s. The estimate of 2,250 is an approximate compromise between these estimates of 2,205 and 2,400. Boston Globe, September 5, 1976, "Soviet Mobile Missile Worries US." (See enclosure No. 11.) Note also that this press report is consistent with and supports current DIA unclassified estimates of 1,200 SS-20s produced.

2. According to the authoritative Heritage Foundation, there are up to five SS-20s for each SS-20 launcher. Using the CIA estimate of 450 SS-20 launchers, this would make 2,250 SS-20s produced. "Arms Control Handbook," The Heritage Foundation, 1987. (See enclosure No. 12.)

3. According to another press report, "Equally disconcerting to U.S. policy makers is the strong indication that for each SS-20 launcher, the Russians are now believed to have up to five missiles . . ." Combining this information with the CIA estimate of 450 SS-20 launchers also yields 2,250 SS-20s. New York Post, June 9, 1983, "'Lost' Red Missiles." (See enclosure No. 13.)

4. According to another press report, ". . . The SS-20 force is much bigger than anyone has publicly recognized and consists of 2,205 missiles . . ." New York City Tribune, November 17, 1987, "1977 Spy Data on SS-20s Cast Shadow Over INF Talks." (See enclosure No. 14.)

5. According to another press report, "But if the ill-fated Boris—a spy for America on the Soviet General Staff who was caught and executed in 1979—was accurate in his reporting to the CIA in 1976, and the SS-20 units were designed to consist of five missiles per launcher, the Soviets now have at least 2,205 . . ." New York City Tribune November 18, 1987, "INF Talks Grow Shaky as Concerns Over Missile Verification Mount in Washington." (See enclosure No. 15.)

6. According to another press report, "The Soviets are thought to have produced around 2,300 SS-20 missiles." Washington Inquirer, December 18, 1987, "Treaty Signed—Cheating Begins." (See enclosure No. 16.)

7. According to another press report, there were 2,250 SS-20s produced. New York City Tribune, December 1, 1987, "Soviet Admissions of Missiles Moscow Hid Shake Confidence of U.S. in Verification." (See enclosure No. 17.)

8. According to another press report, "The Soviets are thought to have produced around 2,300 SS-20 missiles . . ." New York City Tribune, December 8, 1987, "Soviet Ploy to Circumvent INF Pact Began with Secret Bases 2 Years Ago." (See enclosure No. 18.)

9. According to another press report, ". . . a U.S. spy in the Soviet Union said Moscow planned five missiles for each launcher." The Washington Post, December 16, 1987, "U.S. May Have Miscounted Some Soviet Missiles." (See enclosure No. 19.)

10. According to another press report, "The Defense Intelligence Agency . . . estimates total SS-20 production at 2,250 operational, refire, test and training missiles . . ." The Washington Times December 2, 1987, "Medium-range Missile Count Put at 2,000 By the Soviets." (See enclosure No. 20.)

11. According finally to one press account: "This has led the DIA to estimate the SS-20 count to be around 1,000, with other estimates based on Soviet plans for four refires of 2,250." New York City Tribune, January 27, 1988, "Helms and Shultz Are In High Stakes Duel Over Verifiability of Pact, Missile Numbers." (See enclosure No. 21.)

C. Specific Unclassified Sources for July 1987 NIE and January 1988 Draft NIE DIA Estimates of 1,200.

1. According to one press report, ". . . the DIA believes the Soviets have produced between 1,000 and 1,200 SS-20s." The report went on to describe "a draft intelligence estimate now being debated among U.S. analysts." The article further stated that the debate "Forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week." The Washington Times, February 1, 1988, "Spy Agencies Disagree on Number of SS-20s." (See enclosure No. 22.)

2. According to another press report, "Last July . . . DIA figured 1,200 . . . Just last month . . . DIA stuck with 1,200." Both of these DIA estimates were described in the context of "The 'national intelligence estimate'." The Wall Street Journal, February 3, 1988, "Crimson Whales, Contd." (See enclosure No. 23.)

D. Specific Unclassified Sources for July 1987 NIE and January 1988 Draft NIE Majority Assessments of 950.

1. According to one press report, "The Defense Intelligence Agency has resisted efforts to modify the position of a July intelligence estimate that lists the number of SS-20s at 950 missiles . . . The figure is the agreed estimate that was derived from a compromise between lower estimates by the State Department and CIA and a higher DIA figure . . . According to the officials, a draft intelligence estimate now being debated among U.S. analysts states that the Soviets have produced 950 SS-20s . . . The differences among State Department, Pentagon, and CIA analysts over the number of SS-20 missiles have forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week." The Washington Times, February 1, 1988, "Spy Agencies Disagree on Number of SS-20s." (See enclosure No. 22.)

2. According to another press report, "The 'national intelligence estimate,' a consensus view, is 950." The Wall Street Journal, February 3, 1988, "Crimson Whales, Contd." (See enclosure No. 23.)

3. According to unclassified, open testimony before the Senate Committee on Armed Services on January 25, 1988, the Chairman of the Joint Chiefs of Staff, Admiral Crowe, stated that the Soviets had "300" more SS-20s than the 650 that the Soviets declared in the INF MOU. Admiral Crowe implied that this estimate of 950 SS-20s was a DIA estimate, but the Admiral went on to suggest that DIA believed the Soviets had a covert SS-20 force of "580," implying a DIA estimate of 1,230 SS-20s. Defense Secretary Carlucci seemed to clarify this discussion by implying that the 950 SS-20 estimate was the NIE best estimate. (See enclosure No. 24, SASC testimony.)

4. According to another press report, "Mr. Helms said classified Defense Information Agency data indicate the Soviets could have up to 300 more medium range missiles than the 650 they say they have." The Washington Times, January 29, 1988. This was a seriously erroneous press story, and the next Monday, The Washington Times ran a "Correction" which stated: "The Times reported in Friday's editions that Sen. Jesse Helms disclosed classified information during a Senate Foreign Relations Committee hearing. This was incorrect. Mr. Helms was citing unclassified information from the Defense Intelligence Agency when he charged there were discrepancies among U.S. estimates on the number of Soviet medium range missiles covered by the INF treaty." (See enclosure No. 25.)

E. Specific Unclassified Source For State/INR Estimate of 840 Plus.

1. Unclassified letter from Secretary of State Shultz to me, May 13, 1987, page 3. The letter states: ". . . in addition to the approximately 440 SS-20 missiles now deployed, there may be as many as 200-400 (or more) such missiles in the U.S.S.R.'s inventory." (See enclosure No. 26.)

F. Specific Unclassified Source For State/INR and CIA January 1988 Draft NIE Estimate of 700.

1. According to one press report, "The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700. . ." This information was in the context of the description of "a draft intelligence estimate now being debated among U.S. analysts. . ." (See enclosure No. 22.)

2. According to another press report, "Just last month, however, the CIA and State Department reached new estimates of 700. . ." This information was described in the context of "The 'national intelligence estimate.'" (See enclosure No. 23.)

G. Specific Unclassified Source For State/INR and CIA July 1987 NIE Estimate of 550.

1. According to one press report, "Last July the CIA and the State Department estimated the Soviets had 550. . ." This information was described in the context of "The 'national intelligence estimate.'" (See enclosure No. 23.)

2. According to another press report, "The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700." (See enclosure No. 22.)

ENCLOSURE NO. 1

INTELLIGENCE OVERSIGHT ACT

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I wonder while Senators are on the floor if we can get some understanding from the managers as to how they see the situation developing for the rest of the afternoon on the intelligence authorization bill.

I yield to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I thank the majority leader for yielding.

I would have to say the agenda is quite murky at this point. We believe that Senator HELMS will be sending an amendment to the desk momentarily.

I retract that. I believe Senator SYMMS has an amendment to offer to the pending measure which would pertain to identification of SS-20 missiles. I am not sure how long that will take. Perhaps a short period of time.

Then Senator HELMS has a rather controversial measure which would be sent to the desk, which would take a considerable amount of time.

Mr. BYRD. I wonder, before I yield the floor, if the Senators would be agreeable to time agreements.

Mr. SYMMS. Mr. President, if the Senator will yield, I think after my amendment is read and we have a brief discussion of it, it may be that the leader will wish to set this over and vote on it next week, though I cannot say that for sure at this time. In order to do justice to this amendment, we will have to have a closed session, and whether the leader wants to do that this afternoon or when we come back, I do not know.

I can send the amendment to the desk and let the clerk read it, have a discussion, and the leader can then direct what we will do, or I can read it myself.

Perhaps the leader can give us direction.

Mr. BYRD. I would like for us to be able to proceed as expeditiously as we can, hoping to complete action on the bill this afternoon, at least on the amendments thereto.

The Senator may proceed.

AMENDMENT NO. 1628

(Purpose: To provide that the Senate shall not consider in Executive Session a proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-range Nuclear Forces unless and until the President certifies that the Soviet Union has provided accurate data regarding the size and composition of its SS-20 missile force)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 1628.

Add at the end of the bill the following new section:

"SEC. . (a) FINDINGS.—1. The Senate finds that a substantial discrepancy exists between various United States intelligence estimates of the number of SS-20 missiles possessed by the Soviet Union and the number of missiles reported by the Soviet Union to the United States pursuant to the Memorandum of Understanding to the proposed Treaty Between the United States of America and the Union of Soviet Socialist Republics Concerning Intermediate-Range Nuclear Forces (hereinafter the "INF Treaty") and that such discrepancy could indicate a covert Soviet SS-2. missile force of 300 to 550 SS-2. missiles carrying 900 to 1650 high-yield nuclear warheads.

2. The Senate finds further that, unless the present discrepancy is satisfactorily clarified, the United States could put at jeopardy its supreme national interest, its 300,000 troops stationed in Europe, and the security of NATO by ratifying the proposed Treaty and thereafter, pursuant to such Treaty, eliminating its own deterrent INF forces based in Western Europe.

(b) Taking account of the findings made in this Section, it shall not be in order for the Senate to consider the proposed INF Treaty in Executive Session unless and until the President of the United States has certified to the Senate that the Senate can rely with confidence on the accuracy of the number of SS-20 missiles reported to the United States by the Soviet Union.".

The PRESIDING OFFICER. The Chair would appreciate it if there could be some order in the Senate so the Senator might be heard.

Mr. SYMMS. Mr. President, I have a chart which will be put up in the back of the Chamber, and I have a few copies that Members can pick up if they wish to look at it. It is an unclassified chart which shows the range of assessments on concealed SS-20 missiles compared to the Soviet declared number under the INF Treaty. The chart is unclassified, and all of the remarks I will make in open session are unclassified. The chart and my remarks are based upon the following unclassified sources: one, "Soviet Military Power", Defense Department; two, Admiral Crowe's open testimony; three, press reports from many media; four, unclassified letters; five, the INF Treaty Memorandum on Data.

From this unclassified chart, it is clear that press reports show that the national intelligence estimate of 950 SS-20's exceeds the Soviet number by 300 missiles. This unclassified number must be considered a covert force which may be deployed or undeployed. We have to consider this.

Mr. President, before I go on with these unclassified remarks, I want to make clear with the chairman of the committee, the ranking Republican, and the majority leader that I intend to offer this amendment on this bill. I do not intend to offer it and withdraw it later. I want it on this bill.

Mr. ARMSTRONG. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will wait until there is silence in the Chamber. We will not proceed until there is that silence.

We are not proceeding until there is total silence.

The Senator may proceed.

Mr. SYMMS. First, Mr. President, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20's that the Soviets are obligated to eliminate under the INF Treaty. The 650 number comes from the INF Treaty Memorandum of Understanding on Data, which the Senate declassified.

Under the terms of the treaty, this number of 650 is supposed to represent the total number of SS-20's ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office and the CIA both made an estimate of the total SS-20's produced that was below the Soviet supplied number of 650. The State-CIA number was reportedly 550 SS-20's, 100 less than the Soviets declared on December 7 and December 8.

This State-CIA underestimate severely discredits the methodology of estimating used by State and CIA.

Third, Mr. President, according to various press reports, in the current draft of the National Intelligence Estimate of January 1988, the State-CIA estimate, has reportedly now been raised to 700. With the raising of the SS-20 estimate to 50 missiles above the Soviet-supplied number of 650, it became possible for the State Department to declare publicly that the Soviet-supplied number of 650 was "within the range of our uncertainties."

Indeed, this may be a true statement of the State-CIA range of uncertainties. But what is not made clear by the statement is the fact that with the severity of the State-CIA error in estimate, their methodology of estimating should be rejected along with their estimates.

Fourth, further evidence of the unreliability of the State estimates is that the State declaration on May 13, 1987, that there could be 840 or more SS-20's. This public estimate flies in the face of the reported secret State-CIA estimate of only 550 SS-20's which then was classified. Thus the State Department was publicly much higher than their then-secret estimate, another anomaly further discrediting the State Department estimative methodology.

Fifth, according to press reports, in the July 1987 NIE the majority of the intelligence community, that is, the four military

service intelligence departments, plus the National Security Agency, all estimated that the Soviets had at least 950 SS-20's. This was the NIE best estimate, agreed to by the majority of the intelligence community. This judgment is reportedly repeated in the current draft NIE of January 1988.

That is a discrepancy of over 300 missiles, to put that into perspective, which is a significant imbalance that could be reflected right now in Western Europe, once we go through with the INF Treaty.

According to press reports, both the July 1987 and the current draft NIE of January 1988 reportedly contained an estimate by the DIA of 1,200 SS-20's produced. This estimate is reportedly based upon solid evidence.

Mr. BOREN. Mr. President, I wonder if the Senator will yield for a question.

Mr. SYMMS. I yield without losing my right to the floor and yield only for a question. I would be happy to yield for a question.

Mr. BOREN. Mr. President, I wish to ask my colleague a question. Referring to the National Intelligence Estimates, is the Senator referring to public comment from publications alleging the National Intelligence Estimates? I want to ask my colleague, he is not purporting to speak from classified sources in open session, is he?

Mr. SYMMS. This is all unclassified, what I am saying now.

Mr. BOREN. Could the Senator make that clear by citing the source? Because I think it would be very unfortunate if the implication were given that these were direct quotations from National Intelligence Estimates that have not been declassified.

Mr. SYMMS. These are from press statements that are public information, and it is unclassified is what I am saying. I repeat, the chart is unclassified, and all of my remarks here in open session are unclassified. The unclassified chart and my unclassified remarks are based upon the following unclassified sources: First, "Soviet Military Power," Department of Defense; second, Admiral Crowe's open testimony; third, press reports from many media; fourth, unclassified letters; and fifth, the INF Treaty Memorandum of Understanding on Data.

Mr. BRADLEY. Will the Senator yield?

Mr. SYMMS. In open testimony before the committee Admiral Crowe made one statement that that was the estimate.

Mr. BOREN. So the Senator is not alleging that the National Intelligence Estimates actually state figures——

Mr. SYMMS. No. What I am saying is that in order to debate this in full, I would agree with the chairman, the Senate must go into a closed session and then we can verify these press reports and these things that have been stated in public in a closed session.

Mr. BOREN. So the Senator is quoting from public sources——

Mr. SYMMS. Public sources only, some of which are official U.S. Government official unclassified sources.

Mr. BOREN. Which give their own rendition of what National Intelligence Estimates state? He is not quoting directly from National Intelligence Estimates; is that correct?

Mr. SYMMS. No. I am quoting from statements that have been publicly stated that are unclassified.

Mr. BOREN. I thank the Senator.

Mr. COHEN. Will the Senator identify the public statements?

Mr. SYMMS. One was from Admiral Crowe before, I think it was the Senate Armed Services Committee.

Mr. COHEN. I do not believe Admiral Crowe gave any indication of 900 warheads or 300 missiles.

Mr. SYMMS. That was from my own estimate. There are 3 warheads on each SS-20 and if, in fact, as these statements have been made, there are 300 unaccounted for SS-20's above the 650 the Soviets declared, then that would be 900 warheads that could be possibly hidden. That is my speculation.

Mr. COHEN. I gather from the Senator's statements that the Senator was citing the NIE as supporting that particular figure and that is not correct. Am I correct that the Senator is not citing the National Intelligence Estimates for the source of 900 warheads?

Mr. SYMMS. What I am doing is just simply multiplying the fact that if, in fact, as Admiral Crowe said publicly before our committee, that there possibly are 300 more SS-20's than we think there are, then I am saying that with 3 on each SS-20, that is 900.

Mr. COHEN. The Senator is citing Admiral Crowe?

Mr. SYMMS. That is not a classified number. That is public knowledge. That has been reported widely in the news media, in the Washington Post and other newspapers, the Washington Times.

Mr. COHEN. The Senator is not citing the Washington Post and the Washington Times as authority for——

Mr. SYMMS. No. Let me finish my statement and then we can discuss this further. I will be happy to answer questions.

Sixth, according to various press reports, both the July 1987 and the current draft of the NIE of January 1988 reportedly contained an estimate of the DIA of 1,200 SS-20's produced. This estimate reportedly is based upon solid evidence. Seventh, we have the estimate of 2,250 SS-20's produced, which is based upon analysis of reported evidence of SS-20 production and deployment under two Soviet 5 year plans, 1976-80 and 1981-85. This estimate may be the estimate most soundly based in terms of methodology and evidence. Mr. President, Senator HELMS stated publicly that press reports indicate that the majority of the intelligence community believes in the NIE that the Soviets produced at least 300 more SS-20 missiles than they have claimed in the INF memorandum of understanding. There may be as many as 1,600 more SS-20's than the Soviets declared.

Now, the chairman of the Committee on Foreign Relations publicly released a statement apparently by Ambassador Kampelman which said, and I quote: "The Helms statement is incorrect, the majority of the national intelligence community does not support the view that the Soviets withheld a number of SS-20's. All data will be reviewed in the updated memorandum of understanding and verified through the onsite inspection. The DCI, speaking for the entire intelligence community, has said that the Soviet data of the memorandum of understanding falls within the intelligence community estimates."

Now, Mr. President, the Kampelman statement released publicly by the distinguished chairman is not entirely accurate, but I can correct the record on this highly important issue only in a closed session. That is the entire point. So I just think that if we are going to proceed on this amendment—this chart is unclassified, and Senators may look at this—we need to go into a Codeword Session. These have been released figures. I just go across where these come from to help answer the question of my colleague from Maine. The 500 SS-20's are the State-INR, CIA, NIE of July 1987, reported in the press. That is unclassified; the draft NIE, January 1988. This was also reported in the press. My colleagues can look across here at where these come from. Unclassified letter to Senator HELMS, the majority assessment, majority assessment in 1988, reported in the press, the DIA-NIE, and so forth.

But in order to really discuss this, which can be verified, we need to go into a closed session. That is the point I was making with the distinguished majority leader, whether we want to discuss this today or do this when we return and make preparations to have a closed session so all Senators can get to the bottom of this issue.

The reason I offer this, Mr. President, on this bill is because I think it is pertinent the President needs to certify the accuracy of the Soviet numbers, and I think that all Senators need to have the opportunity to become aware of what it is we are getting into with the INF and we need to make preparations in advance before we move headlong into a discussion of this treaty. So this is the first opportunity, and I think an intelligence bill is one that is appropriate that we discuss matters of significant intelligence consequences. Now, to answer the question of my colleague from Maine, I am not directly quoting any NIE material on the floor. Rather, I am citing published reports, some of which are official, and all of which are unclassified.

However, if the published reports are accurate, it is a very serious situation—a Soviet covert SS-20 force of 300—which I believe warrants the attention of the Senators in a closed session. And that is where I would leave this at the present time.

I realize it is 4 o'clock; it is Friday afternoon; we have other business to attend to. I do not know that the Senators want to stay here for a closed session. We would have to sweep the Chamber. But I think it is something that should be discussed.

I am sure my colleagues know the rules, but it only takes two Senators to move to go to a closed session. I do not wish to burden my colleagues on Friday afternoon, if that is not the wishes of the majority leader, but I do believe this is a matter of critical importance to the security of the free world and of this country. I think it is an issue which needs to be discussed in a closed session in the Senate, and it should be discussed before this bill passes.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield the floor?

Mr. SYMMS. Mr. President, I still maintain my right to the floor.

Mr. BOREN. Will the Senator yield for a question without losing his rights to the floor?

Mr. SYMMS. I yield the floor.

Mr. HATFIELD and Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. If I could just comment briefly, the Senator from Idaho has suggested this is a pertinent amendment. If there is any pertinence to the amendment, I fail to find it other than why this institution has become paralyzed and unable to take action. This amendment has absolutely no business being on this bill. This is a bill that deals

with the regulations, if one wants to call it regulations, at least the construction of a mechanism whereby Congress may oversee its responsibility in dealing with covert activities. It has nothing to do with INF, SS-20's Pershing II's, GLCM's, or anything else.

For anyone to call up an amendment at 4 o'clock in the afternoon when people have departed or are ready to depart and indicating we have to go to closed session, I think, indicates why this body is unable to conduct its business in any sort of rational sense of the word.

First, I would point out, as serving on the Armed Services Committee and the Intelligence Committee, that we are making an investigation right now. We are holding hearings on the accuracy or inaccuracy of reports that have appeared in newspapers, leaks that have been generated by certain individuals to the public. These reports are then cited as authoritative before this body, and some Senators are now demanding a closed session. It is a nice, circular ring that we find ourselves, but the Intelligence Committee is conducting hearings for the purpose of determining whether or not we have made an accurate assessment of how many SS-20's currently exist in the Soviet inventory. Let us conclude our investigation.

Let the chairman and myself make a presentation to the Armed Services Committee on which the Senator from Idaho serves. The Senate Armed Services Committee is holding a number of hearings to determine whether or not this agreement is in our mutual interest.

Why, at 10 after 4 on a Friday afternoon before we are about to recess, are we bringing this measure up and demanding that we conclude it either with a closed session or a determination that we hold it over until next week? This amendment has no business being on this bill.

There is adequate time. The INF Treaty will be before us sometime this spring. Then the Senator's amendment, I think, would be in order, at least his inquiry and questions and analysis of whether it is the NIE or the Washington Post or the Washington Times that ought to be the authoritative source for how many SS-20's are in the inventory of the Soviet Union. But I find no pertinence to this amendment at this time at this hour on this bill.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I find myself in agreement with my colleague from Maine. I know the Senator from Idaho is very sincere in his concern about this matter. I know he has deep feelings about it. The Senator from Idaho knows that we are endeavoring in our committee through the appropriate process as we have been holding hearings on verification; I do not know how many scores of hours I have spent in our hearings on the verification on some of these very issues over the past several weeks.

He knows also that we have tried to respond to concerns of other Senators that have been raised, and we were pleased to have the Senator as a guest at one of our meetings recently in which we looked at the troubling matter that we are pursuing.

And I would just say to the Senator that we are going to do this in the appropriate way. We are certainly going to do our duty. I am absolutely committed to doing our duty to thoroughly look at these issues in the Intelligence Committee. This is a bill related to the procedures for oversight on covert actions which has not in any way related itself in subject matter to arms control verification, which is a matter of very great concern to this Senator.

I would hope that this afternoon he would agree to withdraw this amendment from this bill. He has expressed his very sincere concerns. And I intend, through the regular process to look at those concerns. I can tell him that there have already been some discussions of these general matters that he has raised in our committee and through our deliberations. And these issues will be addressed both in our classified and unclassified report to the Senate, and to the Senate Foreign Relations Committee.

So I would like to ask my colleague, having expressed his concern, if he would be willing at this point to withdraw his amendment so that we might then proceed with the orderly consideration of this bill on oversight procedures.

Mr. SYMMS. I think the Senator from Wyoming wants to be heard. I will be glad to work with the committee and maybe we can have a little consultation.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I did not mean to interrupt and to stand in front of the response of the Senator from Idaho to the Senator from Oklahoma. But I have to say something troubles me greatly, while the Senator from Maine is still on the floor. I think I heard, however inadvertently, the Senator accuse the Senator from Idaho of leaking.

Mr. COHEN. No.

Mr. WALLOP. I wanted to make that clear because the statement that this process is circular certainly made this Senator's ears perk up, as though it was the Senator from Maine's contention that the Senator from Idaho was leaking and then asking for a closed session, in which to discuss the information allegedly leaked. I know that was not the intention.

Mr. COHEN. That was not the case, nor did I indicate that. For the RECORD, I said stories are leaked to the press generally and then the stories are cited in our deliberations. There was a circular type of situation. I did not suggest the Senator from Idaho leaked anything and do not.

Mr. WALLOP. I thank the Senator from Maine. I did not want that to go in any way unremarked.

But I would say this: We are talking about hearings on the INF Treaty and things that are going to take place, and we will be able to know about it sometime in the future, and that thorough investigations will be made. But I would say about this bill that there has been only one public hearing, Mr. President, and that was in December while the rest of us were engaged in the frantic effort to clean up the mountain of the continuing resolution, the reconciliation bill, et cetera. With only two secret hearings, and one public hearing, this bill was passed out without much knowledge of anybody in the Senate.

I might add, I think it was irresponsible that it was not referred to the Senate Armed Services Committee and to the Senate Foreign Relations Committee, a portion of whose turf is simply eliminated in this bill.

So if we are to be criticized for asking for consideration of something that is not quite directed to the bill, I think we do it because part of what we see in the bill that lies in front of us. For instance, Foreign Assistance Act is the domain of the Senate Foreign Relations Committee. A portion of the Foreign Assistance Act is repealed by this bill. The Foreign Relations Committee has not had hearings on it.

So for us to bring up—and I say "us" because I am a cosponsor of the Senator's amendment—an amendment of this nature is not an abuse of the system of the Senate, but is an expression of the anxiety that we feel that some of us are being cut out of the process in learning and debating of things of real moment and content to the Senate of the United States. And a closed session of the Senate at the code word level would demonstrate the validity or the falaciousness of the reported intelligence estimates that have been in the papers and in the press which cause and give rise to the concern the Senator from Idaho expresses.

Let me just say I agree with the Senator from Maine. Sure, here is another example of what we do. But I would say to the Senator from Maine I have sat through many long debates on amendments of his, arms control amendments to the armed services authorization which were really no more relevant or irrelevant to the legislation in front of us than this amendment here tonight. It is 4 o'clock in the afternoon, but it is an important issue, and it is important that America knows that not everything we have been hearing with regard to the INF Treaty is as comfortable as some would have it through their public statements and observations about that treaty.

This is a matter that concerns the Senate, and the Senator is well within his rights to raise it as an issue on an intelligence bill.

Mr. COHEN. If the Senator will yield, there is no question he is well within his rights. The Senator from Maine was simply trying to point out that this is at the very least premature in terms of discussion of the relative accuracy of various estimates at the time when almost half of our colleagues—if you really want to have a discussion have it during the time when most of our colleagues are present—most of them, are in the process of leaving at this point. It is called up at 4:20 in the afternoon before a major recess.

All I am simply indicating is this is hardly the time to leave a fullblown top secret code word clearance discussion in closed session of the U.S. Senate if you are really serious about educating our colleagues about the accuracy or inaccuracy of various intelligence matters.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming still has the floor.

Mr. WALLOP. Had the Senator heard the opening statements of the Senator from Idaho, and I grant him there was, as there often is, a lot of commotion on the floor, he would have heard him say to the majority leader that it would be his intention to cooperate but he wanted it considered on this bill; he would withdraw it and give the Sergeant at Arms time to prepare the Senate for a classified session upon our return. I think—I am not speaking for the Senator from Idaho—but I think he expressed his desire to cooperate, but he did want it heard on this bill.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I thank my colleagues for the colloquy we have engaged in. I especially thank my colleague from Wyoming for looking after my interests.

I appreciate the perceptive comments of the Senator from Maine, and I appreciate part of what he had to say.

However, I say to my colleagues that we all have to ultimately make a decision on the INF Treaty. It is true, as the distinguished chairman of the committee says and the ranking member, the Senator from Maine, says, that maybe Friday afternoon, today, is not the time to clear the Senate and go to code-level closed session.

I am willing to withdraw my amendment if we can have some understanding with the majority leader that we can bring this amendment back up and notify the Sergeant at Arms that we need to have this discussion. Every Senator will have to make a decision.

Some Senators have already stated they are for the INF Treaty. Many Senators have said they are still open to the INF Treaty, to be convinced. I have said repeatedly in my State that I was still open-minded on it; but, after listening to some 20 days of hearings in the Armed Services Committee, someone will have to do a better job to convince me that this is in our national security, to ratify this INF Treaty, to confirm the signature of the President and the Soviet leader.

That is just one Senator's opinion. But I wish someone can erase this nagging concern I have that they are cheating, as they have cheated on other treaties they have signed, and someone can erase for me that they do not have a motivation to hide 300-plus SS-20's. They are chess players and we are checker players.

Their motivation would be simply this: Their motivation would simply be that they are going to have the ability to retarget the targets that they will now target once they move the SS-20's they do destroy out of here; that they will retarget those with SS-24's and SS-25's; and in a few years down the road, when they do ultimately go public with the fact that they have broken out of the ABM Treaty, they have deployed their own missile defense system, they have deployed a civil defense system to protect large numbers of their population, at that point they will roll out their SS-20's again. We will then be in a very vulnerable position, and it will be a different world from that we are used to living in.

I do not want to be a party to anything that allows the Soviet dictator the ability to visit the Port of New Orleans, for example, 5 or 10 years from now and say they would like to start loading wheat on ships at $1 a bushel and it will be done on credit.

So, a week from next Tuesday, pursuant to the provisions of rule XXI, it would be my intention to move to close the Senate, to discuss this amendment.

I want to hear if the majority leader would entertain that. If we do that, I will be happy to withdraw this amendment today, and we could bring it up at that time.

Mr. BYRD. Mr. President, what is the distinguished Senator's request?

Mr. SYMMS. I am requesting that a week from next Tuesday, pursuant to the provisions of rule XXI, I would like to move to close the doors of the Senate and discuss the pending amendment.

Mr. BYRD. Mr. President, I would hope that this bill would not still be before the Senate a week from Tuesday. I have no problem with the Senator asking for a closed session at some time when it is appropriate, but I certainly do not want to suggest that we are still going to be on this bill a week from next Tuesday.

[Enclosure No. 2 not reproducible for the RECORD]

ENCLOSURE NO. 3

SENATOR JESSE HELMS OF NORTH CAROLINA, STATEMENT ON CONCEALED SOVIET SS-20 MISSILES, CONCORD, NH, FEBRUARY 9, 1988

The attached unclassified chart shows the range of assessments on concealed Soviet SS-20 missiles, compared with the Soviet declared number under the INF Treaty. From this chart, it is clear that the National Intelligence Estimate of 950 SS-20s exceeds the Soviet number by 300. This must be considered a covert force, which may be deployed or undeployed.

First, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20s that the Soviets are obligated to eliminate under the INF Treaty. Under the terms of the Treaty, this number of 650 is supposed to represent the total number of SS-20s ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office and the CIA *both* made an estimate of total SS-20s produced that was *below* the Soviet-supplied number of 650. The State-CIA number was reportedly 550 SS-20s, 100 less than the Soviets declared on December 7/8. This State-CIA underestimate severely discredits the methodology of estimating used by State and CIA.

Third, in the current draft NIE of January 1988, the State-CIA estimate has reportedly now been raised to 700. With the raising of the SS-20 estimate to 50 missiles above the Soviet-supplied number of 650, it became possible for the State Department to declare publicly that the Soviet-supplied number of 650 was "within the range of our uncertainties." Indeed, this may be a true statement of the State-CIA range of uncertainties. But what is not made clear by this statement is the fact that with the severity of the State-CIA underestimate, their methodology of estimating should be rejected along with the results of their estimates.

Fourth, further evidence of the unreliability of State Department estimates is the State declaration on May 13, 1987, that there could be 840 plus SS-20s. This public estimate flies in the face of the secret State-CIA estimate of only 550 SS-20s then classified. Thus the State Department was publicly much higher than their then-secret estimate, another anomaly further discrediting the State Department estimative methodology.

Fifth, in the July 1987 NIE the majority of the Intelligence Community, that is, the four military service intelligence departments, plus the National Security Agency, all estimated that the Soviets had at least 950 SS-20s. This was the NIE best estimate, agreed to by the majority of Intelligence Community. This judgment is reportedly repeated in the current draft NIE of January 1988.

Sixth, both the July 1987 and the current draft NIE of January 1988 reportedly contained an estimate by DIA of 1200 SS-20s produced. This estimate reportedly is based upon solid evidence.

Seventh, we have the estimate of 2,250 SS-20s produced, which is based upon analysis of reported evidence of SS-20 production and deployment under two Soviet Five Year Plans, 1976-1980 and 1981-1985. This estimate may be the estimate most soundly based in terms of methodology.

In sum, the NIE majority assessment, the best estimate, is that there are at least 300 SS-20s that are concealed above the 650 declared by the Soviets. There may be as many as 1,600 more than the Soviets declared.

[Charts not reproducible for the RECORD.]

ENCLOSURE NO. 4

SOVIET STRATEGIC FORCE DEVELOPMENTS

(Testimony Before a Joint Session of the Subcommittee on Strategic and Theater Nuclear Forces of the Senate Armed Services Committee and the Defense Subcommittee of the Senate Committee on Appropriations)

SS-20'S

The SS-20 force of intermediate-range ballistic missiles is expected to expand to over 450 deployed launchers by 1987, as a result of an extensive program of constructing new bases. More new bases were started in 1984 then in any pervious year. The total would have been considerably higher if the Soviets had not deactivated SS-20 bases in the central U.S.S.R. to convert to SS-X-25 ICBM bases. A follow-on to the SS-20, which also carries three warheads and is probably designed to improve lethality, began flight-testing in 1984.

ENCLOSURE NO. 5

SOVIET MILITARY POWER—1983

PREFACE

"There is nothing hypothetical about the Soviet military machine. Its expansion, moderization, and contribution to projection of power beyond Soviet boundaries are obvious. A clear understanding of Soviet Armed Forces, their doctrine, their capabilities, their strengths, and their weaknesses is essential to the shaping and maintenance of effective US and Allied armed forces."

Those words from *Soviet Military Power*, published in September 1981, provide a fitting point of departure for this updated second edition. *Soviet Military Power 1983* reports on the size, capabilities, and deployment of the Soviet Armed Forces—and documents the improvement and the R&D which are shaping the increased capabilities of the Soviet Strategic Rocket Forces, and Air Defense Forces, the Ground Forces, the Air Forces, and the Navy—forces numbering more than 4.9 million men.

Since late 1981:

The USSR has begun test flights of two new land-based Intercontinental Ballistic Missiles, while continuing modernization of the deployed SS-17, SS-18, and SS-19 ICBM force.

The USSR has begun test flights of a new generation of strategic, manned bombers—the Blackjack bomber, larger than the US B-1.

The USSR has begun test flights of a new generation of ground, sea- and air-launched cruise missiles, missiles with nuclear capability with ranges in excess of 1,600 kilometers, significantly expanding the flexibility of Soviet strategic options.

The first of the USSR's 25,000-ton Typhoon-Class strategic ballistic missile submarines has test fired its MIRVed, nuclear-warhead, 8,300-kilometer-range submarine-launched ballistic missiles. A second Typhoon has been launched.

Modernization and forward deployment of increasing numbers of Soviet intermediate

nuclear forces—land, sea, and air—have proceeded at an unparalleled pace.

More than 330 mobile launchers for the SS-20—a Longer-Range Intermediate-Range Nuclear Force (LRINF) missile with three nuclear warheads and reload for each launcher—are now arrayed against Western Europe, the Middle East, parts of Africa, and most of Asia, including China and Japan.

Su-24/Fencer ground-attack aircraft have been forward-deployed to nations of Eastern Europe and to border bases in Asia, extending the combat radius of these new nuclear-capable aircraft to include Japan and most of NATO Europe.

The USSR has introduced additional nuclear-capable weapons systems to its forward-deployed divisions in Eastern Europe. The new SS-21 mobile, short-range ballistic missile system is operational in Eastern Europe as is the 152-mm self-propelled gun, adding to Soviet conventional, chemical, and nuclear war-fighting options.

The USSR's T-80 main battle tank, in development in 1981, is in the field with Soviet Tank Divisions in both the USSR and Eastern Europe, adding to the extended combat capabilities of the more than 190 Soviet ground force divisions.

In 1981, two Soviet Kiev-Class aircraft carriers were operational. Now, three units are on the high seas, a fourth unit has been launched; and development continues on a newer, larger class of aircraft carriers.

Soviet Military Power 1984 provides a detailed report on the structure of the Soviet military and its pervasive role, as assigned by the Soviet leadership, in Soviet society—and how that translates directly into the increasing threat posed by the USSR's Armed Forces.

Building on the data provided in the First and Second Editions, *Soviet Military Power 1984* examines key developments in the continuing upgrade of the USSR's Armed Forces.

Modernization of the fourth-generation SS-18 and SS-19 ICBMs nears an end, while the USSR proceeds with the testing of the fifth-generation SS-X-24 and SS-X-25 ICBMs. There are no security requirements for the development of so large a quantity of strategic nuclear offensive weapons.

The 25,000-ton Typhoon-Class strategic ballistic missile submarine, which in 1983 was conducting test firings of its SS-N-20 missiles, is now fully operational. And now, another new SLBM, the SS-NX-23, is being tested.

The Soviet Union has three long-range, land-attack nuclear-armed cruise missiles nearly deployed—the sea-launched SS-NX-21, the aircraft-launched AS-X-15 and the ground-launched SSC-X-4—and it is pressing ahead with the development of more advanced strategic cruise missiles.

The Soviets now have three manned strategic bombers in development or production. In addition to the new Blackjack long-range strategic bomber and the Backfire bomber, the USSR has reopened production lines for the Bear bomber and is producing a new Bear H variant assessed to be the initial carrier for the AS-X-15 cruise missile.

The Soviets have continued to field additional mobile SS-20 launchers, each with a three-warhead missile and reload. In 1981, *Soviet Military Power* reported 250 launchers; in 1983, the total had risen to 330 launchers and now the total is 378 launchers. Construction of new SS-20 facilities in the Western USSR has resumed, even though 243 SS-20 missiles with 729 warheads and an equal number for refire are already in place opposite NATO.

New MiG-29/Fulcrum twin-engine fighter interceptors are now being introduced into Soviet air forces, greatly increasing offensive air capabilities. Additionally, the Su-27/Flanker is nearing deployment.

Fast-paced development continued in the Soviet space shuttle program, which will further increase the flexibility and capability of the USSR's essentially military manned and unmanned space systems.

The USSR continues a great investment in strategic and tactical defenses—with across-the-board upgrading of Soviet air, sea, land and missile defense forces.

Enclosure No. 6

Soviet Military Power—1984

SOVIET MISSILES

With the initial deployment of the SS-20 LRINF missile in 1977, the Soviets launched a concerted effort to modernize and expand their intermediate-range nuclear force. Each SS-20 carries three MIRVed warheads, thereby providing a significant force expansion factor. To date, 378 SS-20s have been deployed, of which some 243 are opposite NATO. The mobility of the SS-20 system enables both on- and off-road operation. As a result, the survivability of the SS-20 is greatly enhanced because detecting and targeting them is difficult when they are field deployed. Further, the SS-20 launcher has the capability of being reloaded and refired; the Soviets stockpile refire missiles. The SS-20s also have very significant increases in accuracy and reaction time over the older SS-4s and SS-5s.

Force expansion is continuing, and the number of deployed SS-20 launchers could increase by at least 50 percent by the late 1980s. In addition to the SS-20 force, the Soviets still maintain some 224 SS-4 LRINF missiles. All of these older missiles are located in the western USSR opposite NATO. By the end of 1983, all SS-5 LRINF missiles were being retired.

Soviet theater nuclear capability has undergone other significant improvements, evident from the increased numbers, types, sophistication, accuracy and yields of tactical missiles including the SS-21, SS-22 and SS-23. The SS-21 is a division-level system that is replacing the older FROG-7. It has a range of about 120 kilometers compared to the FROG-7's range of about 70 kilometers, and is more accurate and reliable.

Soviet Military Power—1986

AIRCRAFT PRODUCTION—U.S.S.R. AND NATO [1]

Aircraft type	U.S.S.R.			NATO		
	1983	1984	1985	1983	1984	1985
Bombers	35	50	50	0	0	2
Fighters/fighter-bombers	950	800	650	650	550	550
Transports	250	250	250	290	250	300
ASW	5	5	5	15	10	5
Helicopters	550	600	600	725	720	525
Utility/trainers	10	10	0	425	305	300

[1] Revised to reflect current total production information. Includes United States: excludes France and Spain.

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.			NATO		
	1983	1984	1985	1983	1984	1985
ICBM's	150	75	100	0	0	0
LRINF	125	125	125	110	80	175
SRBM's	500	500	450	50	25	50

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]—Continued

Missile type	U.S.S.R.			NATO		
	1983	1984	1985	1983	1984	1985
SLCM's	650	700	700	1,300	1,100	800
SLBM's	100	50	100	75	70	75

[1] Revised to reflect current total production information. Includes United States: excludes France and Spain.

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
ICBM's	75	100	125	0	0	10
LRINF	125	125	25	80	175	125
SRBM'S	500	450	400	0	0	0
SLCM's [2]	700	700	1,100	1,100	800	700
SLBM's	50	100	100	70	75	25

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

[2] Short- and long-range sea-launched cruise missiles.

NAVAL SHIP CONSTRUCTION—U.S.S.R. AND NATO [1]

Ship type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
Submarines	9	8	8	12	8	7
Major combatants	9	8	9	19	16	11
Minor combatants	50	50	50	34	30	25
Auxiliaries	5	5	6	11	5	5

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

AIRCRAFT PRODUCTION—U.S.S.R. AND NATO [1]

Aircraft type	U.S.S.R.			NATO		
	1984	1985	1986	1984	1985	1986
Bombers	50	50	50	0	2	25
Fighters/fighter-bombers	800	650	650	550	550	550
Transports	250	250	200	250	300	300
ASW	5	5	5	10	5	5
Military helicopters	600	600	500	720	525	350
Utility/trainers	10	0	55	305	300	250

[1] Revised to reflect current total production information. Includes United States; excludes France and Spain.

Soviet Military Power—1984

MISSILE PRODUCTION—U.S.S.R. AND NATO [1]

Missile type	U.S.S.R.					1983, NATO
	1979	1980	1981	1982	1983	
ICBM's	225	250	200	175	150	0
LRINF	100	100	100	100	100	25
SRBM's	300	300	300	300	350	0
SLCM's	700	750	750	800	800	225
SLBM's	200	200	175	175	200	70
SAM's	53,000	53,000	53,000	53,000	55,000	6,000

[1] Revised to reflect current total production information. Includes United States, excludes France and Spain.

Enclosure No. 7

Soviet Military Power—1987

UNITED STATES AND SOVIET PROCUREMENT OF MAJOR WEAPON SYSTEMS 1977–86

	U.S.	U.S.S.R.
ICBM's and SLBM's	850	3,000
IRBM's and MRBM's	200	1,000
Surface-to-air missiles [1]	16,200	140,000
Long- and intermediate-range bombers	28	375
Fighters [2]	3,450	7,150
Military helicopters	1,750	4,650
Submarines	43	90
Major surface combatants [3]	89	81
Tanks	7,100	24,400

UNITED STATES AND SOVIET PROCUREMENT OF MAJOR WEAPON SYSTEMS 1977–86—Continued

	U.S.	U.S.S.R.
Artillery	2,750	28,200

[1] Includes naval SAM's.
[2] Excludes ASW and combat trainers.
[3] Excludes auxiliaries.

ENCLOSURE No. 8

THE WHITE HOUSE,
Washington, December 23, 1987.

Hon. JESSE HELMS,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: On behalf of the President, I would like to thank you for your December 18 letter regarding the January hearings which will be conducted by the Senate Foreign Relations Committee on the proposed INF Treaty.

I would like to assure you that your request for responses to twenty-four specific questions and a copy of National Intelligence Estimate 11-3-8-77 has been directed to the President's foreign policy advisers for their prompt attention. We will be back in touch with you as soon as we have had an opportunity to thoroughly review your inquiry.

With best wishes,
Sincerely,

WILLIAM L. BALL III,
Assistant to the President.

ENCLOSURE No. 9

THE DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, DC, January 25, 1988.

Hon. JESSE HELMS,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I am responding to your letters of January 22, 1988 to General Odom and me. We have reviewed the highly sensitive classified information cited in the attachment to your letter. This information is, in fact, contained in a recent draft of Volume II of National Intelligence Estimate 4/11-88. The information is substantively accurate, although the final wording in the published version will, in some cases, be slightly different. In some cases, the citations omit reference to important caveats and additional observations. These statements are excerpts from a much broader set of judgments and issues regarding the monitoring of the INF Treaty and, in my view, by themselves do not constitute a sufficient basis on which to draw conclusions about the overall monitorability of the Treaty. This volume of the NIE, which contains highly source-sensitive information, has not yet been published. The judgments and information therein have been briefed to policy officials, negotiators, and in response to requests from members of Congress and security-cleared staff. A summary has been published.

I and my colleagues from the Intelligence Community will be prepared to discuss the issues you have raised during my testimony before the Senate Foreign Relations Committee on January 29. However, it is my understanding that intelligence monitoring capabilities will be discussed in detail in several hearings scheduled by the Senate Select Committee on Intelligence. I would ask you to consult with Chairman Pell, SSCI Chairman Boren, and SSCI Vice Chairman Cohen regarding the appropriate forum for detailed discussion of sensitive intelligence information regarding the monitorability of the INF Treaty.

Sincerely,

WILLIAM H. WEBSTER.

ENCLOSURE No. 10

THE SOVIET ESTIMATE—U.S. INTELLIGENCE ANALYSIS AND RUSSIAN MILTARY STRENGTH

(By John Prados)

TABLE 1.—SOVIET ICBM DEPLOYMENT ESTIMATES, 1958–63

Estimate	Date	Mid-1959	Mid-1960	Mid-1961	Mid-1962	Mid-1963	Mid-1964
NIE Nov. 4, 1958	Dec. 23, 1958	[1] 100	[1] 100	[1] 500	500		
NIE Nov. 4, 1959	Feb. 9, 1960		35	140–200	250–350	350–450	
NIE Nov. 8, 1960	Aug. 1, 1960						
	Program A		30	150	270	400	
	Program B		35	200	450	NA	
	Program C		30	50	125	200	
NIE Nov. 4, 1960	Dec. 1, 1960				124–450	200–700	[2]
NIE Nov. 5, 1961	Apr. 25, 1961						
NIE Nov. 8, 1961	June 7, 1961				50–300	100–500	[3] 150–850
NIE Nov. 4, 1961 supplement	Jan. 10, 1962				35–100	100–250	[4] 150–450
NIE	February 1963					120–250	175–450

[1] The estimate predicted that an inventory of 100 and 500 ICBM's would be attained at intervals of two years, but gave the earlier years in the case of a "crash" program.
[2] The Air Force also predicted 950 Soviet ICBM's for mid-1964 and 1,200 in 1965.
[3] Additional Air Force predictions were 1,150 Soviet ICBM's in 1965 and 1,450 in 1966.
[4] The estimate also presented the range of 250–800 Soviet ICBM's for mid-1967.

Source: Memo, McQuade-Nitze, "The Missile Gap Estimates," May 31, 1963 (declassified July 25, 1979) DDRS (78)-263(d).

[From the Boston Sunday Globe, Sept. 5, 1976]

ENCLOSURE No. 11

SOVIET MOBILE MISSILE WORRIES UNITED STATES

(By William Beecher)

WASHINGTON.—A new Soviet medium-range missile, preparations for deployment of which are just beginning in complexes aimed at Western Europe and China, is causing deep concern with the Administration.

The missile, called by Western intelligence the SS-20, is a solid-fuel, mobile weapon carrying three separately guided warheads.

The concern, a bit of which crept into public discourse last week, is based on the following information which has not been made public:

About twice as many SS-20s are being manufactured by the Soviet Union as the number of the missiles they are to replace.

The missile is estimated to be 10 times more accurate than deployed models.

Comprising the first two stages of the three-stage SS-16 intercontinental ballistic missile, the SS-20 is believed subject to quick transformation into an ICBM, giving the Russians the potential of having more than 1000 weapons that could cover targets throughout much of the United States but totally outside any SALT limitations.

Dr. Fred Ikle, director of the US Arms Control and Disarmament Agency without addressing any of these specifics, made a speech in Los Angeles a few days ago asking why the Soviets deem it necessary to add to SS-20 when they already possess regional nuclear superiority. The specter of such weapons, he decleared, "grows like a towering, dark cloud over Europe and Asia."

"Why are they adding to this arsenal?" Ikle asked. "What—we must ask with deep concern—is the possible political purpose?"

Some government analysis are apprehensive that the Russians are determined to field a force perceived as so preponderant—in Europe principally, but also in Asia—that they can expert to realize commensurately greater political leverage.

Especially if the Mutual Balanced Force Reduction talks result in a parallel scale-down of forces deployed on the central front in Europe, the appearance of twice as many Soviet nuclear missiles, each one carrying three times as many more accurate warheads, should not be lost on political leaders in Western Europe.

Work is under way at some of the SS-4 and SS-5 medium-range missile complexes in Southwestern Russia to construct new storage facilites, housing and command bunkers for the SS-20s, well-placed sources report. There are now about 540 of the older missiles in such sites. Some dismantling has begun. But with about 1200 SS-20s now being produced in Soviet factories, a question arises over how many of these are destined for the European front.

Sources report that a goodly number appear also headed for the Sino-Soviet front. The Russians are constructing facilities at an SS-7 ICBM site in Soviet Asia identical to those associated with the SS-20 in southwestern Russia. This suggests to some analysts that Russia intends to place additional numbers of medium-range missiles in its Far East deployment to increase coverage of targets in China.

Under the SALT-1 agreement, the Soviets are allowed to deploy more missile submarines if they dismantle their vintage SS-7 and SS-8 ICBMs. It thus appears that the SS-20 will be deployed as a replacement, unconstrained by SALT, in at least some of these sites.

The SS-20 is carried on the same transporter-launcher as the SS-16 ICBM. The only difference discernible from space satellites is that the firing cannister in which the

missile is housed is about five feet shorter in the case of the SS-20.

But the SS-20, which has been tested at ranges of about 200 miles, could speedily be given a third stage and a larger cannister and thus become an ICBM.

In that the missiles are mobile, they would be hard to keep track of, compared with missiles in silos. It is anticipated that the SS-20s will normally be kept in a fixed site, with associated spare-parts warehouses, repair shops and troop barracks. But in time of crisis they could easily be moved to alternate sites, thus increasing their chances of surviving any missiles or bombers aimed at the fixed sites.

And even without being fitted with the SS-16's third stage analysts say, by putting on a ligher single warhead and making certain other 'difficult-to-detect' changes, the SS-20 could probably be given a 4000-mile range, sufficient to reach many targets in the United States.

The SS-20 has not been discussed either in the SALT or Mutual Balance Reduction talks, since the first negotiation deals only with long-range strategic weapons and the other deals only with troops and weapons stationed in the central NATO front and Warsaw pact territory. It then represents a gray-area weapon unconstrained by limits of any kind.

And yet it has clearcut potential of great significance in both areas. It is this failure of coming to grips with a new capability, and the implications of large-scale deployment in suggesting Soviet intentions, that is raising such great concerns within the upper echelons of the military, and arms-control communities.

ENCLOSURE No. 12

THE HERITAGE FOUNDATION—ARMS CONTROL HANDBOOK

(By W. Bruce Weinrod)

Since some INF systems carry more than one warhead, launchers and warheads totals are different (see following graph). Because of geographical or numerical limitations, LRINFs could not be a component of a U.S. or Soviet first strike against each other. However, Soviet INF forces, for example, could be used in a first strike against NATO military sites, many of which are essentially unprotected. The graph indicates the USSR has a strong lead in numbers of LRINF launchers. Soviet LRINF launchers are reloadable. In addition, Moscow has a substantial lead in shorter-range INF missiles: it has around 370 such systems while the U.S. has none.

LRINF missiles are considered to be those with ranges between 1,800 and 5,500 kilometers.

Totals include all individual LRINF missiles; i.e., SS-4s, SS-20s, Pershing IIs, and individual ground-launched cruise missiles (four per launcher).

The USSR also stockpiles SS-20s and estimates suggest there are anywhere from two to five spare SS-20s (with 3 warheads each) for each launcher.

Latest public information is that around 171 SS-20 launchers are deployed in Asia; however, the SS-20 is mobile and could be redeployed from Europe to Asia or vice versa.

Some current and future Soviet defensive systems may be able to intercept U.S. LRINF systems; NATO has no similar capabilities.

The location of targets may have an impact upon the INF balance; many important NATO targets, for example, are within 500 miles of the intra-German border and therefore in close range of Soviet LRINFs (and shorter-range INFs also).

The USSR is developing a GLCM which could be deployed to target U.S. allies (the SS-CX-4).

ENCLOSURE No. 13

[From the New York Post, June 9, 1983]

"LOST" RED MISSILES

(By Rowland Evans and Robert Novak)

U.S. failure to discover the location of three "regiments" of SS-20 intermediate-range nuclear missiles known or strongly suspected to be somewhere on Soviet soil has strengthened agreement within the Reagan Administration that early compromise with Moscow over the deployment of new U.S. missiles in Europe is impossible.

The three regiments each with ten launchers for the three-warhead missile, are believed to be somewhere in Central Russia. The U.S. intelligence community is understood to be certain that the 30 missing launchers in three regiments are deployed in the field.

It is believed that they have been positioned for potential use against either European or Asian targets—which includes the mainland of Communist China and the Japanese islands.

The still-rising numbers of SS-20 missiles aimed at Western Europe are clearly identifiable in their shelters from spy-satellite pictures that regularly photograph them.

The missing regiments, however, have not been spotted, raising questions as to whether the Soviets have arranged new and unknown camouflage protection for them.

Indeed, the unexpected discovery in April of one additional regiment of SS-20s under camouflage signalled a warning to the U.S. that the presumed total number of SS-20s, around 350, may be far less than the actual number.

That was before the existence of the three phantom regiments was even suspected.

The impact of those phantom regiments on U.S. policy could be considerable.

With talks now resuming in Geneva on the NATO plan to start deploying the Pershing 2 missile as a counter to the SS-20s, precise knowledge of the number of SS-20s is obviously essential to the U.S. negotiators, headed by veteran diplomat Paul Niles.

A just-published appraisal of these negotiations by the staff of the Senate Foreign Relations Committee virtually rules out agreement with the Soviets this year unless one or both governments proposed meaningful shifts in their current . . . positions."

Soviet refusal to identify the precise location of the missing regiments is likely to harden the U.S. position.

Equally disconcerting to U.S. policy makers is the strong indication that for each SS-20 launcher, the Russians are now believed to have up to five missiles not the previously estimated two missiles.

If American specialists are correct on this point, it means that the Soviets now have more than 5000 SS-20 warheads available for use against Western European and Oriental targets: the initial missile plus four backups for each launcher.

ENCLOSURE No. 14

[From the New York City Tribune, Nov. 17, 1987]

1977 SPY DATA ON SS-20'S CAST SHADOW OVER INF TALKS

(By Peter Samuel)

WASHINGTON.—In 1979 a colonel of the General Staff of the Soviet Army, found guilty of espionage and treason, was strapped to a post, blindfolded and gagged and, following a quickly barked order, his body riddled by a firing squad.

Described by a U.S. government source as Boris, the colonel helped U.S. intelligence for several years before being caught by the KGB.

In 1976 Boris provided the CIA with one of his most intriguing pieces of information. He said the Strategic Rocket Forces planned to build 225 new mobile missile launchers for a system dubbed "Pioneer" during the Five Year Defense Plan 1976-80.

In 1977, U.S. reconnaissance satellites began observing the Pioneers, which were dubbed SS-20s. The presence of these two-stage, three-warhead ballistic missiles on multi-wheeled launchers forced the West German government of Helmut Schmidt to ask the United States to deploy a counter-system.

That system, in the form of the Pershing II and ground-launched cruise missiles now being placed in Western Europe (and being negotiated out again under the imminent INF treaty), has been deployed in an atmosphere of great political turmoil.

The deployment schedule did not quite match the Five Year Plan as outlined by Boris, but given the imperfections of execution of any plan, the information tracked well enough to confirm his credibility as an intelligence source. By now there are some 441 known SS-20 or Pioneer launchers.

Looking back to 1976, the most intriguing thing Boris told the United States was that the Five Year Defense Plan specified the assignment of five Pioneer missiles per Pioneer launcher vehicle, to result in a strength of 1,225 missiles at the end of the plan period.

Each Pioneer firing unit was designed with one first-shot missile and four reloads. It would fire from a presurveyed location; then the vehicles would speed to a second point, reload and fire the second missile.

The Pioneer was designed to fire, move, fire, move—until all five missiles were sent on their way into space and toward the release of their three warheads apiece (each with the explosive power of 150,000 tons of dynamite).

U.S. reconnaissance satellites have observed the SS-20 units carrying one reload and on one occasion two reloads. Signals intelligence has picked up indications of possible exercises including multiple reloads, according to our source.

The United States has never publicly gone beyond saying that SS-20 units carry a single reload missile and that the Soviet army stockpiles reload missiles, without specifying the number.

The official tables of warheads carried usually count only the warheads on the initial missile, so the Pentagon's Soviet Military Power in its INF table talks of the SS-20 force as 441 missiles and three warheads per missile making a total of 1,323 nuclear warheads.

Now that the United States and the Soviet Union are haggling over the INF treaty that is supposed to abolish these intermediate-range missiles, American officials are won-

dering how many SS-20s they should demand be dismantled. If Boris was right, then the SS-20 force is much bigger than anyone has publicly recognized and consists of 2,205 missiles and 6,615 warheads.

In comparison, the United States has roughly 6,000 nuclear warheads on all its different types of land- and submarine-based ballistic missiles combined.

One of America's leading nuclear weapons experts, Dr. Sam Cohen—perhaps best known for his advocacy of the neutron weapon—has long maintained that the SS-20 is not even a theater weapon but designed as an all-purpose strategic weapon.

One of the distortive effects of arms control counting rules is that missiles are classed according to the maximum range over which they are known to have been tested, which may differ considerably from their real capability. Similarly, their warhead numbers are totaled on a basis of the maximum number tested in test firing.

DESIGNED AS AN ICBM?

Cohen says in his recent book, "Mesmerized by the Bear: The Soviet Strategy of Deception" (Dodd, Mead & Co):

"There would seem to be very good reasons to believe that from the very beginning the Soviets planned the SS-20 as an ICBM [intercontinental ballistic missile] and then proceeded to deceive our technically marvelous but mentally gullible spy satellites into believing it was a theater missile by restricting their flight tests to theater missile ranges.

"Even then these test ranges have been barely—only 10 percent—below the accepted definition of an ICBM range, hardly enough to seriously reduce confidence in the missile's performance at intercontinental ranges."

The Soviets' testing the missile in a trajectory across the North Pole provides a further indication that the SS-20 was designed as an all-purpose strategic nuclear weapon system. The only possible target for such a track would be in North America, and the tests would be valuable in providing the Soviets with data on magnetic and gravitational anomalies that could affect SS-20 accuracy when fired against Canada or the United States.

Given the CIA's estimate that once new nighttime and all-weather satellites are in orbit the United States will probably be able to detect only about 20 percent of SS-20s, the Soviets have little incentive under the INF Treaty to do more than dismantle their lead missiles and to keep the reloads.

Given the great uncertainties U.S. intelligence has about how many SS-20 reload missiles exist, the negotiators are in a weak position to bargain for their being dismantled.

ENCLOSURE No. 15

[From the New York City Tribune, Nov. 18, 1987]

INF TALKS GROW SHAKY AS CONCERNS OVER MISSILE VERIFICATION MOUNT IN WASHINGTON

(By Peter Samuel)

WASHINGTON.—Some U.S. officials are concerned that the Soviets are eager to sign an intermediate nuclear forces (INF) treaty because it will remove an important American deterrent force from Europe while allowing the Soviets to continue their nuclear build-up unhampered.

On the face of it, the treaty seems to favor the West, as Secretary of State George Shultz often says.

Superficially, the impending INF treaty is a great victory for the West since it results in the removal of 441 SS-20 missiles with 1,323 warheads and 112 SS-4 launchers, making a total reduction of 1,435 Soviet warheads. In return, the United States is removing only about 300 warheads—on 108 Pershing II ballistic missiles and on 208 ground-launched cruise missiles.

In addition, almost as a goodwill bonus, the Soviets have agreed to give up about 600 shorter-range SS-12 Scaleboard and SS-23 missiles that have no American counterpart at all. The whole package has combined to make Soviet leader Mikhail S. Gorbachev look like a virtual strategic philanthropist!

But a senior U.S. government official, who wished to remain anonymous, told the *New York City Tribune* this week that the outlines of an alarming Soviet "cheat plan" have emerged.

Under the pressure of the Dec. 7 Washington summit deadline for signing the treaty, and on account of the U.S. intelligence community's complete bafflement over how many SS-20 missiles the Soviets have manufactured, Washington will agree to the dismantling of the 441 first-shots and perhaps a token 150 reloads, together with the demolition of some old sheds at known SS-20 bases, and SS-20 trucks.

But if the ill-fated Colonel "Boris"—a spy for America on the Soviet General Staff who was caught and executed in 1979—was accurate in his reporting to the CIA in 1976, and the SS-20 units were designed to consist of five missiles per launcher, the Soviets now have at least 2,205 triple-warhead missiles, the U.S. official said. They have been producing them since 1976 at the rate of perhaps 200 a year. If, in accordance with the upcoming INF treaty, they agree to take apart roughly 600, they can fulfill the terms of the agreement by scrapping 11-, 10- and 9-year-old missiles, the official said—and the Soviets will still have around 1,600 SS-20s left, enough to carry 4,800 warheads.

Indeed, the official told the *City Tribune*, Moscow need not even lose the 600 missiles. In the past year, the Soviets have been testing a new, improved version of the SS-20, dubbed the SS-20 Mod 2, with considerably improved accuracy. If this refined missile is produced at the same rate of 200 a year as the old, and the destruction of the 600 old SS-20s is strung out over 3 years, the Soviets will actually be able to conduct a modernization of their force in the guise of a withdrawal, the administration source said. They will be making no net reduction at all.

The Kremlin has conducted such cosmetic withdrawals before, in Afghanistan, where, with much fanfare, troop divisions have been pulled out, only to be quietly replaced by fresh units.

Now, the CIA, in a classified report obtained by the *City Tribune*, estimates that even with the new imaging radar reconnaissance satellite it will only have a 20 percent probability of detecting SS-20s in the field, so the United States will find it difficult to build a case for Soviet non-compliance.

The SS-20s have perfect cover in the form of the new SS-25 single-warhead, three-stage mobile intercontinental ballistic missile, which is a derivative of the SS-20. According to some analyses, the first two stages of the SS-20 and SS-25 are very similar, if not interchangeable, and the two can use the same transporter-erector trucks and base facilities.

Having been test-fired consistently over intercontinental range, the SS-25s are not covered by the intermediate-range treaty. Already the new SS-25s are being deployed to SS-20 bases, and one intelligence estimate is that the present 100 units will grow to 400.

One theory is that the Soviets have developed a modular "family" of mobile missiles, starting with the SS-16 of the 1960s, through the SS-20 to the SS-25, parts of which can be mixed and matched to various missions. According to this hypothesis, the various stages and transporters can be assembled like building blocks depending on the range of the targets they are to fire at, and the number and weight of warheads needed. Troops that train on one system are equally capable of operating the others.

William Van Cleave, a leading academic authority on strategic weapons, has long argued that the SS-25 is part of such a "family" of missiles.

The probable truth is that U.S. intelligence does not know enough about the details of any of these systems to form a firm assessment. The report that was obtained by the *City Tribune*, the *Soviet Land-Based Mobile Missile Study* done by the CIA's Critical Intelligence Problems Committee, delineated the problem in its executive summary when it said:

"There currently are large uncertainties in our knowledge of the deployment, operations and characteristics of Soviet mobile missiles."

Thus, some Washington analysts see the administration's situation as follows: A politically battered and bewildered President Reagan seems to have developed quite unwarranted enthusiasm for the pomp and ceremony of arms control and the feel-good effervescence of summitry. And advisers who should be cautioning him about the severe limits of verification are urging him on to sign a treaty that purports to regulate weapons it cannot count or even accurately characterize.

ENCLOSURE No. 16

[From the Washington Inquirer, Dec. 18, 1987]

TREATY SIGNED—CHEATING BEGINS

(By Peter Samuel)

The Soviets may have begun concealing a covert SS-20 force two or three years ago in preparation to evade the Intermediate Nuclear Force (INF) treaty. The deception is thought to have occurred already at two SS-20 bases in northern European U.S.S.R.

Defense authorities here name the two bases as Yurya and Verkhnyaya Salda, which are roughly northeast of Moscow, three-quarters of the way to the Barents Sea. The two are shown as SS-25 bases in the Pentagon's "Soviet Military Power" 1987 edition (page 25, upper map entitled "Nuclear Forces ICBMs"). The 1985 edition of "Soviet Military Power" showed these as SS-20 bases.

U.S. intelligence "lost" a brigade of 18 of the intermediate-range SS-20 missiles from each of Yurya and Verkhnyaya Salda sometime in 1985 or 1986. Satellite imagery no longer picked up evidence of the 36 SS-20 units earlier identified as located at these two bases. And it could not find them elsewhere.

Subsequently, the photo-analysts established that the new mobile intercontinental missile, the SS-25, was being deployed at each of these bases and so they are now classed as SS-25 bases. It is now thought likely that Yurya and Verkhnyaya Salda are the prototypes for the deception to be practiced at all SS-20 bases over the period

during which these missiles are supposedly scrapped.

The garages formerly used to hold SS-20s and their launchers at Yurya and Verkhnyaya Salda were lengthened by 3 metres (10 feet). This accommodated the three-stage, intercontinental mobile missile, the SS-25.

(The SS-20 is a two-stage mobile missile which shares the first stage, at least, of the SS-25 and has been classified as intermediate-range because it has never been test-fired beyond the 5,000 km [ca. 3,500 miles] used in arms-control negotiations.)

The 36 SS-20s "lost" by U.S. intelligence may have been simply installed in the longer garages, so they could be multi-purpose. The two missiles, together with the early 1970s SS-16 mobile ICBM, are part of a modular family of mobile missiles that use the modernistic-styled, multiple-axle and large-wheeled MAZ-543 truck which erects its missile for firing, as well as transports it from one firing place to another.

The Soviets are thought to have produced around 2,300 SS-20 missiles although the U.S. has counted only 44 deployed launcher units. The Soviets have told U.S. negotiators in Geneva they have around 1,000 of the missiles, counting the spares. If these 1,000 are destroyed in conformity with the INF treaty, about 1,300 will remain for covert deployment. The 2,300 have been manufactured over more than a decade at the Votkinsk plant, now manufacturing SS-25s. The oldest SS-20s can be scrapped as part of the Soviets' supposedly "faithful" implementation of the INF Treaty, allowing the remaining 1,300 to be intermixed with SS-25s.

Analysts say that the Soviets have recently tested a follow-on, improved SS-20 (called Mod A), which suggests they may intend to covertly replace the 1,000 or so older models they intend to scrap. They may plan to ship these out of the Votkinsk manufacturing plant (or make them elsewhere) in the longer SS-25 cannisters and pass them off as "legal" ICBMs.

A draft study of the INF produced for the American Security Council says that the scheme may be "the greatest Potemkin Village in arms-control history," which could enable the Soviets to continue their nuclear buildup unhindered, while creating the political environment in which western nuclear forces are severely drawn down.

A study, produced by Washington defense consultant Dr. Joseph Douglass, of the relationship between Soviet defense developments and arms-control practices notes a history of careful Soviet planning to evade treaty restrictions. The first example of this was the SALT I treaty which, in article II, attempted to ban a new heavy ICBM. U.S. signals intelligence, via a satellite-based system codenamed Gamma Guppy in May 1972, intercepted a phone conversation in which Soviet party chairman Leonid Brezhnev asked a top military man, Marshal Grechko, for assurances that they would still be able to deploy a new heavy missile, despite the limits on silo-size in the SALT I treaty. This turned out to be the SS-19 missile which, together with the SS-18, constitutes a major threat to U.S. retaliatory forces today.

Heavy SS-19s were designed to fit in the missile silos of the older SS-11 missiles, classified as light missiles.

Other examples of planning to evade arms-control treaties are the continued development and deployment of mobile ICBMs SS-16, SS-24 and SS-25 during the term of the SALT II treaty and development of new types of ICBMs.

ENCLOSURE No. 17

[From the New York City Tribune, Dec. 1, 1987]

SOVIET ADMISSIONS OF MISSILES MOSCOW HID SHAKE CONFIDENCE OF U.S. IN VERIFICATION

(By Peter Samuel)

WASHINGTON.—In Geneva at recent negotiations on the prospective INF treaty, the Soviets acknowledged that in addition to about 450 deployed SS-20 and SS-4 missiles they have another 550 non-deployed missiles, making a total of around 1,000 they should dismantle.

The Soviets conceded they had deployed 120 SS-12 "Scaleboard" systems and, somewhat to the surprise of U.S. negotiators, they said they had about 50 SS-23s.

Washington has never publicly estimated that the Soviets have more than 20 of the 300-mile-range SS-23 "Spider" system, which like the SS-12 Scaleboard is mounted on a MAZ-543 transporter-erector-launcher (TEL) truck.

But following the summer shoot-up of a Military Liaison Mission team in East Germany after the two Americans had taken photographs of a previously unknown SS-23 brigade (with 18 firing units). U.S. intelligence officers are extremely uncertain about the numbers of these successfully concealed missiles.

The Soviets admitted in the recent negotiations that they have in addition to the 170 deployed short-intermediate-range missile units on TELs, around 750 non-deployed missiles of the same kind. Non-deployed missiles are those manufactured and kept in store, either.

For use in test firing or dismantlement to monitor the readiness and reliability of the general stock of missiles.

For use as refire missiles from the deployed launchers so there can be follow-on salvos after the deployed missiles have been shot off.

For retention for covert deployment on their own unsighted launchers.

Intelligence estimates of deployed missiles are based on satellite photography of the silos and launchers and patterns of garaging and other buildings used to support the missiles. A senior U.S. government official last week told us that estimates of non-deployed or stored missiles is a hit and miss business—based on a variety of human sources, signals intelligence intercepts and observation of exercising patterns.

Another important way of deriving numbers of deployed missiles is estimates of the output of Soviet missile factories, based on information on materials going in, numbers of workers and such. In some cases the United States has had agents provide actual production plan numbers for missiles.

SOVIET MISSILE PRODUCTION

The Defense Intelligence Agency has produced the following production numbers for Soviet missiles—rounded to the nearest 50 at the request of our source:

SS-4—2300.
SS-5—300.
SS-11—2200.
SS-12—1800.
SS-16—200.
SS-20—2250.
SS-23—250.
SS-24—500.
SS-25—600.

The SS-5, SS-11, SS-16, SS-24 and SS-25 are not covered by the INF treaty since all have been test-fired beyond the 5,000km (3,000 miles) maximum range for intermediate range designation. All are known to be variable range missiles that can quite easily be used to hit targets within their maximum range.

The numbers illustrate the enormous threat to Europe the Soviets pose through their circumvention of the INF treaty: targets can be hit by the longer range missiles, fired at less than their potential.

There is also great possibility for Soviet cheating by simply retaining stored missiles. The Soviet potential to cheat here is indicated in the discrepancy between Defense Intelligence Agency estimates of the numbers of Soviet missiles produced and the numbers the Soviets now admit to and therefore commit themselves to dismantle.

On the basis of what the Soviets have acknowledged owning regarding INF missiles, they can be expected to say they are dismantling about 2,000 units but they could retain as many as 2,000. Actually the number would probably be considerably smaller than thus since the SS-4s included in this estimate are largely obsolete.

Of more concern, however, is the discrepancy between the DIA estimate of modern SS-20s, 2,250 and the 900 approximate number acknowledged by the Soviets. Those demolished would be the oldest SS-20s, leaving a modern covert force of as many as 1,300 of these three warhead and highly accurate missiles.

The Soviets as well could leave over 1,000 shorter intermediate range SS-12s and SS-23s.

The CIA has reported. "The U.S. probability of detecting SS-20s in the field is estimated at only about 20 percent, once new might time and all weather satellites are in orbit."

This identification of SS-20s would only be possible if the Soviets continue to deplore the missiles in tight-fitting distinctive canisters. Arms control specialists point out that the Soviets can rather easily avoid virtually all danger of U.S. detection of the SS-20s by deploying them in the SS-25 canisters.

The SS-25 is 3 meters (10 feet) longer, but shares the same first stage, so the SS-20 will fit conveniently in the longer canister and "look" exactly the same to satellite imaging SS-25s are being deployed to SS-20 bases already so the intermingling of the two similar systems the first quite legal under INF . . . will make it close to impossible for the United States to distinguish the two and make any convincing case of Soviet violations.

The mercurial Marshall Nikolai Ogarkov, now thought to command the European theaters of Soviet forces, is believed to have designed the INF evasion scheme now enshrined in a treaty being signed by Gorbachev and Reagan.

A former head of a directorate of Strategic Deception, a Chief Directorate of the Soviet General Staff, Ogarkov has had 6 years from the time of Reagan's embrace of the zero-zero option in 1981 to devise ways of hiding most of the SS-20 force and circumventing the treaty.

It hardly seems a coincidence that the Soviets should move to adopt the INF-treaty just as the legal cover-missile the SS-25 type comes on line in numbers.

ENCLOSURE NO. 18

[From the New York City Tribune, Dec. 8, 1987]

SOVIET PLOY TO CIRCUMVENT INF PACT BEGAN WITH SECRET BASES 2 YEARS AGO

(By Peter Samuel)

WASHINGTON, Dec. 7.—The Soviets may have begun secreting a covet SS-20 force 2 or 3 years ago in preparation to evade the Intermediate Nuclear Force (INF) treaty, defense authorities say:

The deception is thought to have occurred already at two SS-20 bases, Yurya and Verkhnyaya Salda, which are roughly northeast of Moscow three quarters of the way to the Barents Sea.

The two are shown as SS-25 bases in the 1987 edition of the Pentagon's *Soviet Military Power* (page 25, upper map entitled "Nuclear Forces ICBMs"). The 1985 edition of *Soviet Military Power* showed these as SS-20 bases.

U.S. intelligence "lost" a brigade of 18 of the Intermediate range SS-20 missiles from both Yurya and Verkhnyaya Salda some time in 1985 or 1986. Satellite imagery no longer picked up evidence of the 36 SS-20 units earlier identified as located at these two bases, and it could not find them elsewhere.

Subsequently the photo-analysts established that the new mobile intercontinental missile, the SS-25, was being deployed at each of these bases and so they are now classed as SS-25 bases. It is now thought likely that Yurya and Verkhnyaya Salda are the prototypes for the deception to be practiced at all SS-20 bases over the period during which these missiles are supposedly scrapped.

The garages formerly used to hold SS-20s and their launchers at Yurya and Verkhnyaya Salda were lengthened by 3 metres (10 feet). This accommodated the three stage inter-continental mobile missile, the SS-25.

The SS-20 is a two-stage mobile missile which shares the first stage at least of the SS-25 and has been classified as intermediate range because it has never been test fired beyond the 3,500 miles used in arms control negotiations.

The 36 SS-20s lost by U.S. intelligence may have been simply installed in the longer garages, so they could be used for a number of purposes. The two missiles, together with the early 1970s SS-16 mobile ICBM, are part of a modular family of mobile missiles that use the modernistic styled multiple axled and large wheeled MAZ-543 truck which erects its missile for firing, as well as transports it from one firing place to another.

The Soviets are thought to have produced around 2300 SS-20 missiles although the United States has counted only 441 deployed launcher units. The Soviets have told U.S. negotiators in Geneva they have around 1,000 of the missiles, counting the spares.

If these 1,000 are destroyed in conformity with the INF treaty, about 1,300 will remain for covert deployment. The 2,300 have been manufactured over more than a decade at the Volkinsk plant, now manufacturing SS-25s.

The oldest SS-20 can be scapped as part of the Soviets' supposedly "faithful" implementation of the INF treaty, allowing the remaining 1,300 to be intermixed with SS-25s.

Analysts say that the Soviets have recently tested a follow-on improved SS-20 (called Mod A) which suggests they may intend to covertly replace the 1,000 or so older models they intend to scrap. They may plan to ship these out of the Volkinsk manufacturing plant (or make them elsewhere) in the longer SS-25 canisters and pass them off as legal ICBMs.

A draft study of the INF produced for the American Security Council says that the scheme may be "the greatest Potemkin Village in arms control history," which could enable the Soviets to continue their nuclear buildup unhindered while creating the political environment in which Western nuclear forces are severely reduced.

A study produced by Washington defense consultant Dr. Joseph Douglass of the relationship between Soviet defense development and arms control practice notes a history of careful Soviet planning to evade treaty restrictions. The first example of this was the Article II in the Salt I treaty, which called for the banning of a new heavy ICBM.

U.S. signals intelligence via a satellite-based system codenamed Gamma Guppy in May 1972, intercepted a phone conversation between Leonid Brezhnev and Marshall Grechko where the Soviet party chairman asked the top military man for assurances that they would still be able to deploy a new heavy missile, despite the limits on silo-size in the SALT I treaty.

This turned out to be the SS-19 missile which together with the SS-18 constitutes a major threat to U.S. retaliatory forces today.

Heavy SS-19s were designed to fit in the missile silos of the older SS-11 missiles, classified as light missiles.

Other examples of planning to evade arms control treaties include the continued development and deployment of mobile ICBMs SS-16, SS-24 and SS-25 during the term of the SALT II treaty and development of new types of ICBMs.

ENCLOSURE NO. 19

[From the Washington Post, Dec. 16, 1987]

U.S. MAY HAVE MISCOUNTED SOME SOVIET MISSILES

(By Walter Pincus)

U.S. intelligence agencies may have underestimated the number of 300-mile-range SS23 nuclear-armed missiles deployed by the Soviets in Eastern Europe and totally missed the placement of Soviet ground-launched cruise missiles in Latvia if data provided by Moscow as part of last week's Intermediate-Range Nuclear Forces (INF) Treaty proves correct, according to government and congressional sources who have analyzed the information.

On the other hand, the analysts said the data indicate that the Pentagon's Defense Intelligence Agency (DIA) for several years may have overestimated by more than 30 percent the overall size of the Soviet intermediate-range nuclear SS20 mobile missile force.

New and sometimes unexpected information on Soviet nuclear weaponry was contained in the "memorandum of understanding," signed by Soviet leader Mikhail Gorbachev and President Reagan, published as part of the treaty and released to the public last week.

It has since caused the DIA and the Central Intelligence Agency to review their past estimates, according to informed sources.

The data also have put new life in long-standing intelligence community disputes and promises to provide fuel to congressional critics of the treaty who argue the Soviets cannot be trusted.

After the INF Treaty takes effect, the Soviets will provide an updated data base and U.S. teams will carry out on-site inspections of listed facilities to verify the data.

Until early this year, according to sources, U.S. intelligence could confirm only that about 10 SS23 missiles had been deployed at a base in the western Soviet Union. Then, according to those sources, a second base was discovered by chance by a U.S. military attache in East Germany.

But last week, the Soviets reported a total of 82 SS23 launchers and 167 missiles deployed in East Germany and the western Soviet Union. Sources said two Soviet bases with nuclear missiles were unknown to the United States. "That just proves smaller missiles are tougher to find," a congressional intelligence expert said.

Soviet disclosures about its SSCX4 ground-launched cruise missile, which was not projected for deployment until 1988 or 1989, have caused the biggest stir in U.S. intelligence circles.

The Soviets said last week they had 84 of the 1,800-mile range missiles "in storage," and six launchers in a site near Jelgava, south of Riga, capital of Latvia. They said "elimination facilities" are at the same site. The Soviets describe their cruise missiles as "tested but not deployed."

One source said moving the weapons to Jelgava showed how easy it may be to hide a usable nuclear force. Another said it was likely the Soviets made the move from the Kapustin Yar test range south of Moscow to Latvia to keep U.S. inspection teams away from the test facility.

The SS20 controversy shows how the United States tried to deal with a missile never seen by reconnaissance satellites. In 1975, before the first SS20 was built, sources said, a U.S. spy in the Soviet Union said Moscow planned five missiles for each launcher. Caught and executed in 1979, the spy's early information guided subsequent U.S. estimates.

SS20 deployment was cloaked in secrecy; missile, transporter vehicle, and protective transport cannister were never seen by the United States, which estimated the number of SS20s in the field by counting the garages for launchers and transporters.

"We counted garages, which we could see, not missiles," one intelligence sources said.

As the number of garages increased above U.S. projections, the CIA lowered its estimate of the "refire" SS20 force; DIA did not. Pentagon and DIA officials continued to insist on at least one extra "refire" SS20 for every deployed missile.

The Defense Department's 1985 edition of the unclassified "Soviet Military Power" estimates "about 400 deployed [SS20] launchers—with a . . . 3-warhead missile and reload." The 1987 edition indicated up to 900 SS20s in all, to go with the 441 missiles DIA reported as having been deployed.

This year's edition said that "the SS20 launcher can be reloaded and refired, and the Soviets stockpile refire missiles."

Last week, the Soviets reported having 659 SS20s, deployed or in some form of storage.

They said 405 of the mobile SS20s along with their launchers were deployed at 39 bases, 15 missiles with launchers were stored at 10 of those same sites, and 164 SS20 missiles were at two storage facilities.

In addition, 36 missiles were at the production facility and 29 missiles and 68 launchers were at an "elimination facility."

Senate critics of the INF Treaty have focused on the DIA numbers and charged, according to a congressional analysis done for one Republican legislator, "the Soviets may secretly be able to retain at least 250 more [SS20s]."

Treaty supporters said the Soviet numbers are within the range estimated by the CIA, and that the DIA estimates were wrong.

ENCLOSURE No. 20

[From the Washington Times, Dec. 2, 1987]

MEDIUM-RANGE MISSILE COUNT PUT AT 2,000 BY THE SOVIETS

(By Warren Strobel)

As the first step in the long, complex process to guard against cheating on the treaty the superpowers will sign next week, the Soviet Union has told U.S. negotiators that it has about 2,000 medium-range missiles, two-thirds of them undeployed, concealed in storage.

Such figures, also supplied by the U.S. side, are crucial to ensuring that both nations eliminate their full complement of Intermediate-range Nuclear Force (INF) weapons. This data exchange will be double-checked in the first of many on-site inspections called for by the accord.

Yet the Soviet characterization of its own arsenal—about 1,000 long-range and 920 short-range INF missiles—elicited differing responses from U.S. government officials when it was delivered last month.

Some said the data match estimates made by various U.S. intelligence agencies.

"The numbers were in our range of estimates, our range of uncertainties," said one administration official.

"The data that we have from the Soviet Union are credible in the sense that they are very much in line with our own intelligence estimates," Secretary of State George Shultz said Sunday.

But a former Senate Intelligence Committee aide, Angelo Codevilla, now a scholar at Stanford University's conservative Hoover Institute, asked, "How do we know that they have not simply given us the numbers that U.S. intelligence has come up with?"

Mr. Codevilla said the CIA estimated the Soviet SS-20 force, the bulk of its long-range INF arsenal, at 1,000 missiles, roughly what the Soviets are now reporting.

However, the Defense Intelligence Agency—whose figures are often larger than the CIA's on Soviet military forces—estimates total SS-20 production at 2,250 operational, refire, test and training missiles, according to a U.S. government source.

"The [Soviet] numbers don't match with what we have in classified," said the source, who spoke on condition of anonymity. "They blow your mind."

Unclassified Pentagon estimates show the Kremlin as having 553 long-range INF missiles deployed on launchers—441 triple-warhead SS-20s and 112 aging SS-4s. But the Soviets told U.S. officials they have only a total of 450 deployed long-range INF missiles, with 550 more in storage.

In the shorter-range INF category, the Soviets say they have 120 SS-12/22 "Scaleboard" missiles on launchers and 50 SS-23s—30 more than U.S. intelligence estimated.

"Especially surprising," according to the government source, is the Soviets' admission that they have about 750 undeployed short-range INF missiles. "The Soviet data exchange has severly undermined verifiability," he said.

ENCLOSURE No. 21

[From the New York City Tribune, Jan. 27, 1988]

HELMS AND SHULTZ ARE IN HIGH-STAKES DUEL OVER VERIFIABILITY OF PACT, MISSILE NUMBERS

(By Peter Samuel)

WASHINGTON, JAN. 26.—While Republican and Democratic senators joined forces today seeking to discredit him, Sen. Jesse Helms, R-N.C., has engaged Secretary of State George Shultz in a high-stakes battle over the ratification of the INF treaty.

At today's testimony before the Senate Foreign Relations Committee, the top U.S. arms control negotiators at Geneva, Max Kampelman and Maynard Glitman, said the treaty achieves the goal of eliminating Soviet medium-range missiles as a military threat to Western Europe and a political threat to the stability of the NATO alliance.

They told the committee that destruction of the missiles is the crucial provision because that meant that warheads could no longer be delivered to their targets.

Destroying the warheads themselves might be dangerous, Kampelman and Glitman said, because secret U.S. nuclear weapons designs might be exposed to Soviet inspection. They also cited the risk of radiation contamination throughout Europe.

With other senators siding against him, Helms pressed his claim "that contrary to some public assertions, the treaty does not destroy even one nuclear warhead."

"A missile is a carrying case and the warhead is the thing that goes 'boom' and kills you," Helms declared. "A missile doesn't kill you unless it falls on your head and cracks it open."

Kampelman said the treaty does permit removal of fissionable material and guidance systems before U.S. and Soviet missiles are destroyed by crushing them, burying them underground or exploding them after an aerial launching.

"The fissionable material by itself is not dangerous," Kampelman said. "The danger involved is when it is linked to that which shoots it, directs it, causes it to explode. A big section of the warhead does get destroyed, does get crushed."

Helms, though, has saved his wrath for Shultz, who has given ratification of the treaty high priority in the final year of the Reagan administration. Helms and his staff are deeply committed to the view that the treaty is detrimental to the security of the United States and its allies, and say, privately, the treaty is being sold with lies.

They say that the administration is misleading the American people on two central issues summed up in the terms: "Monitorability" and "Only 650?" SS-20s.

Monitorability refers to the ability of United States intelligence and verification inspectors to adequately track and identify Soviet missiles and detect violations. The "Only-650?" issue refers to the credibility of the Soviets' declaration that it has only 650 SS-20 missiles, which will be destroyed under the terms of the INF treaty.

The public has been shown only the tip of the iceberg of this dispute, the senator says, and on Monday he illustrated his point during the public hearings by having an aide walk across the room and deliver to Shultz a top secret report, which Helms said was of "paramount importance to our national security."

In a press release he said earlier that if the classified material was legitimate he would question "whether there should be further Senate action at this time on the proposed treaty."

Helms said he wanted confirmation from Shultz that the document was genuine and that he and the president knew its contents. Shultz declined to open the document, citing the presence of cameras in the room. Helms then suggested that the top secret folder contained material attached to a letter he had written him.

Shultz picked up: "Well, it is . . . it represents itself as being a set of quotations from highly classified materials that are in the hands of the intelligence people."

Helms: "Yup."

Shultz: "And how you came to have that I have no idea. You have better access than I do to whatever they [the intelligence people] are doing. . ."

The Secretary of State then said that, from what he had been able to ascertain, the problems raised in the secret reports "can be dealt with satisfactorily" but this should be discussed with the intelligence people in closed session.

Helms responded that he was encouraged Shultz had read his letter. He then put into the Senate record that he had received a hand-delivered letter from CIA Director William Webster which included the statement: "We have reviewed the highly sensitive classified information cited in the attachment to your letter.

"This information is, in fact, contained in a recent draft of Volume Two of The National Intelligence Estimate 4/11-88. The information is substantively accurate, although the final wording in the published version, will, in some cases be slightly different."

Helms in his letter to Webster charged that the secret material "discloses a major violation by the Soviet Union of the proposed treaty on Intermediate Nuclear Forces."

Officials have been unusually reticent in commenting on the content of the secret materials, but the indications are that they bear in part on two matters already reported in the City Tribune in the series published November 13, 16, 17 and 18.

These refer to:

The intelligence community's great difficulty in detecting mobile Soviet missiles and its need for considerably increased resources in order to be able to detect and identify them with confidence.

Indications from US intelligence that the INF-banned SS-20 missile is being covertly deployed with its slightly longer and INF-allowed "cousin," the SS-25.

Two former SS-20 bases in the western Soviet Union, Verkhnyaya Salda and Yurya have been gradually converted to SS-25 basis, U.S. intelligence has reported. The SS-25 canisters and garages, which are 10 feet longer than those for the SS-20, over the years 1984 to 1987 displaced the shorter canisters and garages identified as those to hold SS-20s. Analysts in Washington concluded the bases were being converted from the SS-20s to intercontinental SS-25s. U.S. intelligence reported that 36 SS-20s that were thought to be "lost," disappeared from these bases.

Another interpretation is that the same SS-20 missiles were simply moved into the longer canister and garages identified with SS-25s and were given 10 feet of "rattle room" as part of Soviet plans to test their ability to hide their intermediate range force.

In his opening statement today, Senate Republican Leader Robert Dole said he sup-

ported ratification of the treaty but said U.S. intelligence would need more resources to do the job.

"The intelligence chiefs I consulted assured me that, with adequate resources, and I underscore that, they can do the verification job," Dole said. "We may well need to beef up our own capability to ensure effective verification.".

This is an apparent allusion to intelligence assessments that the United States would only have about a 20 percent probability of detecting an illegally deployed SS-20, and that a principal surveillance system needed to search for mobile missiles—the Indigo-LaCrosse infrared imaging satellite—has been grounded by the space shuttle disaster and the lack of any U.S. heavy-lift launch capability.

A Mobile Missile Task Force Intelligence Requirements and Analysis Working Group (IRAWG) report dated Dec. 11, 1986 and addressed to the director of central intelligence said: "Our current capability to meet adequately the demands placed on our resources to address effectively the mobile missile problem is limited . . . A true capability to locate, identify and track mobile missiles is evolutionary and will require significant enhancement over present capabilities . . . It is clear that development of strategies to improve our capabilities will require many more experts than are currently available."

The "Only-650?" issue bears heavily on the credibility of the administration, because in its desire to get the treaty ratified, it is endorsing the Soviets' declaration that they have only 650 SS-20s to destroy. Yet, the record is replete with earlier statements by the administration emphasizing that the SS-20 system was built and deployed to reload and refire.

The Pentagon's Soviet Military Power publication has always said this, and its pictorial representations of SS-20 units in action have usually shown refire units. The number of refire missiles per ready-to-fire missiles atop their transporter-erector launcher trucks, has been estimated between one and four.

Even with the low estimate of one refire missile per deployed missile, there would, with the administration's count of 441 deployed missiles, be 882 missiles. In addition to those in the field, every missile system has its stockpile of missiles held for test firing and replacement of those that get damaged from the rigors of deployment.

This has led the Defense Intelligence Agency to estimate the SS-20 count to be around 1,000, with other estimates based on Soviet plans for four refires of 2,250.

A memorandum from Helms to his colleagues dated Jan. 25 discusses this issue at length on pages 22 and 23. It says that the DIA has "assumed that the SS-20 force was close to and even over 1,000." It goes on to say some intelligence analysts have estimated the numbers as high as 2,250 and adds: "This number is a derived number, not a detected number, but it is based upon some very reasonable assumptions and intelligence information . . ."

ENCLOSURE No. 22

[From the Washington Times, Feb. 1, 1988]

SPY AGENCIES DISAGREE ON NUMBER OF SS-20'S

(By Bill Gertz)

U.S. intelligence analysts have been unable to agree on the number of SS-20 nuclear missiles to include in the latest estimate of Soviet missile forces, according to administration and congressional officials.

The SS-20 is the primary missile to be eliminated under the terms of the U.S.-Soviet intermediate nuclear forces treaty, and Defense Secretary Frank Carlucci is expected to face tough questioning about the intelligence disagreement when he appears today before the Senate Foreign Relations Committee.

Mr. Carlucci's testimony kicks off the Foreign Relations panel's second week of ratification hearing on the INF treaty.

The differences among State Department, Pentagon and CIA analysts over the number of SS-20 mobile nuclear missiles have forced a delay in the release of a national intelligence estimate, an interagency report that was scheduled for completion last week, said the administration and congressional officials who declined to be named.

Opponents of the INF treaty seized upon the dispute last week during Senate ratification hearings.

Sen. Jesse Helms, North Carolina Republican and a leading critic of the accord, claimed that the uncounted SS-20s—triple-warhead, mobile missiles with a range of about 3,000 miles—are part of a "covert" force. In a hearing Thursday, he charged that the intelligence community had modified its estimates of SS-20 production to conform to Soviet data.

According to the officials a draft intelligence estimate now being debated among U.S. analysts states that the Soviets have produced 950 SS-20s—300 more than Soviet negotiators declared during INF talks.

The INF treaty figure of 650 includes 405 operational systems and an additional 245 "non-deployed" missiles stored in huge warehouses at several locations in the central Soviet Union.

The Defense Intelligence Agency has resisted efforts to modify the position of a July intelligence estimate that lists the number of Soviet SS-20s at 950 missiles, officials said. The figure is the agreed estimate that was derived from a compromise between lower estimates by the State Department and CIA and a higher DIA figure, they said.

According to one official, the DIA believes the Soviets have produced between 1,000 and 1,200 SS-20s.

The State Department and CIA initial estimates of the total number of SS-20s, officials said, were revised last fall from a number below 600 to about 700—after Soviet negotiators revealed that 650 SS-20 were produced.

State Department analysts dismissed the fact that the Soviets supplied four different sets of INF numbers during negotiations last fall as the result of "bureaucratic confusion" among Soviet negotiators, the official said.

Adm. William Crowe, chairman of the Joint Chiefs of Staff, told the Senate Armed Services Committee in a parallel ratification hearing last week that the U.S. intelligence community had estimated that the Soviets could have as many as 300 SS-20s beyond those declared in the INF treaty.

And chief U.S. arms negotiator Paul Nitze, in testimony Thursday before the Senate Foreign Relations Committee, made the unusual public disclosure that the three agencies were at odds over the number of deployed and non-deployed SS-20 missiles.

But he sought to minimize the importance of any SS-20s not declared by the Soviets in the INF pact by arguing that any undeclared missiles would not be militarily reliable.

In a prepared statement for the Foreign Relations Committee yesterday, Gen. Alexander Haig, a retired NATO commander who is now a GOP presidential aspirant, declared his opposition to the INF treaty "even if the warheads were to be destroyed and even if verification was far more stringent."

Gen. Haig noted: "In my view, the INF treaty . . . weakens rather than strengthens deterrence against war."

Another former NATO commander, Gen. Bernard Rogers, said Friday that the INF treaty has given him "gas pains" because of its impact on deterring conventional war and because of problems with verifying Soviet compliance.

Gen. Rogers said the U.S. spy satellites, known as National Technical Means, were unable to confirm whether the Soviets dismantled more than two dozen SS-20s bases several years ago.

"Using national technical means, we watched them remove 27 missiles from the garages, and we have never been able to find them since then, he told a National Press Club luncheon. "But we have continued to give them credit for them since then because we haven't seen them destroyed."

ENCLOSURE No. 23

[From the Wall Street Journal, Feb. 3, 1988]

CRIMSON WHALES

When Senator Jesse Helms raised questions at the INF treaty hearings last week, he was accused of offering a "crimson whale," a cousin of the "red herring." While it may be in the interest of treaty supporters to portray Mr. Helms as some Monster from the Deep, his whales nonetheless have kept beaching themselves atop the treaty this week.

Consider the confusion over the SS-20, the major weapon the Soviets are supposed to remove if the treaty is ratified. The administration can't seem to figure out how many SS-20s the Soviets really have. Last July the CIA and State Department estimated the Soviets had 550, while the Defense Intelligence Agency, or DIA, figured 1,200. When INF was signed last November, the Soviets said 650. Just last month, however, the CIA and State Department reached new estimates of 700, while DIA stuck with 1,200. The "national intelligence estimate," a consensus view, is 950.

Grade-school arithmetic can tell you that if the Soviets chop up 650 missiles out of 950 they will have 300 left under the zero-option agreement. The administration argues that this is a tempest in a teapot, since the Soviet figure of 650 is "within the range of our uncertainties." We wonder how many Americans would be surprised to learn that the supposedly verifiable INF agreement depends on a "range of uncertainties," extending from zero to 300, not to mention 550 if the high DIA estimate happens to be right.

The much-advertised "on-site inspection" of Soviet bases might help us verify the number of SS-20s, of course, except that the inspection sites are specified by the treaty. If the Soviets ever want to cheat, all they have to do is put the missiles where the inspectors aren't allowed to go.

Another Helms whale was Article 14, the "non-circumvention" clause. This says the U.S. and Soviets "shall not assume any international obligations or undertakings" that would violate the treaty. That sounds simple enough, but several senators are

wondering if it isn't an ambiguity big enough for the Soviets to drive a reinterpretation through.

"What is the purpose of this language?" Senator Dan Quayle asked in his opening statement last week. The plausible concern is that the clause could keep the U.S. from selling its allies technology that they need to defend themselves. Indeed, the Soviets already are saying INF prohibits the U.S. from modernizing the shorter-range nuclear weapons that will remain in Europe after INF is implemented.

The concern is heightened because the paragraph wasn't even in the treaty until late last November. "Who insisted on Article 14, by the way? They or us?" Senator Helms asked Defense Secretary Frank Carlucci on Monday. Replied Mr. Carlucci: "They wanted a real non-circumvention clause, and our negotiators negotiated them down to this kind of a provision." Mr. Carlucci dismissed the Soviet claims that INF prohibits NATO modernization as "pure nonsense" and "propaganda." The Reagan administration said similar things about the ambiguities in the 1972 ABM Treaty, only to find Senator Sam Nunn arguing that the Soviet interpretation was more correct.

INF also removes U.S. ground-launched cruise missiles from Europe, but what about air-launched or sea-launched cruises? Since the guidance systems are similar in all three types, are we also banned from providing them to our allies? Cruises are essential, of course, because they can carry *conventional* warheads, and thus defend Europe without threatening a nuclear exchange. But the U.S. gave up *all* ground-launched cruises as part of the INF because we said it was impossible to distinguish between nuclear and conventional. And on Monday Senator Joe Biden already was arguing that the same logic should apply to air-launched or sea-launched cruises in the START talks.

Unlike presidential dropout Biden, of course, Senator Helms is supposed to be off-the-wall. His original "crimson whale" was the issue of whether the treaty calls for the destruction of any nuclear warheads. It doesn't, as Mr. Carlucci explained at length: "The warhead essentially consists of the physics package—high explosives, highly enriched uranium, plutonium. That package, consistent with other weapons systems that have been destroyed, could either be reused or, depending on the circumstances, recycled." Keeping warheads is a good part of the treaty, he explained, because the Soviets can produce new ones easier than we can.

So Senator Helm's whales are that the treaty doesn't eliminate any nuclear weapons, that we can't verify it well enough to say whether remaining Soviet SS-20s missiles will be zero or 550, and that it's ambiguous enough to be interpreted as cutting NATO allies off from technical assistance for the most modern conventional weapons. Senator Helms, it would appear to us, is the last one whose face should be crimson.

ENCLOSURE NO. 24

SENATE ARMED SERVICES COMMITTEE

Chairman NUNN. Senator Humphrey?

Senator HUMPHREY. Thank you, Mr. Chairman, Admiral Crowe, when you and I spoke earlier, one of the matters we discussed was the fact that the treaty doesn't cover warheads—each party is free to do as it wishes with its warheads. One question that comes to mind immediately, of course, is in the view of the Joint Chiefs, can any of the warheads, which the Soviets will remove from those weapons covered by the INF Treaty, they used on other weapons not covered by the INF Treaty. The answer to that question is yes?

Admiral CROWE. Yes.

Secretary CARLUCCI. Can I elaborate on that?

Senator HUMPHREY. Well, I'm on a very short time here. The Chairman runs a tight ship, as you know, and I want to make the best—put the best face on it, Mr. Secretary——

Admiral CROWE. Incidentally, we have the same privilege.

Senator HUMPHREY. Our job is to try to, you know, satisfy ourselves, not to sell this thing.

Admiral CROWE. But with the warheads we would have the same——

Senator HUMPHREY. Yeah, I understand that, but I trust us and I don't trust them.

Admiral CROWE. Well, I don't know if this is a matter of trust. I don't——

Senator HUMPHREY. Well, trust me. (Laughs.) What warheads can be used on what weapons?

Admiral CROWE. Well, you can use the guidance package or the physics package on the materials for other weapons.

Senator HUMPHREY. But with what degree of difficulty? I mean, can these be bolted on existing or anticipated weapons or does it require a remolding of the——

Admiral CROWE. Yes, you would have to rework, et cetera, et cetera, and they will, too.

Senator HUMPHREY. I'm talking about them, not us.

Admiral CROWE. Yes.

Senator HUMPHREY. So there's nothing that can be just bolted on another weapon?

Admiral CROWE. As far as I know, no.

Senator HUMPHREY. Well, that's an important point. I mean, the Department of Defense has carefully examined that point, I hope.

Admiral CROWE. Well, yes, but there are a lot of things we don't know about their systems as they don't know about ours.

Senator HUMPHREY. Yes, of course. You can't know that with certainty. So they are free, in any event, and you say, with remolding—then the answer's obvious, with remolding, any fissionable material can be used on any weapon that's not covered by the treaty. Okay. I want to—Admiral, I want to pursue a little bit further the SS-20 data package discrepancy. For a number of years, the Department of Defense's "Soviet Military Power" book, including in the '87 edition, you folks have been saying that the Soviets have deployed 441 SS-20 launchers. And that's even after converting some of the SS-20 units to SS-25s. You were saying, as recently as the '86 edition, that there are 441 SS-20 launchers. Where does that estimate come from?

Admiral CROWE. The 441?

Senator HUMPHREY. Yes. Do you know what I'm referring to here? This——

Admiral CROWE. Yes.

Senator HUMPHREY. Military Power.

Admiral CROWE. That came out of our intelligence community.

Senator HUMPHREY. Now the Soviets, in their data package, tell us they have 459 deployed SS-20 launchers; correct?

Admiral CROWE. My figures don't—yeah, I have 405, Senator.

Senator HUMPHREY. That's missiles; is it not? 405 missiles?

Admiral CROWE. No, deployed launchers and deployed missiles.

Senator HUMPHREY. Both the same number?

Admiral CROWE. Well I'm afraid that that's not exactly right—Yes, deployed missiles; right. Yes, it would be the warheads that would be different. And that was in accord with what we thought it was.

Senator HUMPHREY. The deployed missiles is—and launchers are the same number; is that correct?

Admiral CROWE. Yes.

Senator HUMPHREY. Well, if they—all right, so let's say they have 405. We thought they had 441; they say they have 405. What has been the rule of thumb, estimate, on the number of warhead—excuse me, the number of missiles—what has been the rule of thumb on the number of reloads per launcher in our intelligent estimate?

Admiral CROWE. It depends——

Senator HUMPHREY. Is it one to two?

Admiral CROWE. It depends on the—one to two, somewhere in there, depending on the agency et cetera, et cetera.

Senator HUMPHREY. That's been our estimate. What has been the DIA estimate on the number of missiles for reload—per launcher?

Admiral CROWE. Yes, two reloads, DIA has—(is interrupted by someone, presumably staff, talking to him off-mike)—one reload. Okay, that's DIA.

Senator HUMPHREY. DIA has been estimating one reload. That would—that would imply 810 missiles, right? If that estimate were correct? And the Soviets say they have—how many? (Pauses to look through documents.)

(Someone speaks off-mike to Admiral Crowe).

Admiral CROWE [apparently to staff]. I understood that, but DIA actually comes out with 580——

Senator HUMPHREY. That would imply 810 missiles, and the Soviets say they have 523.

Admiral CROWE. That's about right; yes, sir.

Senator HUMPHREY. So we estimate——

Admiral CROWE. It comes out with a difference somewhere between 165 and 300.

Senator HUMPHREY. Somewhere between 165 and 300——

Admiral CROWE. Yes.

Senator HUMPHREY. We have always felt—we have always felt they had——

Admiral CROWE. DIA feels that way.

Senator ——. It's one agency.

Senator HUMPHREY [laughs]. We have always felt that they had somewhere between 165 and 300 more missiles than they claim they have.

Admiral CROWE. Well, we—you say, "always felt." That figure was what they felt, and it came out to be that more——

Senator HUMPHREY. Yeah, I understand.

Admiral CROWE. Given the figures they had.

Senator HUMPHREY. And that's the problem that you have with the SS-20 data package?

Admiral CROWE. That is correct. Yes.

Senator HUMPHREY. Well, that's a pretty big problem. Was that just brushed under the rug? Or how was that dealt with?

Admiral CROWE. Well, we're dealing with it now, Senator, We've got to deal with it. That's——

Senator HUMPHREY. How are we dealing with it?

Admiral CROWE. Well, we've got a number of procedures here that we're going to go through, et cetera. And we have no—incidentally, two agencies do not agree with that figure. They agree with—that the figure that has been given to us by the Soviets is within the range.

Secretary CARLUCCI. Senator, I know you may not want to hear from me, but I spent a number of years in the intelligence community——

Senator HUMPHREY. No. As much as I like you and respect you, my time is up, even now. Lots of things I'd like to discuss with you, but I'm going to have to play by the rules here I guess. I'm sorry.

Chairman NUNN. I would say that Secretary Carlucci's been trying hard to answer this question. We'll permit that——

Senator HUMPHREY. Well, on the Committee's time of course.

Chairman NUNN. We'll permit it on the Committee's time.

Secretary CARLUCCI. I think we have to be clear here that intelligence is not an exact science, that there are uncertainties in any intelligence estimates, and situations change. Our capabilities change. And in my years in the national security business, I've never seen the intelligence agencies uniformly agree on a set conclusion. There are always differences. The question is whether the differences are sufficiently serious for us to say this is a major violation. And the answer to that question is: No, it's something that we're going to have to resolve in the baseline inspection. It's something that will be resolved over a period of time. If they have these missiles, they cannot keep them hidden, certainly in a useful fashion, over a period of time.

Senator HUMPHREY. They have so far.

Secretary CARLUCCI. Sir?

Senator HUMPHREY. We haven't ever seen an SS-20. We've seen garages, but we haven't seen the missiles. So they are very good at hiding them.

Secretary CARLUCCI. Well, they may be able to hide some, but over a period of time, if they can't test them, they lose their military utility.

Senator HUMPHREY. Yeah, but that doesn't tell you how many they have.

OFFICIAL SASC TRANSCRIPT, JANUARY 25, 1988

The CHAIRMAN. Senator Kennedy, I think we better call it at that time. Do you need to follow up briefly?

Senator KENNEDY. Just on the other point. I appreciate that response which I think is very helpful.

Can you tell us in the wake of the summit, is there follow up on the basis of the proposals of direct military to military?

Secretary CARLUCCI. I have made a proposal to the Soviets on a meeting with Marshall Yasov and I am awaiting their response.

The CHAIRMAN. Thank you, Senator Kennedy. Sentor Humphrey.

Senator HUMPHREY. Thank you, Mr. Chairman. Admiral Crowe, when you and I spoke earlier, one of the matters we discussed was the fact that the Treaty does not cover warheads. Each party is free to do as it wishes with it warheads.

One question that comes to mind immediately of course is in the view of the Joint Chiefs, can any of the warheads which the Soviets will remove from those weapons covered by the INF Treaty be used on other weapons not covered by the INF Treaty?

Admiral CROWE. Yes.

Senator HUMPHREY. The answer to that question is yes?

Admiral CROWE. Yes.

Secretary CARLUCCI. Can I elaborate on that?

Senator HUMPHREY. Well the Chairman runs a tight ship as you know, and I know you want to put the best face on it, Mr. Secretary.

Admiral CROWE. Incidentally, we have the same privilege.

Senator HUMPHREY. Our job is to try to satisfy ourselves, not to sell this thing.

Admiral CROWE. But with the warheads, we would have the same.

Senator HUMPHREY. I understand that. But I trust us and I do not trust them.

Admiral CROWE. Well I do not know if this is a matter of trust.

Senator HUMPHREY. Well trust me. What warheads can be used on what weapons?

Admiral CROWE. Well you can use the guidance package or the physics package or the material for other weapons.

Senator HUMPHREY. With what degree of difficulty? Can these be bolted on existing or anticipated weapons, or does it require remoicing?

Admiral CROWE. You would have to rework it, and they will too.

Senator HUMPHREY. I am talking about them, not us.

Admiral CROWE. Yes.

Senator HUMPHREY. So there is nothing that can just be bolted on another weapon?

Admiral CROWE. As far as I know, no.

Senator HUMPHREY. That is an important point. The Department of Defense has carefully examined that point, I hope.

Admiral CROWE. Yes. But there are a lot of things that we do not know about their systems, as they do not know about ours.

Senator HUMPHREY. Of course, you can not know with certainty. So they are free in any event, and you say with remolding then, the answer is obvious, with remolding, any fissionable material can be used on any weapon that is not covered by the Treaty.

Okay. Admiral, I want to pursue a little bit further the SS-20 data package discrepancy. For a number of years in the Department of Defense's Soviet military power book, including in the 1987 edition, you folks have been saying that the Soviets have deployed 441 SS-20 launchers. And that is even after converting some of the SS-20 units to SS-25. You were saying as recently as the 1987 edition that there are 441 SS-20 launchers.

Where does that estimate come from?

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Senator HUMPHREY. Now the Soviets in their data package tell us they have 459 deployed SS-20 launchers, correct?

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Admiral CROWE. No, deployed launchers and deployed missiles.

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Admiral CROWE. Deployed missiles, right. It would be the warheads that would be different. And that was in accord with what we thought it was.

Senator HUMPHREY. The deployed missiles and launchers have the same number, is that correct?

Admiral CROWE. Yes.

Senator HUMPHREY. Well, all right. So let's say that they have 405. We thought they had 441, they say they have 405. What has been the rule of thumb estimate on the number of missiles, what has been the rule of thumb on the number of reloads per launcher in our intelligence estimate?

Admiral CROWE. It depends on, one to two, somewhere in there, depending on the agency.

Senator HUMPHREY. That has been our estimate. What has been the DIA estimate on the number of missiles for reload per launcher?

Admiral CROWE. Two reloads.

Senator HUMPHREY. DIA?

Admiral CROWE. One reload, that is DIA.

Senator HUMPHREY. DIA has been estimating one reload. that would imply 810 missiles, right, if that estimate were correct and the Soviets say they have, that would imply 810 missiles and the Soviets say they have 523.

Admiral CROWE. That is about right. It comes out with a difference of somewhere between 165 and 300.

Senator HUMPHREY. Somewhere between 165 and 300. We have always felt they had——

Admiral CROWE. DIA, that's one agency.

Senator HUMPHREY. We have always felt they had somewhere between 165 and 300 more missiles than they claim they have?

Admiral CROWE. You say always felt, that figure was what they felt, and it came out to be that.

Senator HUMPHREY. And that is the problem that you have with the SS-20 data package?

Admiral CROWE. That is correct.

Senator HUMPHREY. Well that is a pretty big problem. Was that just brushed under the rug, or how was that dealt with?

Admiral CROWE. We are dealing with it now Senator. We have got to deal with it.

Senator HUMPHREY. How are we dealing with it?

Admiral CROWE. Well, we have a number of procedures here that we are going to go through et cetera, and incidentally, two agencies do not agree with that figure. They agree that the figure that is being given to us by the Soviets is within the range.

Secretary CARLUCCI. Senator, I know you may want to hear from me, but I have spent a number of years in the intelligence community——

Senator HUMPHREY. Well, my time is up, even now. There are lots of things that I would like to discuss with you both. But I am going to have to stop now, I am sorry.

The CHAIRMAN. I would say that Secretary Carlucci has been trying hard to answer this question. We will permit that.

Senator HUMPHREY. On the committee's time?

The CHAIRMAN. Sure. We will permit it on the committee's time.

Secretary CARLUCCI. I think we have to be clear here that intelligence is not an exact science, that there are uncertainties in any intelligence estimate and situations change, our capabilities change. And in my years in the national security business I have never seen the intelligence agencies uniformly agree on a set conclusion. There are always differences. The question is whether the differences are sufficiently serious for us to say this is a major violation.

The answer to that question is no. It is something that we are going to have to resolve in the baseline inspection. It is something that will be resolved over a period of time. If they have these missiles, they can not keep them hidden, certainly in a useful fashion.

Senator HUMPHREY. They have so far. We have never seen an SS-20. We have seen garages, but we have not seen the missiles. So they are very good at hiding them.

Secretary CARLUCCI. They may be able to hide some, but over a period of time, if they can not test them they lose their military utility.

Senator HUMPHREY. But that does not tell you how many they have.

The CHAIRMAN. Senator Glenn.

Senator GLENN. Thank you, Mr. Chairman. We are talking strategy today and we tend to get on a lot of details which are fine in carrying out that strategy. Almost every major conflict has reflected an economic problem or concern of either perceived or real. And we are much more likely to have military hot spots I think around some of these economic hot spots. We tend to concentrate on Europe and NATO as a result of that, but we look back in history and Hitler had his liebens round living room proposals that led to World War II and the Japanese had the greater East Asia coprosperity.

They were all economic in base is the point. The place where we have a greater economic interest right now it seems to me than almost anywhere in the world is that 70 percent of the world's oil reserves that are in the Persian Gulf.

ENCLOSURE NO. 25

[From the Washington Times, Jan. 29, 1988]

INF TREATY SAFEGUARDS UNPRECEDENTED—NITZE

(By Mary Belcher)

The U.S.-Soviet treaty banning intermediate-range nuclear weapons contains "the most comprehensive and intrusive" safeguards against cheating in arms control history, President Reagan's top arms adviser told Congress yesterday.

This does not, of course, guarantee that some INF missiles cannot be hidden away somewhere within the great expanses of the Soviet Union," Paul Nitze told the Senate Foreign Relations Committee. "No verification regime could provide such assurance.

"It does, however, ensure that the Soviets could maintain a clandestine, militarily significant force only at great cost and risk, and with steadily decreasing reliability," he said.

"Without the ability to flight-test the missiles, the Soviets would question the effectiveness of the these forces and their military value, especially over time."

The treaty would allow U.S. and Soviet experts to inspect one another's medium-range missile sites on short notice, provide continuous exchanges of information, and end all activities related to medium-range missile production and deployment.

Sen. Jesse Helms, North Carolina Republican, however, said the treaty is full of "loopholes" that the Soviets could easily slip through.

Mr. Helms, resuming his fight against the pact, has charged the Soviet Union is already violating the treaty by providing the United States with bad information about the number of medium-range missiles in Soviet arsenals.

Mr. Helms said classified Defense Information Agency data indicate the Soviets could have up to 300 more medium-range missiles than the 650 they say they have.

"Why is the DIA sticking by its estimates when the State Department and CIA are sticking by Soviet declarations?" Mr. Helms asked, suggesting that the "books have been cooked."

"We don't need any book-cooking around here," he said. "We need the facts."

Mr. Nitze agreed that intelligence agency estimates vary. But, he said, the data the Soviets gave the United States three months ago are, "on the whole, within the bounds of our intelligence estimates."

Mr. Helms also has argued that the treaty would allow the Soviets to take the warheads, or nuclear devices, from the medium-range missiles they destroy and attach them to long-range strategic missiles.

"Practically, I don't know whether it would be feasible for them to do so," said Mr. Nitze, explaining that medium-range and long-range Soviet missiles are very different systems.

He said the treaty would not prohibit the Soviets from pointing long-range missiles at the same Western European targets their medium-range weapons now cover.

But "it generally is a waste of assets" to use more expensive long-range systems to do the work of medium-range missiles, he said. "It's not an intelligent thing to do."

Sen. Alan Cranston, California Democrat, said of Mr. Helms: "I don't think he has picked up any followers, and each of his points have been handily knocked down,"

Mr. Cranston is intent on keeping the INF treaty free of "killer" amendments that would force its renegotiation. The Senate majority whip has said he believes the treaty will be approved by the 67 votes required, but amendments could be added by a simple majority of 51 senators.

"I have some very serious questions about this treaty," said Sen. Larry Pressler, South Dakota Republican and the only other committee member likely to seek major changes in the treaty.

"I get a feeling people are saying we should just roll over and play dead, and if you offer an amendment you're not on the team," Mr. Pressler said.

Mr. Pressler wants the Soviets to agree to reduce the Warsaw Pact's conventional-force advantage over NATO before the INF treaty takes effect.

"I believe that would be very unwise," Mr. Nitze said. "It would be a mistake not to ratify this treaty because some other desireable end is not accomplished."

[From the Washington Times, Feb. 1, 1988]

CORRECTION

The Times reported in Friday's editions that Sen. Jesse Helms disclosed classified information during a Senate Foreign Relations Committee hearing. This was incorrect. Mr. Helms was citing unclassified information from the Defense Intelligence Agency when he charged there were discrepancies among U.S. estimates on the number of Soviet medium-range missiles covered by the INF treaty.

ENCLOSURE NO. 26

THE SECRETARY OF STATE,
Washington, DC, May 13, 1987.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: Your letter of April 27 poses a number of questions about the INF Treaty we are currently negotiating with the Soviets. I agree with you that two of the fundamental principles that should form the basis of all arms control negotiations are equality and verifiability. I welcome this opportunity to respond to your specific questions.

To give your questions a full reply, I have enclosed a point-by-point response to the issues you have raised. Thank you for this opportunity to respond to your questions.

Sincerely yours,

GEORGE P. SHULTZ.

Enclosure: As stated.

Question. How will Soviet conventional and nuclear advantages be deterred under an INF treaty?

Answer. NATO forces, both nuclear and conventional, have succeeded to date in deterring a Soviet attack. Removal of Soviet nuclear warheads in exchange for U.S. warheads at a ratio of more than 4 to 1 in our favor will improve the relative nuclear potential of the West. Together with proposed modernization of our nuclear forces which will remain in Europe, this will only enhance deterrence. If Soviet SRINF missiles also are eliminated, it would further help NATO conventional capabilities as these systems now threaten NATO ports and airfields with nuclear, chemical and conventional warheads.

Question. Will the comparative Soviet advantages be greater after such a treaty? If not, what would be the Soviet incentive to agree to a treaty that would produce equal levels?

Answer. As noted above, the comparative Soviet advantages would be somewhat less after the implementation of an INF treaty. Gorbachev appears to be following a somewhat different strategy to supercede his former one which we successfully countered.

EQUALITY AND VERIFIABILITY

Question. How well can SS-20 reduction constraints be verified?

Answer. The SS-20 is a mobile missile, and consequently will require a strict verification regime. As an example, in addition to the approximately 440 SS-20 missiles now deployed, there may be as many as 200-400 (or more) such missiles in the U.S.S.R.'s inventory. As a result, we have devised a comprehensive verification regime to maximize the prospects for compliance and deter cheating. In addition to national technical means, our proposed verification regime includes on-site inspection to confirm the initial exchange of data on treaty-limited items; on-site inspection to confirm the elimination of systems; on-site inspections to monitor compliance with residual levels; and continuous monitoring (24-hour on-site presence) at various LRINF missile support facilities, such as missile production and final assembly facilities. Even so, the potential military risk is real for crises and wartime situations from illegal, covert, stored missiles. Beyond the comprehensive verification regime described above, this risk can be ameliorated through unilateral safeguards. The Soviets have already agreed to the use of national technical means, a comprehensive data exchange, on-site inspection of missile and launcher reductions, and some monitoring of residual LRINF missiles and launchers.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 21, 1988.

DEAR COLLEAGUE: As the INF Treaty hearings wind down, an important debate has developed over the number of SS-20 missiles which the Soviets have produced and deployed, and the number which the Soviets have officially declared for elimination under the INF Treaty.

Attached is a memorandum which summarizes the information appearing in the public about the SS-20 production assessments prepared over the past year by our intelligence agencies. These include:

1. 650: The Soviet declared number of November 1987.

2. 550: CIA/State number of July 1987.

3. 700: CIA/State number of January 1987.

4. 840: State public number of May 1987.

5. 950: Majority intelligence community assessment of July, 1987.

6. 1200: DIA number of July 1987 and January 1988.

7. 2250: Private assessments of intelligence experts.

In addition, the memorandum discusses key verification issues:

1. How many SS-20s Soviets have produced.

2. How many SS-20s the Soviets will destroy.

3. Whether the Soviets can produce new SS-20s without detection.

4. Whether the Soviets have the ability to hide SS-20s outside of the declared sites.

5. Whether SS-20s hidden outside of the sites can be kept in operating condition without testing.

These issues pose great difficulties for effective arms control. If the best evidence is that the Soviets are cheating on the central obligation of eliminating all intermediate-range missiles, and that we don't have the capacity to verify compliance, then the national security of our country may be in jeopardy.

Sincerely,

JESSE HELMS.

MEMORANDUM

From: Senator Jesse Helms of North Carolina.

Re: The INF Treaty.

MARCH 21, 1988.

As the INF Treaty hearings wind down, an important debate has developed over the number of SS-20 missiles which the Soviets have produced and deployed, and the number which the Soviets have officially declared for elimination under the INF Treaty.

Although the exact numbers, of course, can be presented and discussed only in closed session, enough has appeared in open testimony and in the press to draw some grave conclusions. The fact is that the majority of our intelligence agencies (CIA and State Department INR excepted) believe that the Soviets have 300 to 600 more SS-20s than the 650 they have declared.

I hope all Senators will familiarize themselves with the salient points in this debate. If the consensus estimate of our intelligence agencies is correct then the claim that INF Treaty compliance can be verified is erroneous. Moreover, if the intelligence community is correct, then the Soviets are not acting in good faith.

THE RANGE OF ASSESSMENTS

Attached is a bar-chart summarizing the range of publicly declared assessments with regard to concealed SS-20 missiles, as compared with the number which the Soviets declared in the Memorandum of Understanding submitted with the INF Treaty. From this chart, it is clear that the National Intelligence Estimate of 950 SS-20s exceeds the Soviet number by 300. This is the minimum size of the covert force. The explanation of each bar in the bar-chart is as follows:

First, the Soviets declared that they had a maximum of 650 SS-20 missiles as of November 1, 1987, when they signed the INF Treaty on December 8, 1987. This is the total number of SS-20s that the Soviets are obligated to eliminate under the Treaty. Under the terms of the Treaty, this number of 650 is supposed to represent the total number of SS-20s ever produced and still in the hands of the Soviets.

Second, many recent press reports have stated that, in the National Intelligence Estimate of July 1987, the State Department Intelligence and Research Office (INR) both made an estimate of total 550 SS-20s produced, a number that was 100 less than the Soviets declared four months later. That failure in itself discredits the CIA/State methodology of estimating.

Third, in the draft NIE of January, 1988, the press reported that the CIA/State estimate had been raised to 700, or 50 more than the Soviets admitted. This estimate made it possible for the State Department to claim publicly that the Soviet-supplied number was "within the range of our uncertainties." It is noteworthy that a DOD study earlier had concluded that 50 SS-20s was a militarily significant number.

Fourth, the State Department declared publicly on May 13, 1987 that there could be 840 SS-20s, almost at the same time when they were reportedly claiming in the NIE that there were only 550—further straining the credulity of the methodology involved.

Fifth, in the July, 1987 NIE, the majority of the intelligence community, that is the four military service intelligence departments, plus the National Security Agency reportedly all estimated that the Soviets had at least 950 SS-20s. This was the NIE best estimate, agreed to by a majority of the intelligence community. This judgment was repeated in the January, 1988 draft of the current NIE, but the final draft of the NIE may well have failed to give any consensus estimate because of the political implications.

Sixth, both the July 1987 NIE and the January 1988 draft reportedly both contained estimates by DIA of 1,200 SS-20s produced. This is actually the most reasonable estimate when Soviet targeting requirements in Europe are taken into consideration (see further discussion below).

Seventh, responsible estimates as high as 2,250 SS-20s have been produced, based on further Soviet targeting requirements in Asia and analysis of evidence of SS-20 production and deployment under two Soviet Five Year Plans, 1976-1980 and 1981-1985. This estimate may be the estimate most soundly based in terms of methodology.

NOTE ON VERIFICATION

All of these estimates, including the CIA/State underestimate of 550 SS-20s raises severe problems with regard to verification.

Verification means the ability to judge whether the Soviets are complying with the INF treaty. It involves not just the monitoring of events in the Soviet Union but also the judgment as to whether those events are in compliance with the treaty. That means we have to know:

1. How many SS-20s the Soviets have produced up to the present time (including those produced, but not deployed).

2. How many SS-20s the Soviets will destroy.

3. Whether the Soviets can produce new ones without detection.

4. Whether the Soviets have the ability to hide SS-20s outside of the declared sites.

5. Whether SS-20s hidden outside of the sites can be kept in operating condition without testing.

1. Numbers: The SS-20 is a mobile missile system, based upon the design concept of launchers and multiple reloads. The number of reloads produced for each launcher depends upon the requirements of targeting theory. The Soviets have traditionally targeted about 600 sites in Western Europe, which alone would require 1,200 warheads to assure destruction (two to each target). Since each SS-20 has 3 independently targetable warheads (MIRV), the theoretical minimum of missiles required would be 400 SS-20s. However, the Soviets assume that in battlefield conditions, half of the weapons will be inoperable, destroyed, or otherwise unavailable. So to assure that half of them could be fired, would require 800 SS-20s deployed on launchers and nearby. In addition, each launcher needs at least one missile for test firing. With 405-450 launchers, the conceptual total would be 1,250, which happens to coincide with the DIA estimate as reported in public testimony.

2. Destruction Procedures: The treaty provides for the destruction of 650 SS-20s. We can verify that 650 missiles without warheads will be destroyed. But we cannot determine whether or not the missiles that are destroyed are functional ones. They could well be factory rejects never deployed, deployed missiles with aging components, or even uncompleted vehicles (dummies). The treaty does not provide us with any qualitative inspection.

3. Producing New "SS-20s": The third problem is whether the Soviets can effectively produce new SS-20s under the terms of the treaty—thereby destroying old ones, while modernizing their fleet. This can be done by calling the new SS-20s SS-25s. Administration witnesses have testified that the first two stages of the SS-25 are so similar to the SS-20, that the SS-20 post-boost vehicles and the warheads can be bolted on to the first two stages of the SS-25. They further testified that the Treaty allows the Soviets to take the first two stages of the SS-25 through the portal at Votkinsk without challenge other than observation. They can bolt on the re-entry vehicles and warheads in the field.

4. Hiding a Covert Force: Once the SS-20 is in the field, it can be hidden anywhere with no chance of detection, and no right of inspection. It can be hidden under camouflage in appropriate terrain or inside SS-25 containers on SS-25 bases.

5. Reliability of a Covert Force: Old SS-20s never die, at least not for many years. Reliability testing can be conducted (illegally) through elimination launches, or by testing the SS-25 (legally). The SS-16 was deployed for ten years without testing before we even discovered it.

These issues pose great difficulties for effective arms control. If the best evidence is that the Soviets are cheating on the central obligation of eliminating all intermediate-range missiles, and that we don't have the capacity to verify compliance, then the national security of our country may be in jeopardy.

Mr. SYMMS. I thank the majority leader again.

CLOSED SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senate will now go into closed session.

Thereupon, at 9:35 a.m., the Senate proceeded into closed session.

RECESS UNTIL 2 P.M.

At the conclusion of the closed session the Senate, at 12:25 p.m., recessed

until 2 p.m. today in open legislative session.

OPEN LEGISLATIVE SESSION

At 2 p.m., the Senate, in open legislative session, was called to order by the Presiding Officer (Mr. PRYOR).

THE CLOSED SESSION

Mr. SYMMS. Mr. President, I wish to say to my colleagues who were not able to attend that we had somewhat over half of the Senate that attended the closed session earlier this morning. I thought it was a very successful session. I thank the majority leader for arranging it and the distinguished leadership of the Intelligence Committee, Senator BOREN and Senator COHEN, for making themselves available to answer questions. The Senator from Wyoming [Mr. WALLOP] made a very fine presentation. It was a very good session.

I think each Senator must come to their own conclusion on how they are going to vote on the INF Treaty. But I think the question we have to ask ourselves—and I urge all of my colleagues to go back to the closed report and hearing and reread the debate that took place there. I think each one of us has to decide: Do the Soviets have a reason to cheat on how many SS-20's they have produced? Is there sufficient evidence to believe that they may have a covert SS-20 force?

Senators will come to a different conclusion on that. This Senator has come to the conclusion that they do have a motivation to cheat and that they probably have a hidden SS-20 force.

But that is an individual decision that we each have to make. In my view, and in my great respect for the separation of powers, just because a treaty has been negotiated by an administration, whether it happens to be of my party or the other party—those of us in the Senate, through the separation of powers, are not bound nor should feel obligated to vote to ratify a treaty.

Now, it is true, there is a political fallout either way one votes. If you vote against the treaty, there is a certain political fallout because of the inconsistency of America's policy with respect to our European allies.

On the other hand, if we vote for a treaty, we may have some real gnawing questions about the verifiability of it and whether there is already cheating underway as part of the strategic chess game of our adversaries, the Soviets. They have consistently cheated on every other treaty, so it is reasonable to believe that they may have now, and people may come to the conclusion to vote no.

SENATOR BYRD CONGRATULATED ON EFFORTS IN TURKEY

Mr. BOREN. Mr. President, on February 26 the Government of Turkey announced that it had decided to move forward with full implementation of the defense and economic cooperation agreement between our two countries. They did this by ratifying two "side letters" signed last year.

This is a most welcome development and should lead to further progress and improved cooperation across the broad range of activities in which our two countries are engaged. The action will enhance our security cooperation and will contribute to the common interests of NATO.

I recently had the opportunity to visit Turkey as part of a Senate delegation headed by the distinguished majority leader, Senator BYRD. During that visit, we urged the Turkish Government to take this step. Senator BYRD was especially effective in making this case, and I am sure that the decision of the Turkish Government to move forward at this time was in large measure due to the efforts of the majority leader.

Mr. President, the Secretary of State and the Secretary of Defense have recently written the majority leader to commend his actions on this issue. I ask unanimous consent that the texts of those letters be printed in the RECORD for the information of all Senators.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, DC, March 5, 1988.

Hon. ROBERT C. BYRD,
U.S. Senate.

DEAR SENATOR BYRD: I wish to thank you for your exceptional effort to elicit Turkish Government ratification of the extension of our bases agreement with Turkey. I admired your leadership in traveling to Turkey and your effective advocacy with Turkish officials, conveyed by Embassy reports of your meetings in Ankara.

Your effort not only advanced our major interests in the Turkish-American relationship, but also was an example of the kind of bipartisanship that is necessary to America's success in the world. In the weeks and months ahead, as we continue to try to reinforce our relationship with Turkey, it is good to know that you too will have your shoulder to the wheel.

Thank you again.

Sincerely yours,

GEORGE P. SHULTZ.

THE SECRETARY OF DEFENSE,
Washington, DC, March 10, 1988.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR: I am pleased to note that the US-Turkish Defense and Economic Cooperation Agreement side letter was ratified by Turkey on 26 February. As you are intimately aware, this opens the way for considerable progress in our defense relations, and will permit increased cooperation in areas of maximum benefit to both the United States and Turkey.

Further, this decision on the part of Prime Minister Ozal has sent a clear and positive signal to other nations of NATO's Southern Region with whom we are conducting, or plan to conduct, base rights negotiations.

I am aware of the key and successful role you have played in the resolution of this accord with our Turkish friends. You saw the need for positive action, took that action and conveyed to Ozal himself the need for an affirmative Turkish response.

Please accept my appreciation and that of this Department for your past support for this key ally, and my earnest wish that we can continue to provide Turkey with the means necessary to continue defense modernization.

Sincerely,

____ ____.

Mr. BOREN. Mr. President, again I thank the majority leader for his leadership on this matter that is so important to our national defense and national security interests. His actions have been in the best tradition of bipartisanship in foreign policy. His actions and his leadership on this issue show what can be accomplished when the two branches of Government work together with a common purpose.

I take this opportunity to especially commend him for his leadership and to express my pleasure to the Government of Turkey for the action which they have taken.

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Oklahoma for his statement. I compliment him also on the participation that he engaged in as we visited the five NATO capitals and the contributions he made to those very interesting and positive discussions with NATO leaders.

Mr. President, the distinguished Senator from Oklahoma as is his wont in all instances was diligent in his duties and the counsel that he imparted as we moved from capital to capital in our discussions with NATO leaders was well received, and I think considerable reason for the success of that trip can be attributed to the high caliber of the leadership as was demonstrated by Senator BOREN.

Let me also take occasion to compliment him on the excellent performance that he has demonstrated as chairman of the Senate Committee on Intelligence. That was my reason for selecting him to go on that mission to visit the top government people, the opposition leaders, and other forces. I am always well paid when I look back upon the work that has been contributed by Senators like the distinguished Senator from Oklahoma, the chairman of the Intelligence Committee.

In our meeting this morning in our closed session—I will not go into in any detail here—once again the Senator from Oklahoma demonstrated

there his great knowledge of the subject matter and that great knowledge comes from work. It is not an osmotic process. It comes from heavy duty and the fact that he has conducted thorough hearings on the INF Treaty and on other matters that have come before his committee have made him eminently capable of the leadership that we look to from him as we attempt to reach the right judgment on matters from time to time before this Senate, and I allude in particular to instances in the INF Treaty which presumably will be called up in the reasonably near future.

We are not going to be in too big of a hurry, because having a treaty is not nearly so important as having a treaty that is good for us. That is what is important, not a piece of paper that we wave around and say, "Oh, we have reached an agreement"—a piece of paper. But is the agreement good for us? And we will be looking to the distinguished Senator for his wise counsel in the days ahead.

Mr. BOREN. Mr. President, the majority leader has literally made me blush with his comments. I am overwhelmed by them and indeed grateful to him for making those comments.

Let me say, for all of us who work in the area of foreign policy and national defense and national security affairs, that his leadership is an inspiration to us. It was one of the greatest learning experiences I have had to be a part of that delegation with him which he headed to the NATO countries. Time and time again he conducted himself in those meetings as a representative of the legislative branch of our Government, not as a Democrat, not as a partisan, not as a politician, but I would say as a statesman and American first. And he has demonstrated that by his leadership. And the action that has now been taken by the Turkish Government, I think, in no small part is because of his leadership and what can be done when legislative leaders conduct themselves in this manner. It is an inspiration to all of us.

I just want to express my appreciation to him again as an American citizen as well as a Senator for the spirit for which he approaches our Nation's interests in areas of critical importance.

No one is more watchful of the true interests of this country and our Nation's security than is the majority leader. I know that is a feeling and assessment that is shared on both sides of the aisle in the United States Senate.

Again, I want to commend him and thank him for his most generous remarks.

Mr. BYRD. Mr. President, I thank my friend.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The Senate resumed the consideration of the bill (S. 79).

Pending:

(1) Metzenbaum Amendment No. 1900, to authorize the emergency program to disseminate information to reduce workplace risk of transmission of Acquired Immune Deficiency Syndrome (AIDS). (By unanimous vote of 86 nays (Vote No. 78), Senate failed to table the amendment.)

(1) Cranston Amendment No. 1901 (to Amendment No. 1900), of a perfecting nature.

DIVISION OF TIME

The PRESIDING OFFICER. Under previous order, the hour of 2 p.m. having arrived, the second half hour under rule XXII will be equally divided and controlled by the Senator from Ohio, Senator METZENBAUM, and by the Senator from Utah, Senator HATCH.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, today we have an opportunity to vote yet again on whether or not to invoke cloture to S. 79, the so-called High Risk Occupational Disease Notification Act. I hope this motion is defeated, as its predecessors have been, because S. 79 is not ready for consideration by this Chamber.

When my colleagues come to vote, I hope they will keep the following four points in mind: first, the bill today is exactly the same measure that was before us yesterday on the floor of the Senate, when cloture was not invoked; second, as debate over the last few days has revealed, even the sponsors do not really understand S. 79; third, the bill is so flawed that the sponsors feel it is necessary to exempt whole categories of employees, employers and even occupational disease, instead of having a program that protects all employees and covers all employers; and fourth, the floor of the Senate is not the place to begin drafting legislation. That is part of what has happend here. It is not the work of the floor. That is the work of a committee. I hope my colleagues will keep these facts in mind this afternoon and vote for the fourth time not to invoke cloture.

It is very seldom that we go to four cloture votes on any bill. The bill has to be extremely important, and I don't think this bill merits that kind of importance.

Looking at the first point, the current bill before us, the Metzenbaum-Kennedy revised substitute, is the same legislation that was before this body yesterday, when the Senate voted not to invoke cloture. No provisions have been changed. No corrections have been made. The same flaws, same inconsistencies and same failures are present today that were in the bill yesterday. Unnecessary duplication still permeates the bill because it just plain unnecessarily duplicates a whole raft of programs already in existence in the Federal Government.

The bad science has not been corrected, and the liability problems have not been resolved. In sum, there is no new substantive reason to suddenly vote for cloture.

Second, the debate has revealed that much is not known about how this bill will work. Yesterday, most of the day was spent asking the sponsors questions. I was a little surprised at the objections that were made to these questions. And, by the way, we have many, many more questions, but just a few that we asked evoked, I think, interesting answers. I was a little surprised at some of the objections that were made to these questions. I was criticized for focusing on the substance of the bill, on the details of several of its provisions, and not on the general philosophy behind the bill.

Philosophically I think the goals of this bill are well intentioned. There is no question about that. But when you get into the actual guts of the bill you realize this is not going work and it is going to be a tremendous cost without very much benefit.

I was dumbfounded by these complaints, about what I was bringing up, because I thought one of the purposes of consideration of legislation was to determine whether a bill will work, whether it makes sense, and how it is going to be implemented. The historical record of Congress is replete with examples of mistakes caused when we legislate by title. I, for one, hope that we can avoid repeating this costly and unnecessary mistake.

I was also a little surprised at the vagueness of the answers to several of my questions. Responses that certain diseases may or may not be covered, that certain procedures may or may not be followed, that we just don't know what will happen in some instances—these answers did little to alleviate concerns that we really do not understand the legislation before us.

We were told that noise may or may not be covered. We were told that stress may or may not be covered. We were told that asbestos in offices may or may not be covered. We were told the board may or may not send the same notice to all employees, even though there may be significant differences in the actual risk for individual employees due to their level of exposure, personal habits, and the safety habits of their employers. And, we were never able to determine whether the board has authority to overturn the findings of other Federal safety and health agencies.

Mr. President, the only consistent response to these questions was that

we should not bother ourselves with irksome and troubling details. Instead, we were supposed to rally around the rhetoric of helping to protect the health and safety of employees and march forward. Everyone in this Chamber wants a safe workplace. That is not the issue. We all know, however, that we are charged with doing more than just legislating by platitude. If we decide to promise to protect employee health, then let's figure out a way to deliver that promise to all Americans, not just a lucky few.

Turning now to the third point, S. 79 is so flawed it can not be corrected. It still duplicates existing programs. It is still unnecessarily costly. It is still burdened by bad science. It is still guaranteed to cause a liability crisis for many employers. Nothing has changed since yesterday. S. 79 is still an embarrassing mistake, as far as I can see.

The sponsors of this legislation have utilized some rather unusual tactics during the discussion of this bill. First, they argue that this bill is intended to combat cancer, toxic substances and noxious fumes. But, they have also made it clear that you have to be exposed to the right fumes and substances before you can be protected.

To Anna Carroll, who wrote to me about the dangers of passive smoking and her emphysema that was caused by working with smokers, we are supposed to say sorry, you were hurt by the wrong hazard. To the office worker or teacher exposed to asbestos, we are supposed to say sorry, we cannot help you. To the employees being poisoned by the noxious fumes at work which are not generated by the work process, we are supposed to say sorry, you are not covered. To thousands of farmworkers and employees of small businesses, we are supposed to say sorry, this bill's not for you. We have to exempt your employers from many of the provisions of this legislation to have a chance at passing it.

Why? Because the bill does not work, and it is too expensive. It does not have the right approach in really solving these problems.

I renew my questions from yesterday. Why not have one health policy that protects all employees, that does not discriminate on the basis of who their employer is or the type of disease to which they might have been exposed? Why not have a Federal health policy that augments existing efforts instead of duplicating them? If we are unhappy with the performance of the Federal agencies already in place, why not force them to do a better job?

Some of my colleagues have tried to point to the cancer detection and clincial research project in St. George, UT, as an example of why I should not oppose this legislation. Let's get a few facts straight. Under the Utah program, we are attempting to find out if exposure to atmospheric radiation increases the risk of cancer and whether there are methods available for early detection.

The Utah program—which is really a program for three States, Utah, Nevada, and Arizona, and, if the screening program is done right, it will be a program for all 50 States—is a scientific research project. It is not a notification program.

It is based on the assumption that, since the U.S. Government has been exploding nuclear bombs in the area, it makes sense to determine whether these explosions led to an increase in the incidence of cancer. The Utah project is much closer to the traditional research studies we all support at the National Cancer Institute and National Institute of Occupational Safety and Health, than the program envisioned in this bill.

Finally, Mr. President, the floor of the Senate is not the place to draft legislation. Of course, we offer amendments every day to bills before the full Senate, but we rarely start from scratch. The committee process on S. 79 failed. One should not bring legislation to the floor knowing at the outset that it will be vetoed and will probably have to be abandoned.

The question before us is quite simple. If you believe that the working men and women of this Nation should have a health policy that prevents exposure, that augments existing programs, and that encourages safety without jeopardizing one's employment, then vote against cloture.

The answer has been self-evident for the last three votes, and it should be self-evident again today.

The sponsors of the bill, it seems to me, should return to the legislative drafting board and try again. S. 79, in my opinion, simply will not work, it should not become law, and we should keep that in mind as we vote on cloture today.

I reserve the balance of my time.

Mr. METZENBAUM. Mr. President, we are about to take our fourth cloture vote on S. 79. Tens of thousands of American workers are dying each year from occupational disease, and we can prevent many of these deaths by passing this bill. This is what this bill is all about—prevent workers from coming down with cancer and other disease that come about from exposure in the workplace.

Workers are dying from cancer, and we have it in our power to save them. All we have to do is break this filibuster and get on with the process of amending and passing S. 79. I am convinced that a majority of the Senate will vote for this bill, but they cannot do so because of a filibuster, which is unprecedented on a worker health measure.

Instead of discussing worker health, we have spent days discussing tort reform, nothing at all to do with this bill; acid rain, nothing at all to do with this bill; and the Senate rules, obviously nothing at all to do with this bill. Now it is time to vote. It is time to stand up and be counted.

When we cut through all that has been said about S. 79, the issue is really quite simple. If you are interested in helping workers improve their health, if you are interested in saving the lives of tens of thousands of workers who otherwise will die from cancer or other horrible occupational diseases, then you will join me in voting "yes" on cloture.

One Senator said to me a little earlier, "My mail is running 15½ to 1 against the bill." Sure. It has been orchestrated. The worker in the workplace does not know what it is all about so far as protection is concerned. He does not understand what occupational exposure is. He understands, though, when it hits him, when his doctor tells him that he has cancer and he has a short lifespan ahead of him.

If you want to keep workers in the dark; if you believe the high-priced lobbyists for rich and powerful business groups, instead of the Reagan administration's own scientists—they are the ones who said this bill would accomplish its purpose—if you do not care that 250,000 workers in the next decade will die of occupational cancer that can be prevented through notification and early detection, join my colleague from Utah and vote "no."

Is it really so terrible to tell workers the truth when they are at a known high risk of occupational disease? Of course not. Will this modest bill result in the downfall of all American small businesses? It is absolutely ridiculous, although the high-priced lobbyists for the chamber of commerce and the National Association of Manufacturers would have you believe otherwise. You can listen to their campaign of misrepresentation, innuendo, and hype. They are good at it. They come around here and pressure Members of Congress, tell them what a horrible thing it will be. What care they if more workers die in the workplace by reason of occupational cancer? What care they that 250,000 more workers come down with cancer and die from it in the next 10 years?

You can listen to them, or you can listen to those who know something about occupational health and disability. They are the Reagan administration's own scientists. The top two officials at NIOSH, the Government agency with the most expertise in occupational health, conclude that worker notification under S. 79 is medically and scientifically sound.

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Let me quote from the testimony before the Labor Committee:

We certainly would agree that there is significant benefit from this type of notification and that it is feasible to do and certainly would benefit the people notified.

Those Reagan administration scientists are not alone. Public health organizations around the country support this bill. Organized labor, women's groups, the environmental community, consumer groups, and key segments of the business community all are active supporters of S. 79.

In fact, another major company has written to express its support for the bill. Let me quote from a letter from the chairman and chief executive officer of Hercules, Inc., a company with major interests in the chemical and aerospace industries. The letter says:

As a responsible employer, Hercules shares your concern with preventing occupational disease and believes that a program of worker identification, notification, and medical surveillance is in the best interest of both workers and employers.

* * * * *

Finally, we believe that the medical monitoring costs of S. 79 are both reasonable and manageable. Indeed, we believe that medical monitoring of high risk workers is good business, since disease prevention and early detection is much more cost-effective than long-term treatment and hospital care.

Mr. President, I ask unanimous consent to have the letter from Hercules, Inc., printed in the RECORD.

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

HERCULES INC.,
Washington, DC, March 22, 1988.

Hon. HOWARD M. METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: Hercules Incorporated, which has major interests in the chemical and aerospace industries, has recently reviewed the High Risk Occupational Disease Notification and Prevention Act (S. 79) and is pleased to inform you of its support for the legislation.

As a responsible employer, Hercules shares your concern with preventing occupational disease and believes that a program of worker identification, notification, and medical surveillance is in the best interest of both workers and employers.

On the liability question, the bill's language makes it clear that the intent of the legislaltion is to be liability neutral by neither adding to nor subtracting from any legal rights or obligations of workers or employers under existing law. In this respect, we understand it is your intent that the bill properly protect employers from any additional liability exposure, and we request that this be made a part of the legislative history and inserted in the Congressional Record.

The bill's Risk Assessment Board, staffed by qualified scientific professionals nominated by the National Academy of Sciences, is well conceived to make the kinds of medical and scientific judgments which are the driving force of the program.

Finally, we believe that the medical monitoring costs of S. 79 are both reasonable and manageable. Indeed, we believe that medical monitoring of high risk workers is good business, since disease prevention and early detection is much more cost-effective than long-term treatment and hospital care.

Sincerely,

DAVID S. HOLLINGSWORTH,
Chairman and Chief Executive Officer.

Mr. METZENBAUM. Mr. President, I have said from day one that we are prepared to modify this bill. We have gone to great lengths already to accept constructive changes. At the committee level, we accepted 20 amendments proposed by Senators QUAYLE and HATCH. On the floor, we were actually forced to use a parliamentary procedure to accept modifying amendments proposed by Senators BREAUX, DIXON, FORD, LEVIN, and DANFORTH. And, yes, I have said that we are prepared to do more.

Some have suggested that there is something wrong, something terrible: What kind of proposal is this, if you are prepared to accept more amendments? We want to be reasonable. We do not claim that somebody looked down on us from up high and told us exactly how we ought to have a bill of this kind.

We have spent hours and hours and days trying to improve upon the bill from its earliest inception. We have met with the biggest employers in the country, people like IBM and General Electric; insurance groups, such as Crum & Forster; the Chemical Manufacturers Association; the Electronics Manufacturers Association; W.R. Grace & Co.; American Cyanamid Co.; Mansville Corp., which went through its own bath of blood by reason of asbestosis; Church & Dwight; Alonzo, Inc.; Atlantic Richfield Co.; Occidental Petroleum.

We have changed and continue to change the bill, because we recognize that we do not have all the answers. We want to make it the best bill possible. But my colleagues on the other side will not allow any modifications during this filibuster.

They have come forward and said "No modifications." They have talked about amendments but not one constructive amendment has been offered from the other side. Two amendments were offered, one having to do with tort reform, totally unrelated to this bill, and the other one having to do with acid rain, totally unrelated to this bill.

If we can break this filibuster by invoking cloture, we can accept amendments to the bill that will improve its operation.

But as long as the filibuster continues, we will not be able to discuss the merits of particular amendments, we will not be able to accept amendments, we will not be able to vote on amendments. In short, we will not be able to do the job of legislating that the people sent us here to do.

The issue is at hand. The question is whether the Senate will do what is right for America's workers. Will we do what is right for Willie Hall, the poor, black factory worker from Georgia who was exposed to a deadly bladder carcinogen and who now valiantly fights against a cancer that has already taken a number of his coworkers? Willie Hall saw one man doing his job die by reason of cancer, saw another who replaced him die by reason of cancer. Now he is stricken with the same illness, cancer.

Are those people not entitled to any consideration? Is it not time that we say on the floor of the U.S. Senate: We do not care how many letters come in, we are going to do what is right, we are going to protect the workers on the job.

When my colleague knew the people out in Utah and two other States had been exposed to the possibility of cancer, he arranged with our help and we supported him so they would not only have medical monitoring as is provided for under this bill, but they would have medical examinations paid for by the Federal Government.

The question that we have now is will we do what is right for the tens of thousands of workers like Willie Hall who currently are in the dark about occupational health hazards and who may be developing deadly occupational diseases as we speak?

The Senator from Utah did what is right 4 years ago. He passed a cancer notification and screening program for all residents of St. George, UT, over age 40 who may have been exposed to radiation from open-air testing of atomic bombs in the 1950's and 1960's. Senator HATCH created a fine notification and screening program, but if it's good enough for Utah, it should be good enough for the rest of the country.

The Reagan administration's own Department of Energy is doing what is right for beryllium workers. The Department recently announced that it plans to notify some 10,000 workers who were exposed to beryllium during the 1950's and are now at risk of chronic respiratory disease. When asked why the Department of Energy was launching this risk notification program, Under Secretary Mary Walker replied: "We have no legal duty to notify—we have gone beyond that to do what we think is right."

Before this vote is cast, I urge my colleagues to look into their hearts, to consider the human tragedy that can be avoided by passing this legislation. If you have compassion for workers at high risk of cancer, if you can feel the suffering of the families of those workers, if you want to ease that suffering and save those workers, then you must vote "yes" to stop this filibuster.

Will the Chair be good enough to advise the Senator from Ohio how much time he has remaining.

The PRESIDING OFFICER. The Senator from Ohio has 1 minute and 21 seconds.

Mr. METZENBAUM. And the Senator from Utah?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes.

Mr. METZENBAUM. Mr. President, will the Senator from Utah be willing to possibly extend our time maybe 10 minutes more on each side.

Mr. HATCH. Of course, I would. If the distinguished Senator needs that I would be delighted to do that.

Mr. METZENBAUM. I ask unanimous consent that the time allotted to the managers of the bill be extended 10 minutes on each side.

Mr. SYMMS. Mr. President, reserving the right to object, and I do not intend to object, I just want to inquire of the managers of the bill if we are going to continue to have these extensions, some of us have been waiting to get this vote over with.

Mr. METZENBAUM. No. This will be the only one.

Mr. SYMMS. It will just be for 20 more minutes?

Mr. METZENBAUM. Twenty minutes.

Mr. SYMMS. I withdraw the objection.

Mr. METZENBAUM. I thank the Senator.

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

Mr. HATCH. Mr. President, I do not know that we have to take the full 20 minutes because I will be happy, of course, to share some of my time with the distinguished Senator from Ohio, who has fought long and hard for this legislation. He believes in it. One of the things I admire about the distinguished Senator from Ohio is that he believes what he does.

Having said that, I have to say there is very little reason to believe in this particular bill the way it is written.

I believe his intentions are noble. I think they are good intentions. I think that he wants to do what is right for the workers of America.

But the fact of the matter is we have about 12 agencies doing what is right for the workers of America. Why lay upon the American taxpayers another huge costly $7 billion bill, if we are lucky it will only be $7 billion, at a time when we really do not have the money? Who is going to pay for this?

I want to go back to the committee. Twenty amendments he said were accepted in committee. Only two of mine were accepted. I might add I had all kinds of substantive amendments but we were told by staff and others they were not going to accept anything and we knew that the votes were 11 to 5. In that committee the votes are 11 to 5 for anything, in this particular case the labor unions want, 11 to 5. There was no reason to drag out the committee structure. There was no reason to even try there, although we did try with a few of them. They were not going to accept any there because they knew they had the votes there.

Now that they have gotten to the floor they realize they should have listened to some of those amendments. They should have had a real debate in the committee. They should not just have said, "We've got you 11 to 5. We are not going to discuss this any further." And they should have tried to do something that would have modified or corrected this bill at that time. I even suggested to everybody concerned that you cannot modify the bill. There is no way you can get it to be a reasonable bill. Even if you strip it down and use just a notification provision, period, it would not work right. It would still be costly. It would still cause unnecessary litigation. It would still cause a litigation explosion in our society and it would not do the job. And, even so, it only applies to some employees and some employers, not to everybody.

They rejected a whole slew of substantive amendments in committee. The ones they took were technical amendments. They were substantive amendments that really everybody could agree on and nobody would reject anyway.

Le me just say this: This bill is all about, it seems to me, trying to do that which is already being done and being done fairly well.

I might add if we have some criticisms with what is already being done, we can correct what is already being done in OSHA, in the Occupational Safety and Health Administration, in the National Institute of Occupational Safety and Health, in the Mining and Safety and Health Administration, in the Environmental Protection Agency, in the Nuclear Regulatory Agency, in the Department of Transportation, in the Federal Aviation Agency, in the Department of Agriculture, in the Bureau of Alcohol, Tobacco, and Firearms, and you can go on and on. If we are not doing it right in those particular bills, then let us change those bills and let us use the existing infrastructure today on what has to be done.

I submit to you that most of what needs to be done is being done and on May 23 of this year we will implement a whole new set of regulations on better than 500,000 various chemicals that will do more than this bill will do, it seems to me, to help resolve most of the toxic fumes problems in our society.

The Senator from Ohio says what we want to do is tell the workers the truth, we want to save them from death, we ought to vote "yes" on the cloture. That is wrong. If we tell them the truth then we ought to use the existing systems that are telling them the truth and have them look at those systems. If we want to save people from death you do not do it just throwing money at it. You do it by effective programs that are already in existence.

He said the mail is running 15 to 1 against his bill. I wonder why. There is not a group of people in this country that can generate more mail than our trade union movement. I should not even call it the trade union movement. I think we should call it the trade union leaders because the average worker out there realizes that he is overtaxed now, he realizes that inflation is death to people on fixed incomes. The average worker, it seems to me, is certainly going to have to think twice before he wants this kind of a duplicative overlay on already existing legislation.

That is what he is going to get and it is going to be costly. If there is now 15 to 1 against this, then it is not just generated mail. There are people out there who are really concerned. Just stop and think about it. Rich and powerful groups that is what he seems to indicate here, like the family farmer writing in here right now saying this bill will hurt the family farm and the family farmers, like the small businessmen and women writing in saying this is going to hurt the small businessmen and women, like the average overtaxed taxpayer writing and saying, "I am sick and tired of all this," like the whole raft of people in the private sector who realize that inflation is going to occur if we keep throwing Federal dollars at problems and we are already throwing Federal dollars at problems.

Well, I think it is important to understand that even the sponsors of this legislation do not understand it. Even they cannot explain it and if they cannot explain it, can you imagine what that is going to be in society? Can you imagine what it is going to be to those employers who have to comply with it? Can you imagine what it is going to be to the doctors who have to provide the healing mechanism? Can you imagine what it is going to be for the insurance companies who do not know what to do now because their products are being priced out of the marketplace?

Look at the malpractice explosion in this country and look at the high cost of medical care. It is caused by the legislation like this that continues to drive all those costs up, not only because of the high cost of regulation and meeting the regulations, but the high cost of litigation that occurs as result of legislation like this.

In the end, who gets hurt? Everybody on a fixed income that has to pay taxes, that has to pay for the higher consumer goods, and that lose

income because of inflation because of $7 billion bills. And, of course, they are the people who really cannot afford legislation like this.

We have a lot of mechanisms in place to help people in this country. They help do what this bill is intended to do. I think it would be a lot better for us to give our good intentions to what are already existing programs that may be improved, rather than to come up with a full brand new bureaucracy on top of thousands of bureaucracies existing in this town and across this country that are eating the taxpayers and citizens of this country alive.

Now, really, that is what is involved here. It is nice to stand up and say anybody who is against this bill is for death. Come on. There is not a person in Congress who is for death or who is for illness or who is for cancer. We all are concerned about it and I think we are concerned equally about it. I do not care whether you are conservative, liberal, or moderate, you have to be concerned about those things.

But there are ways of handling these problems and ways not to. This bill is not one of those ways, and it is not one of those ways we should utilize to help solve those problems.

I think this type of legislation is the type of legislation that has had its day. Literally, we have had 50 years of this type of giveaway program that does not work and costs the taxpayers an arm and a leg. Why do we not utilize these great programs that we do have? If there are defects in them, let us correct them. The fact of the matter is, there are not many defects in them. They are doing better. And one of the things that surprised me is that many of these programs really work and most of the ones I have indicated do work.

We can encourage them to do a better job. We can utilize our funds better. We can help people maybe in a little different and better way.

But the fact of the matter is, we have existing programs that do not need to be duplicated by this bill just because we have some do-gooders who really want to do something that is right but really is wrong.

We have had 50 years of this. I think a vote against cloture is a vote against more of this type of legislation. I think it is time for us to stand up and just send that message. I hope that our colleagues will do that today. I think it is important that we do it. I think it is important for the taxpayers of America. I think it is important for good government that we do this.

Mr. President, I wish to again commend my dear colleague from Ohio for his good intentions. But good intentions have been exhibited by many people who have been wrong. All of us have good intentions. The question is, Can we make them right intentions, can we do things that really work and not just duplicate programs that do work by replacing them with programs that are costly and really do not work and create more problems than really should exist and that are unfair in the process, not only to employers but the employees and to all concerned?

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

Mr. SYMMS. Will the Senator yield me a couple of minutes?

Mr. HATCH. I am happy to yield a couple of minutes to the Senator from Idaho.

(Mr. GRAHAM assumed the chair.)

Mr. SYMMS. Mr. President, I thank the distinguished Senator from Utah and I thank him for his leadership on this. I think when you read the title of the bill, the High-Risk Occupational Disease Notification and Prevention Act, I think that one of the things that we have to remember it that one of the biggest risks to the American people is to have the extensive intrusive arm of big government interfering in every transaction and every affair of mankind that takes place, depriving them of an opportunity to live and work and choose to work where they want to; and, second, depriving them of the fruits of their labors by having excessive government bureaucracy legislation and costs that all have to be paid for in the goods and services.

So I thank the Senator from Utah for his efforts on this and for his enlightened comments on it. I urge my colleagues to vote against cloture so that we could keep this debate going for many, many more days.

Mr. KASTEN. Mr. President, since I have been in the U.S. Senate, I know of no legislation about which I have such mixed feelings than the High Rish Occupational Disease Notification and Prevention Act. I am strongly in favor of protecting the health and safety of workers.

If prompt and effective government action can prevent serious illness from striking one worker in my State, I am for it. I totally subscribe to this basic purpose of S. 79—but we have programs for identifying and preventing illness and death of workers who are at risk of occupational disease.

My problem with this bill is that it is unnecessary and its laudatory purpose is thwarted by how it would function. The proposal is out of step with basic common sense—common sense that can be understood and appreciated by every worker in my State.

It defies common sense to establish an entirely new bureaucracy to handle a matter that is both highly specialized and is currently being addressed by the Occupational Safety and Health Administration. OSHA's very name indicates that worker safety is its basic responsibility. Moreover, under laws that we have enacted, OSHA is responsible to assure that our work places incorporate a clear and concise hazard communication program so that workers know about unsafe exposures in the workplace and how to protect themselves from such exposures.

It has been suggested in answer to questions that I asked of Senator METZENBAUM that the OSHA hazard communication standard [HCS] does not apply to public service employees and excludes all nonmanufacturing areas. But now, OSHA's expanded HCS will apply to some 32 million employees and cover more than 570,000 substances. Senator METZENBAUM has suggested that OSHA protections do not apply to former employees. The debate has pointed out the ability now for NIOSH to notify studied populations and for former employees to obtain material data safety sheets.

In sum, I think hazard communication needs to apply in this country broadly and vigorously—we need to inform workers how they can protect themselves against harms that are caused by toxic substances. We should give OSHA's HazCom Program a chance to at least be implemented and evaluated. Committee oversight should be undertaken not with the arrogance which marked this bill's consideration in committee, but with reality.

By way of contrast, I view with skepticism the so-called risk notification system as incorporated in S. 79.

I can understand and would support notifying workers actually studied by the Federal Government. Currently, NIOSH can engage in such a practice. On the other hand, the logic and the common sense of S. 79 fail when it extrapolates on the basis of workers studied to workers that have not been studied based on faulty science. What we have then is hundreds of thousands of notices going to people—notices that will serve more to frighten workers and to protect lawyers' incomes than to bring about safety.

A worker may be using a mask or other protective device and be absolutely safe from a hazard. Nevertheless, he will hear from the Federal Government that he may have cancer. This is classic blundering action by the Federal Government and will be conducted within the Federal Government by a new agency that, in the past, has not directly dealt with hazards in the workplace. The approach in S. 79 will do much more to generate new and unfounded lawsuits than it will to preserve health.

Proponents of S. 79 have been asked again and again to provide some protection against unfounded law suits. Unfortunately, they have refused to do so until just recently when this bill came to the floor. Under S. 79, aggressive plaintiff lawyers will be able to obtain the names and addresses of

workers. If they are blocked from doing so, they can advertise and request that notified workers contact them. Lawyers would be more interested in leading workers to the courthouse rather than down the path of health and safety. Employers, employees and producers need to work together to establish a healthy environment. This bill does just the opposite. It puts the parties in an adversarial relationship that is hardly conducive to promoting occupational health.

S. 79 contains tissue paper preventions of such lawsuits. It excludes evidence of sending and receiving of the notice, certain findings of the HHS board and the fact that medical evaluation has been commenced. The lawsuits involving stress under the substitute are not eliminated, but they will now focus on how the plaintiff learned of the risk.

S. 79 stimulates suits by employees against employers as contained with having them work together to prevent workplace illness.

Plaintiffs' lawyers will appreciate the fact that the HHS has built up extensive files about particular hazards. Plaintiffs' lawyers can then suggest to workers that they bring tort suits against their employers on the ground that the employer must have known about these facts prior to the time that HHS discovered them. Rather than create cooperation between employee and employer to prevent health risks, S. 79 will add to our litigation crisis.

Hazard notification, by way of contrast, has employer and employee working together. Instead of creating stress, it works to prevent harm. Instead of lawsuits, it brings about health protection.

We need to continue to reasonably promote and improve the health and safety of workers in this country. We need to prevent occupational disease. We have programs and agencies doing that now. We do not need a new and unchartered bureaucracy spewing notices to people who are not in fact at risk at all. We do not need to create unfounded and unnecessary new liability crises.

I would support positive approaches to protect the health and safety of workers, but S. 79 creates real and unnecessary risks that far outweigh its purported benefits.

Concerning the concerns of small business, the substitute purports to incorporate certain "small business exemptions." This short-hand terminology has to be explained, because these provisions have not been supported by small business and have not eliminated the small business community's opposition to the bill.

First, employers of 100 persons or less—50 persons after 1991—are exempted only from the medical removal portions of the bill, and then only if the employer removes, or makes a good faith effort to remove, the hazard. This vague test will result in few actual beneficiaries of the "exemption." Further, the cap on medical monitoring means that the small employer has no financial obligation beyond the $250 per employee per year, but who pays if there are costs above this? Like so many questions asked of late, the proponents seem unable to provide the answers.

Let me repeat that not one small business organization has supported even the small business provisions, let alone S. 79. They point out that we would still be faced with the problems related to liability, unwarranted litigation, and the unnecessary bureaucracy established by this legislation. Pilot notification studies have shown that actual costs total about 6.9 to 8.1 percent of the annual sales of a typical small business. Even if some of these exemptions reduce the costs to 3.4 to 4.6 percent, with the average pretax profit of a typical small business being about 1.1 percent of annual sales, S. 79 would be a receipe for bankruptcies and resulting unemployment.

In summary, S. 79 is unnecessary in its duplication of existing programs and its new bureaucracy. The liability and litigation consequences would be disastrous. Numerous costs are imposed on business and society with achieving the benefits which would justify this legislation. Therefore, I cannot support S. 79, and hope that the Senate arrives at the same conclusion.

Mr. DURENBERGER. Mr. President, it is apparent that S. 79, the High Risk Disease Notification and Prevention Act of 1987 will not receive sufficient support in this body. I am sorry this is the case. Notifying workers of their risk of disease is an urgent responsibility, which one way or the other the Senate must fulfill; I regret that it was not done today. Nonetheless, I believe that we will return to this floor another day with a bill which enjoys broad support. And as a cosponsor of this bill, I will work with my colleagues to develop such a bill, hopefully soon.

For the record, I have problems with the procedural tactics of both sides of this controversy. I believe the majority leader acted prematurely last week to file cloture on this bill after only a brief debate. This is why I voted against cloture the first two times it was voted upon. But, by the beginning of this week, it became obvious that a filibuster was in progress, leading me to vote twice to cut off debate. The concern of those opposed to S. 79, which are serious, do not rise to the level which justifies preventing the Senate to come to a final vote.

I became a cosponor of the high risk bill on February 26, 1987. I did so after a compromise had been reached by the Chemical Manufacturers Association and American Electronics Association and the AFL-CIO. Besides CMA and AEA, major companies like Union Carbide, Eastman Kodak, General Electric, IBM, and many more companies publicly support this bill. In addition, the entire public health and medical community support this bill, including the American Medical Association, the American Lung Association, and the American Nurses Association. As the ranking member and former chairman of the Senate Finance Health Subcommittee, I know the human and budgetary costs of occupational disease.

As this bill has been discussed by my colleagues, I have heard much discussion of its ills and benefits. In some respects I agree with the opponents. But it became obvious early on that the opponents had decided that it was better to kill this bill than it was to improve it. The bill is not perfect, but I believe the American people would have been better served by a deliberate amending process rather than a filibuster.

I have heard over and over again, that this bill would duplicate efforts made by the Occupational Safety and Health Administration [OSHA]. This is incorrect. OSHA is a regulatory agency, its job is to prevent the diseases we all abhor, and hopefully the new hazard communication standards will do that. But what about those workers who were exposed years ago to an occupational hazard? OSHA standards do not touch these people. These people are ignorant of their risk. The high risk bill would have provided them with the essential education that could save their lives.

Through the numerous discussions with my constituents, collegues, and other concerned parties, three problems with the bill have been made clear to me. One is the adverse impact the bill would have on small businesses. Another is the potential liability employers may suffer from the bill. And third, pragmatic concerns of its implementation, including the 30-year look back provisions.

Small businesses would have been unduly impacted on by the version of this bill as reported from committee, particularly by the employee transfer and medical monitoring costs provisions. To a large extent this concern was ameliorated through the amendment that exempted employers with less than 100 employees from the employee transfer requirements. The Senate should have considered other amendments in this regard.

I have heard many express deep concerns over employers potential liability that may arise from this bill. The fear is that both the notification itself and the process leading to notification will trigger an avalanche of law suits against employers. Although the bill

contains language forbidding the use of notification, or lack thereof, from being used as grounds for legal action or as evidence in a judicial action to prove employer liability as well as prohibiting suits stemming from stress related to notification, I share the concern and wonder whether this is enough to protect employers from frivolous suits. Perhaps, this issue would have been addressed and solved had the Senate been able to deliberate on the merits of the bill.

Finally, there were many pragmatic concerns about how this bill would be implemented. Ambiguities in the bill raised fears of unintended burdens on employers. The fears were many: That employers would have to do all the administrative work of identifying workers; they would have to physically turn over their records, many of which may be sensitive, to the Government; that it would be the employers duty to find addresses of long gone employees or search antiquated and incomplete records to determine if so-and-so employee fits into the population at risk; and finally there is the obvious problem that many employers will be forced to find employees from records that no longer exist, or more likely, never existed in the first place.

Many of these concerns stem from the 30-year look back requirement as well as ambiguities in the bill. The look back requirement is not an arbitrary burden, but is directly related to the bill's intent of notifying workers of their risk of disease. Many diseases take years to incubate. But further efforts may be necessary to clarify the administrative burden employers imposed by this bill. Let me say clearly, that as a cosponsor of the bill, that the burden of identification and notification is on the Government not the employer. The bill requires the employers to make available to the Government records they have in the normal course of their business. Once made available, the burden is on the Government to identify which employees deserved to be notified. If the available records are inadequate, then the Government must do the work, not the employer. This is why public service announcements are permitted. To me, this is the correct interpretation and only one there can be. If the detractors were correct, the burden imposed on employers would be immense. I could not nor would support such a burden. But since they are not correct, with the ambiguities cleared up so as to the correct interpretation, the bill is supportable.

In conclusion, I am disappointed that the Senate did not get to debate the merits of this bill. The cost of delay will not be payed by Senators. It will be paid by workers who will be exposed to occupational risks unnecessarily. It would have saved much cost to the people of America. Although the feeling against this bill was great and intense, the actual flaws were minor and would have been fixed. I look forward to the opportunity for the members of this Senate to sit up and be counted on the issue of occupational disease notification.

Mr. McCONNELL. Mr. President, I rise today in opposition to S. 79, the High Risk Occupational Disease Notification and Prevention Act.

First let me say, though this point probably will be lost amidst all the calculated rhetoric on the other side, that I strongly support improved worker health and safety; I believe it is one of top responsibilities of businesses to look after the health and safety of their employees; and I believe the Federal Government has taken a positive, active role in ensuring the safety of the workplace. I think there are few, if any, in this body who would disagree with those basic principles.

We do not need to enact S. 79, however, to fulfill the principle of workplace safety. S. 79's regulatory framework and statutory safeguards already have been created by Congress—they already exist. S. 79 will not double the amount of safety for American workers; it merely will double the redtape choking American businesses. It will not double the amount of just compensation to harmfully exposed workers; it merely will double the amount of unjust litigation crippling our industry and society.

We already have a system to regulate health and safety in the workplace, and we should be working to improve that one before adding on another layer of bureaucratic fat. Not very long ago, Congress established a "hazard communication standard" [HCS], to be enforced by the Occupational Health and Safety Administration [OSHA]. This accomplishes exactly the same purposes supposedly advanced by S. 79.

HCS requires employers to carefully evaluate harmful substances in the workplace, and inform workers of all occupational disease risks through detailed safety notices. Of particular note, the employer must state whether the hazard is a potential carcinogen.

Congress built a second layer of protection against occupational disease risks with the National Institute for Occupational Safety and Health [NIOSH]. NIOSH has the responsibility and resources for evaluating workplace safety on a highly scientific basis. Its onsite evaluations have provided thousands of workers with prior notice of occupational disease risks.

I might point out here that S. 79 would superimpose another, nonscientific regulatory body on top of NIOSH—the so-called Risk Assessment Board. Years of careful research and policy analysis would be cast aside, as the Risk Assessment Board went off on its own, preempting the risk notification efforts of NIOSH. Highly scientific decisions would no longer be made by scientists, but by a patchwork group of policy experts.

I will not go on further detailing the numerous other "right-to-know" statutes on the books. Such right-to-know provisions are scattered throughout the Federal code, covering nearly every type of hazardous substance. There are, for example, rules affecting workplace and product-use safety in the Toxic Substances Control Act and the Consumer Products Safety Act.

Thus, Mr. President, there is nothing in S. 79 that will better protect workers' health and safety than making improvements on the current system, which this body created years ago.

Now, Mr. President, if Congress already has set up an adequate system to protect workers' health and safety, then what really is behind S. 79? A number of speakers on our side will be answering this question, pointing at the Socialized Medicine Program buried embedded in this legislation, the intentional interference with free collective bargaining, and the campaign of socialization through regulation; but today I will focus my remarks on one of the most obviously dangerous purposes of this bill: To stimulate personal injury and worker compensation litigation on a scale far beyond our present imagination.

Passage of S. 79 will be a clarion call for hungry lawyers. They won't have to wear themselves out chasing ambulances any more; they can just follow right behind the Risk Assessment Board. In fact, S. 79 ought to be called the High Risk Occupational Disease Litigation Incentive Act. The Risk Assessment Board's so-called experts have a mandate to notify every worker who might have been exposed to something that might cause some disease; and then the hungry lawyer will pass out his business cards. Class action suits will jam up the courts, while the targeted employers—and their employees—will be bled dry by legal soldiers of fortune.

Mr. President, I have warned many times that runaway litigation is sapping the economic and enterprising strength of America. It is eroding our competitive edge. By the next decade, our light aircraft industry will dry up and blow away, because of liability costs which foreign competitors do not face. America's little league and pro football equipment is made in Japan and Korea, because their liability laws are not designed by lawyers for the benefit of lawyers. Yet today, Congress is acting on a bill that would blast open the courthouse door completely.

S. 79 will promote unprecedented, unjust litigation in at least three ways:

First, the bill will generate a tidal wave of suits for "severe emotional distress," in the wake of notification by the Risk Assessment Board. A number of States allow such suits, even if there is no showing of physical illness or injury. A worker could sue for millions, claiming emotional distress as a result of being notified that he or she might have been exposed to a carcinogen. If the Risk Assessment Board is wrong, of course, it doesn't have to pay; the employer or the State does.

Second, the bill before us today will butcher State worker's compensation laws by gutting the "immunity shield" that employers acquire under the system. This will give employees new causes of action against employers, for injuries already covered under the State worker's compensation laws. As with any broad violation of States rights, we ought to think long and hard before preempting this carefully balanced, State-run, worker protection system.

Third, S. 79 will directly fan the flames of litigation fever, by practically giving lawyers mailing lists of potential clients. Under this bill, attorneys will be able to obtain the names and addresses of every person notified by the Risk Assessment Board—enabling them to solicit ready clients for lucrative class-action suits. Since many jurisdictions require only minimal proof of causation in class-actions, these lawsuits will be a virtually guaranteed lottery ticket for fat, easy settlements. Thus, the Risk Assessment Board is primarily a job placement pool for lawyers, not a defender of America's work force.

The AFL-CIO already is prepared to ram millions of suits through this gaping hole in the courthouse door. Presumably in response to this legislation, they have set up an "Occupational Health Legal Rights Foundation," to help union members bring suits based on occupation-related disease. The foundation stands ready today to deploy hordes of union lawyers, expert witnesses by the dozen, and other helpful trial services at no cost to the worker.

Some large corporations will be able to afford the legal defense costs without any problem, of course. But small businesses will just fold under the pressure. I am sure that the cosponsors and other supporters of S. 79 think they are doing a noble thing. I respect that. But it is not overdramatizing the situation to say that this bill has the potential of wiping out the small operator in America, by forcing him to invest in insurance rather than his company's future.

S. 79 is not simply unnecessary or unwise, it is dangerous for this Nation's economic future. It will curb American innovation in promising new technologies. It will shackle small, startup enterprises. Ultimately, it even will destroy jobs—jobs that no one ever will work at or get paid for—because the jobs will just be too expensive from a liability standpoint to create.

In conclusion, the American worker will be badly served by S. 79. America's foremost growth industry, litigation, will benefit greatly, on the other hand. But the Senator from Kentucky does not feel that this industry and its white-collar legions need or deserve any special subsidy from the Government. Instead, this body should be working on the real problems our constituents are concerned about: The deficit, taxes, and the liability crisis which continues to hurt business, cut competitiveness, discourage innovation, and drive down our standard of living.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I am obliged to vote against cloture on S. 79, the "High Risk Occupational Disease Notification and Prevention Act of 1987." After careful consideration, I believe this bill will do little, if anything, to protect the American worker from exposure to disease in the workplace. It will send businesses, large as well as small, including the family farmer, into a tailspin of litigation, triggering higher insurance premiums, loss of jobs, and higher overhead costs.

S. 79 would create a new Federal bureaucracy within the Department of Health and Human Services called the Risk Assessment Board. The Board is required to identify populations of present and former workers who they believe are or have been at increased risk of disease because of exposure to an occupational health hazard.

Once the Board identifies a population at risk, it must publish a notice of its decision in the Federal Register. After an expedited comment period and public hearing, the Board will make a final determination within 150 days after the initial notice. The Department of Health and Human Resources has no power to change the Board's determination.

The Secretary of Health and Human Services must make every reasonable effort to individually notify every worker or former worker within this "population at risk." The notice must identify the hazard and the diseases affiliated with it, the extent of the risk, any known latency periods, possible contributing factors, health information, including the most appropriate type of medical monitoring associated with the risk and the name and address of the nearest health center authorized under S. 79.

The employer is required to provide free medical monitoring to any notified employee, including former employees, if any part of the exposure leading to the notification occurred with that employer.

If the employee's physician determines that an employee should be transferred to a less hazardous job, the employer must transfer the employee to a less hazardous job. The employee, regardless of where he is transferred, must retain the same earnings, seniority, and employment rights and benefits of the vacated job. If another job is not available, the employer must continue pay and benefits for up to 12 months.

Mr. President, this bill before us, S. 79, has been promoted by its proponents as a bill to merely rescue the worker from the clutches of occupationally induced disease. If that was really the case, I don't think you would see the united opposition to the bill from small businesses, farmers, and other citizens concerned about the survival of America's small businesses.

Mr. President, this bill will add little to the Government's mission to insure safety in the workplace. The Federal Government already requires that businesses meet certain safety standards and notification requirements to insure a safe working environment.

The Occupational Safety and Health Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resource Conservation and Recovery Act, and the Federal Food, Drug, and Cosmetic Act all contain right-to-know protections for the American public.

The most comprehensive of these, of course, Mr. President, is OSHA's Hazard Communication Standard [HCS], which went into full effect on May 25, 1986. More recently, on August 14, 1987, the Health Care Standards were broadened to cover virtually all employers subject to the Occupational Safety and Health Act [OSHA] or OSHA-State plan requirements.

These standards require employers to evaluate harmful substances in the workplace and inform their workers about those hazards and their risks through detailed material safety data sheets. The employer is required to include in these material safety data sheets "the health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical." I emphasize, that these material safety data sheets must state whether the hazard is or has been found to be potentially cancer-causing.

The standard also requires employers to train employees on hazard identification and emergency treatment methods and to put warning labels on all hazardous substances.

The Occupational Safety and Health Administration has also issued a related "access to medical records" standard, with specific right-to-know and

medical monitoring requirements with respect to a number of chemicals and toxics including asbestos, coke oven emissions, and vinyl chloride.

So, to the extent that this bill notifies employees about workplace hazards, it merely duplicates other Federal programs.

But, as we all know, Mr. President, that's not the main objective of this bill. S. 79 charts a new course for the Federal Government by giving the Government the authority to notify categories of workers individually at their homes of a workplace hazard after the worker has been possibly exposed. S. 79 won't keep the worker from getting sick. Its proponents admit this fact and say S. 79 will insure that the worker won't get sicker.

I'm not so sure about that, Mr. President. Medical intervention, as envisioned by S. 79, may not keep the sick worker from getting sicker. According to a study by Robert R. Nathan Associates, Inc., some evidence shows that medical intervention has had only nominal effect in treating workers exposed to hazardous materials. The study states:

> Of the 19.5 million workers who may have been exposed to these 36 substances from 1957 to 1987, CDC rates treatments as ineffective to only moderately effective for 16.8 million (86 percent) of them.

While intervention is of questionable value, Mr. President, notification may cause undue stress and unnecessary alarm among employees. The Risk Assessment Board will notify as a "population at risk" those workers who have been exposed to an occupational hazard "at intensities or for durations comparable to at least one study that acute or chronic health effects may occur in exposed employees."

Before notification, the Risk Assessment Board does not need evidence that exposure has adversely affected the health of the notified employee. Undoubtedly, many workers who are not sick will be unduly alarmed, creating anxiety and unnecessary suffering in those workers.

The Department of Labor and others have pointed out the scientific difficulties in extrapolating risks to workers not directly involved in federally supported studies and serious practical difficulties in identifying and locating these workers.

Let me give you an example of this potential for overnotification. Take the word preserving industry. A population at risk, I remind Senators, means a "class or category of employees—exposed to an occupational health hazard under working conditions, such as concentrations of exposure or durations of exposure or both, comparable to the clinical or epidemiologic data."

Since virtually all workers at a wood preserving plant have the same duration of exposure to certain chemicals, it is probable that all present employees and those people who worked at a treating plant over the last 30 years would be notified.

The truth is that the level of exposure varies considerably in a wood treating operation. People working around the treating cylinder, which contains the vacuum chamber where the preservative is forced into the wood, have the highest level of exposure and therefore receive special training. These workers are also required to wear protective clothing and use respirators. The employees who are responsible for the area called the drip pad, where the preservative if fixed into the wood over a 2- to 3-day period, have the second highest level of exposure and are trained to handle this contact safely. However, workers who do nothing but load the wood onto trucks for shipment to retail establishments have the lowest level of exposure. They receive training but it is not as intense as that given to the other groups of workers.

The program which would be instituted by S. 79 would trigger notification to all three types of employees in the wood preserving industry—whether their area of responsibility was the treating cylinder, the "drip pad," or the loading area. The truck loader—who is least likely to face disease—will be alarmed unnecessarily.

This bill could, in fact, adversely affect the health of workers. I suggest that Members listen to a letter I received on March 22 from Dr. Richard J. Levine, an epidemiologist in my State. He wrote:

> I am writing to express opinions of my own and others in regard to the Metzenbaum bill S. 79. This bill is being considered to inform workers of the possible consequences of hazardous exposures. I and a number of my colleagues in the field of occupational health . . . feel that this bill might severely restrict future opportunities to learn about the consequences of hazardous exposures through studies of exposed workers.
>
> Once a worker has been exposed, presently there is little that can be done to minimize his risk of developing sequelae such as cancer. The benefits resulting from notifying workers about past hazardous exposures, therefore, are tenuous. The best preventive measures are to learn which substances are hazardous and at what levels of exposure, and then to take steps to ensure that exposures are kept below hazardous levels. In order to identify hazardous agents and exposures, studies must be conducted in the workplace.
>
> The Metzenbaum bill S. 79 may restrict opportunities for performing these studies. Estimates of disease risks and lists of exposed workers are more easily obtained from companies who have in the past permitted studies of their workforce. Instead of being rewarded for their efforts, these exemplary corporate citizens might now be penalized by the requirements of worker notification bills. Should this occur, employers will be less likely in the future to allow studies of their health of their workers.
>
> I urge you to take these thoughts into consideration in your deliberations on the Metzenbaum bill. Sincerely, Richard J. Levine, M.D. FAAOM [Fellow of the American Academy of Occupational Medicine].

I do not think that anyone wants to jeopardize the health and safety of employees. Yet, if this doctor is correct, we could be doing exactly that.

While the benefit and workability of risk notification is questionable, Mr. President, the burden on the small businesses and the family farmer is without dispute. I have not seen a single shred of evidence refuting the fact that this bill, S. 79, carries a hefty price tag for the American employer. The increased cost of liability insurance, employer provided medical surveillance, employer provided medical screening, job-removal protection, liability claims, attorneys fees, and court awards should shock anyone to their senses.

According to a study dated January 1988 by the Robert R. Nathan Associates, Inc., an economics and management consulting firm here in Washington, costs to America's businesses will skyrocket, Mr. President if S. 79 becomes law.

Under this bill, approximately 300,000 employees will be notified each year. Medical monitoring, according to the study, will cost $98 per subject, Medical screening will cost $148 per subject. Job-removal protection will cost $24,606 per worker, per year. Direct costs are estimated to reach $119 million per year.

Mr. President, sponsors of this legislation may believe the committee modification takes care of the problems this bill will create for the farmer and the small businessman. I disagree.

As I understand it, the committee modification does two things: First, it exempts seasonal workers from medical removal protections under the act. If a farmer's workers work less than 6 months a year, the farmer will not have to comply with this requirement. Second, with respect to farmers, he will not have to pay for the medical monitoring required under the bill if his workers are designated as a population at risk. The monitoring will be provided by the taxpayer through the Migrant Health Program.

The second exemption applies to small businesses. An employer with 100 or fewer employees for the years 1988 through 1990 and with 50 or fewer employees after 1990 is not bound to provide the same earnings, seniority, and benefits if the employee is transferred to another job. If the employer has entered into a union agreement, he must comply with the terms of that agreement.

Also under this modification, Mr. President, the same size employer is not required to pay more than $250 for medical monitoring for any employee.

The bill could still spell bankruptcy for the American farmer. The modification eliminates the direct cost burdens on only some farmers, but not all of them. It does nothing to relieve the American farmer from the threat of lawsuits and liability claims which this bill will certainly generate.

Let's talk about indirect costs for the farmer not exempted by the committee modification. Here's an example which the Department of Agriculture provided in a memorandum dated February 17, 1988:

Assume the Risk Assessment Board has determined that sunlight is an occupational hazard and that employees exposed to too much sun are "populations at risk." The Board notifies current agricultural workers and workers who did seasonal farm labor during the past 30 years by mail or by commercial advertisement that they could be at risk of developing cancer. The worker goes back to his employer, the farmer, and asks for medical monitoring paid for by the farmer. Upon recommendation of the employee's physician, the employee demands to be transferred to a job where he will not be exposed to the Sun. Since a transfer would be impossible on a farm, Mr. President, S. 79 would force the employer to provide the seasonal worker with wages and other benefits for up to 12 months.

If we are really concerned about the survival of the American farm, Mr. President, I suggest we think twice about passing this bill.

And what about the small businessman, Mr. President? Even with the committee modification, the small businessman will be zapped with higher costs. According to the Coalition on Occupational Disease Notification, few small business insurance plans cover the medical monitoring programs required under this act. These costs, up to $250 per employee per year will have to come out of the pockets of small businessmen.

The direct costs, although large, are merely a drop in the bucket when compared to the expected litigation costs resulting from this bill. Neither the farmer nor the small businessman will be exempt from these costs.

The committee report dismisses this criticism by confidently stating that it "emphatically intends that this preventive public health measure not create substantial new liability costs for employers." The committee goes on to cite a few pilot notification projects which "resulted in few if any instances of litigation."

I'm not convinced that the committee's emphatic intent will be an adequate plug in the litigation dike to hold back the flood of claims that will drown America's small businesses.

According to the Nathan study, this bill could generate $5.7 billion in litigation costs each year for the American businessman. The average claim will cost $35,000 in attorneys fees and court costs and $60,000 in compensation.

And, we can't forget other costs to the public sector, Mr. President. In addition to the authorization of the bill, at $25 million, Government expenditures for processing and adjudicating the liability claims must be taken into account. Although the Nathan study was unable to estimate the exact cost, the study did state that it represented a "potentially large indirect public sector cost."

As with all other business expenses, Mr. President, the small business must handle this overhead by reducing labor, which means loss of jobs, or by increasing the cost of the goods for the domestic and foreign consumer.

As I said at the outset, Mr. President, this bill will do nothing to protect the worker from exposure to a workplace hazard and will place an exorbitant cost burden on America's small businesses. We hear a lot of talk about the trade deficit, the plight of the American farmer, and the unemployed. If we are so interested in these problems, Mr. President, we should not exacerbate these problems by passing this legislation.

I urge my colleagues to vote against cloture and continue to oppose this legislation.

The PRESIDING OFFICER. Who yields time? Who yields time?

If no one yields time, time will be deducted equally from the time allocated to each of the controlling Senators.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture be a 30-minute rollcall vote; that the call for the regular order be automatic at the conclusion of the 30 minutes?

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

Mr. BYRD. Mr. President, may I say for the RECORD that I am reluctant to make such requests and I do not want us to get into the mode of having 30-minute rollcall votes, especially at this time of the day. But there are good reasons for it in this instance.

The only other request that I will make is I will ask unanimous consent that the vote begin now.

The PRESIDING OFFICER. Is there objection? The Senator from Wyoming.

Mr. SIMPSON. Mr. President, reserving the right to object, and I will not object, I want to thank the majority leader. This is an accommodation that will not need to occur again. Our minority leader has an announcement of import to make at 3 o'clock, in the Russell Building in room 325 and it is necessary to give those of us who wish to be there an opportunity to be there. This is an accommodation and not some precedent of any type.

I thank the majority leader.

The PRESIDING OFFICER. Is there any further objection to the request by unanimous consent that the vote be now? Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the committee substitute for S. 79, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

Senators Bob Graham, John Kerry, Claiborne Pell, Christopher Dodd, Edward Kennedy, Alan Cranston, Daniel K. Inouye, Patrick Leahy, Tom Daschle, Timothy E. Wirth, Daniel Moynihan, Barbara A. Mikulski, Bill Proxmire, George J. Mitchell, Harry Reid, Wendell Ford, and Howard Metzenbaum.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 79, to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, with a modified committee amendment in the nature of a substitute, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announced that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nebraska [Mr. KARNES] is necessarily absent.

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

The yeas and nays resulted—yeas 42, nays 52, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—42

Adams	Ford	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Graham	Moynihan
Breaux	Harkin	Packwood
Burdick	Hatfield	Pell
Byrd	Heinz	Proxmire
Chafee	Inouye	Reid
Chiles	Kerry	Riegle
Conrad	Lautenberg	Rockefeller
Cranston	Leahy	Sarbanes
Daschle	Levin	Specter
DeConcini	Matsunaga	Stafford
Dodd	Melcher	Weicker
Durenberger	Metzenbaum	Wirth

NAYS—52

Armstrong	Grassley	Pryor
Bingaman	Hatch	Quayle
Bond	Hecht	Roth
Boren	Heflin	Rudman
Boschwitz	Helms	Sanford
Bumpers	Hollings	Sasser
Cochran	Humphrey	Shelby
Cohen	Johnston	Simpson
D'Amato	Kassebaum	Stennis
Danforth	Kasten	Stevens
Dixon	Lugar	Symms
Dole	McCain	Thurmond
Domenici	McClure	Trible
Evans	McConnell	Wallop
Exon	Murkowski	Warner
Fowler	Nickles	Wilson
Garn	Nunn	
Gramm	Pressler	

NOT VOTING—6

Biden	Gore	Kennedy
Bradley	Karnes	Simon

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. METZENBAUM. Mr. President, the fourth cloture vote on S. 79 is now completed and the Senate has not invoked cloture. The filibuster will continue and those of us concerned with improving and enacting this bill to notify workers of a known high risk of occupational disease will be prevented from taking any constructive action.

Under those circumstances, it is not possible to continue debate on this bill. Therefore, I am asking the Senate leadership to withdraw S. 79 from the floor. Senator STAFFORD and I, as principal authors of the legislation, have been prepared from the beginning to accept constructive amendments, to debate amendments, and to have votes on amendments. But this filibuster, which is an unprecedented action against a worker health bill, has stopped all attempts to have a serious debate about the substance of the legislation. This filibuster has prevented the Senate from going about the job of legislating.

That is a shame. But a filibuster cannot stop this issue. It is too important. Workers are dying from occupational disease and they need our help. We must tell them the truth so that they can seek medical intervention to detect disease at its early, treatable stages. The Congress has not seen the last of risk notification. I vow to raise this issue again so that a majority of the Senate may exercise its will.

For now, I would like to thank all the groups that actively supported S. 79—organized labor, the public health community, environmental and consumer groups, women's groups, and especially those trade associations and companies that had the courage to look at the substance of the bill and to work with me and Senator STAFFORD to improve the legislation.

I particularly want to publicly say thanks to Jim Brudney and Al Cacozza of my staff, who put in more time on this bill than any two staffers could ever be expected to put in. When you tried to find them on a Sunday, they would be at the office. If they should have been at home, they were at the office. When I turned in every hallway, there they were, telling me how to change this, how to do that, how to pick up another vote. They gave of themselves far more than staffers are expected to give of themselves. They gave out of a sense of commitment, and I want to publicly indicate my appreciation to them.

I also thank the Senate leadership, Senator ROBERT BYRD, who agreed to schedule this legislation and allowed us four cloture votes to break the filibuster. He was supportive and was cooperative, and I think it is only appropriate that he be given recognition for the assistance and support he gave me in connection with this measure.

I want to thank my colleagues, particularly Senators BREAUX and FORD, who were most active in making constructive changes to the bill.

Finally, I want to thank my colleagues on the Labor Committee, especially the Chairman, Senator KENNEDY, and the principal co-author of this bill, Senator STAFFORD.

I want to say publicly that I have worked with my colleague from Utah. He is a tough opponent. He fights hard. He has fought hard in connection with this measure. He has fought fair. He had the votes in this instance. Sometimes we win them, and sometimes we lose them, and on this one, I have lost.

In conclusion, I feel that as long as workers are kept in the dark about occupational hazards, we will continue to fight for their right to know the truth.

Mr. HATCH. Mr. President, I thank my dear colleague for the kind remarks he has made at the end of this occasion.

I have to say that I have had some harsh things to say about this bill, and I think they are all justified. I do not think that, I know that. But I have no harsh things to say about my colleague.

I have watched my colleague from Ohio for many years around here, and there is not a more indefatigable opponent or proponent in the whole U.S. Senate. He is a remarkable human being.

I believe with all my heart that his intentions have been the most noble. I know that he feels very deeply about worker illnesses and the problems of workers in our society, as do I, and as does every Member of the Senate—those who voted for his proposal and those who voted against.

This has been a hotly divisive issue, a hotly contested issue, and there has been a bipartisan vote both ways.

I think he is correct: If there are workers out there who are not being properly cared for or properly notified, we must locate them and find some reasonable vehicle, preferably using vehicles already in existence, and correct any of those imperfections or past errors.

What I objected to so strongly is a brand-new bureaucracy back here, when we are loaded with bureaucracies which, if they were properly functioning and properly authorized, could do everything that he wants done here today, only in a much more efficient, less costly, and reasonable way.

I want to express my regard for him because there is no question in my mind what a tremendous adversary he is and what a tremendous opponent he is. We have had to basically be together for almost all the 12 years we have been in the Senate. We came to the Senate together—at least the second time Senator METZENBAUM came to the Senate—and we have worked side by side all these years. I have great respect for him.

I also thank the people who have worked with him. His staff members have been courteous; they have been decent; they have been tough; and I have great respect for them.

I also want to mention the distinguished chairman of the committee. He is very tough, and I am sorry that he is having health problems today, because I would have preferred to have had him here.

I want to mention a couple of my staff members, who have worked long, hard hours for a long, hard year and a half on this bill—Kevin McGuiness, my staff director, Dr. Win Froelich, the physician on my staff, Jeanette Carlile, Ann Schwindaman, Deanna Godfrey, and Angela Pope. All have done a terrific job on this bill, and I think they have been very worthy staff members and have been a tremendous help to me on this issue. I do not know of better staff members in the whole Senate or in Congress for that matter.

Having said all this, I thank all Senators who have been concerned about this issue, certainly those who have supported the positions that our side has taken.

I believe that this debate has shown that even though ideas are well-inten-

tioned, they still have to be well constructed and they still have to be applied in meaningful, effective, and worthwhile ways. I believe that this debate on this legislation has shown that.

I believe that when the unions are right, they will have my vote as they did on the Polygraph Protection Act that Senator KENNEDY and I brought to this floor just recently.

When they are wrong, they are going to have a strong opponent in me.

I just encourage them to be right in the future rather than wrong. I prefer supporting them in many aspects of their erstwhile desires than to continually have to fight them on bills that really should never have been brought to the floor to begin with.

That is a matter of opinion. That is my opinion. The distinguished Senator from Ohio has a different opinion, and I respect that and I respect him.

I would just like to end with those remarks and thank everybody concerned on both sides of this issue for the cordial and reasonable way that we fought this battle out, and I want to again thank the majority leader.

This has been a very difficult time for me, having severed my interior cruciate ligament and standing on the floor for the hours I have for the last couple of weeks, almost 3 weeks, it has not been easy.

But the majority leader has been very kind and very reasonable and very accommodative even though he has been on the other side of this issue.

I express my thanks to him. He has been running a very fair floor and that means a lot to people like me who have so many issues that are coming up this year on this floor.

I express that gratitude for all concerned. I thank the Chair.

Mr. BYRD. Mr. President, I thank both managers for their kind comments. I congratulate them both on having fought the good fight. They worked hard. They have been diligent. They have been at their posts of duty and that is what we expect and what we got.

Mr. President, I congratulate them. We cannot all win. We cannot win them all. We have to lose sometimes.

Mr. METZENBAUM has accepted the outcome gracefully, and Mr. HATCH has appropriately complimented all the staff people and Senators who have been a part of it.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I intend to move shortly to take up Calendar Order No. 565, the domestic uranium bill. I think that has been cleared on all sides.

Mr. HATCH. Mr. President, will the Senator yield for one other comment by me?

Mr. BYRD. I yield.

Mr. HATCH. I really appreciate the distinguished majority leader's yielding.

In my desire to congratulate the distinguished Senator from Ohio, I want to congratulate the single most important person on our side of this battle, and that is the distinguished Senator from Indiana. He is the ranking minority member on the Labor Subcommittee and he has had an incredible year and a half. He deserves a great deal of credit for the arguments, efforts, and tremendous leadership he has shown on this bill. I personally express my respect for the leadership he has provided because without him, we would not have been able to explain our side of this matter as much as we have been able to explain it. Without his lucid explanations on the floor, I do not think any of us would have understood this as well as we have.

I personally express my admiration for him and the leadership he provided and the ability and tremendous capacity that he has had to encourage some of us to be able to understand this better and to fight this legislation in the way that it has been fought. It has been a very good fight, and I think that the distinguished Senator from Indiana deserves an awful lot of the credit for the final result on this legislation.

I would feel very, very badly if I had not made that very clear on the floor.

URANIUM REVITALIZATION, TAILINGS RECLAMATION AND ENRICHMENT ACT

Mr. BYRD. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 565.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The clerk will report.

The clerk read as follows:

A bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's uranium enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes.

The Senate proceeded to consider the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. BYRD. Mr. President, I hope to get a time agreement on the pending matter. I understand now that the request has been cleared on this side.

Mr. President, I ask unanimous consent that the pending bill be considered under the following time agreement:

I ask that there be 2 hours on the bill, to be equally divided between Mr. JOHNSTON and Mr. MCCLURE, in accordance with the usual form; that on an amendment by Mr. REID, there be 1½ hours, the amendment being on unrecovered costs of the enrichment program, again the time to be equally controlled in the usual form; 2 hours on a Johnston, et al, Amendment No. 1465, relating to the tax exemption of the Government's Uranium Program and fees for the use of foreign uranium; 3 hours on a possible Evans-Bradley second-degree amendment to the Johnston Amendment No. 1465, dealing with the same subject matter; 1 hour on an amendment by Mr. MCCLURE, the subject matter being Federal contributions in title II; 10 minutes on the Johnston-McClure Amendment No. 1466 relating to the budget impact of the bill.

Mr. President, I ask unanimous consent that in all instances, the division and control of time be in accordance with the usual form.

Provided further, that there be 10 minutes on amendment No. 1467 by Mr. FORD dealing with certain pending litigation; 1 hour on a Johnston-McClure amendment dealing with capital structure of the corporation; 1 hour on a Johnston decommissioning and decontamination amendment; 1 hour on a Metzenbaum amendment dealing with NRC licensing; 1 hour on a Johnston amendment dealing with licensing of uranium enrichment facilities; 1 hour on a Metzenbaum amendment dealing with decommissioning and decontamination.

Provided further, that there be no motions to recommit, with or without instructions; and ordered further that no tabling motion be in order on a Humphrey-Proxmire amendment and that there be no time limitation on a Humphrey-Proxmire amendment to establish the amount of unrecovered costs of the enrichment program; that no other amendment be in order than those amendments that have been specified; that there be not to exceed 20 minutes on any debatable motion, appeal, or point of order, if such point of order is submitted to the Senate; and that the agreement be in the usual form.

I think that about completes it.

The PRESIDING OFFICER. The majority leader has made a unanimous-consent request. Does any Senator have any objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators. I thank the two managers, Mr. JOHNSTON and Mr. MCCLURE. I especially thank my good friend across the aisle, the assistant Republican leader, Mr. SIMPSON, for the yoeman's work which he has done, together with our respective staffs, in putting together this complex time agreement.

Mr. SIMPSON. Mr. President, I thank the majority leader for those remarks.

I also thank the majority leader for the realistic way in which he handled the previous measure which became very contentious. There are lots of reasons why it failed to receive the vote of closing off debate, but the real reason is that the Senate worked its will. That is what that is called. So I would not put too great an impact on anything more than the fact that that is the way this unique body works and should work. It is very pleasing to see the majority leader remove that contentious item from further consideration and proceed here with the business of the Senate.

I hope—and assure, as I have in the past—to cooperate in every way and to have a good work program until the next designated recess period. I certainly pledge that from our side of the aisle and know that Senators JOHNSTON and MCCLURE will do their usual fine job of floor managing this matter.

Mr. JOHNSTON. Mr. President, first let me say I am delighted we got this time agreement. I think that most of the problems with respect to uranium enrichment are going away as Senators begin to understand what our bill is all about and what this industry is all about.

The time agreement just declared on the Senate floor provides, I might add, Mr. President, for a great deal more time than will be used.

We have a number of amendments that are 1-hour amendments that I would expect would be more like 5- or 10-minute amendments. So I would put my colleagues on notice to be ready, if they do have an amendment if they are included in this because I would hope and expect that this will move fairly rapidly.

Mr. President, today the Senate begins debate on S. 2097 and several amendments thereto. This bill, along with amendment 1465, comprises a package that addresses the issues in the front end of the domestic nuclear fuel cycle in a comprehensive way. Enactment of this legislation is critical to maintaining an efficient domestic system to supply fuel to the reactors that in 1987 produced 17 percent of our electricity.

This legislation is also critical to the role of the United States as a credible supplier of enriched nuclear fuel. The world market for such fuel is now worth approximately $2.5 billion annually and will continue to rise as more nuclear powerplants come on line around the world.

We will be asking the Senate to adopt S. 2097 and certain amendment to it. The most important of these is amendment 1465.

Amendment 1465 has been separated from the bill—S. 1846—originally reported by the Committee on Energy and Natural Resources to address uranium issues. This was done solely to address jurisdictional concerns of the Senate Finance Committee. We strongly support adoption of amendment 1465 so that the matters it addresses will be included in the legislation when it passes the Senate.

Mr. President, the legislation Senator MCCLURE, Senator FORD, Senator DOMENICI, Senator BINGAMAN, Senator SIMPSON, Senator WALLOP and I are recommending to the Senate has three major purposes, expressed in the three titles of the bill.

The first title—when amended by amendment 1465—will provide for the continuation of the longstanding Federal interest in the domestic uranium mining and milling industry.

The second title sets up a procedure to share equitably the costs of reclamation at uranium mining and mill sites.

The third title sets forth a bold and urgently needed reform of the Federal uranium enrichment enterprise.

The Committee on Energy and Natural Resources has worked to develop this legislation through two Congresses, under Republican leadership and under Democratic leadership. Support for the bill before the Senate today is bipartisan and strong.

URANIUM MINING

Title I—when amended by amendment 1465—will continue the tradition of Federal concern with the viability of the domestic uranium industry. Uranium is a material that is irreplaceable in its applications to defense. It is therefore a very special commodity. Congress has always recognized the special role uranium plays in our national defense by providing for Federal oversight and care for the health of the domestic mining and milling industry.

This legislation amends existing law to provide for a transition to a free market in uranium after the year 2000. By contrast, current law contains a permanent requirement that the Federal Government ensure the viability of the domestic uranium industry through management of uranium enrichment facilities operated by the Secretary of Energy.

Our bill is consistent with the recently negotiated "Canadian Free Trade Agreement," which calls for the repeal of the provision of law that requires Federal action to ensure the viability of the domestic uranium industry. We repeal this provision in amendment 1465. This provision is replaced, between now and the year 2000, by a system of charges on domestic use of foreign uranium. After 2000 all charges expire.

This limited system of charges established in amendment 1465 is designed to provide for an orderly transition from current law to a free market in uranium. We have emphasized our agreement with this result of the Canadian Agreement to the administration in our discussions with them about this legislation and about the legislation that will be developed to implement the agreement.

I ask unanimous consent that a copy of a December 1, 1987 letter to the President on this subject signed by 24 Senators be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, DC, December 1, 1987.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Uranium is now second only to coal as an energy source for electricity production in the United States, accounting for almost 20 percent of domestic electric power generation. Use of uranium as a fuel in nuclear power plants is now displacing over two million barrels per day of imported oil, and is saving the nation $15 billion per year in foreign oil payments. Similarly, the Nation continues to have a substantial reliance upon uranium for its national defense requirements.

A strong domestic uranium industry and a strong domestic enrichment enterprise are required if the United States is to ensure its ability to meet the demand for nuclear energy and its defense responsibilities. Ironically, at this critical time, both the uranimum mining industry and the uranium enrichment enterprise are severely depressed. Indeed, the uranium industry has been formally declared to be "non-viable" by the Secretary of Energy. There is a broad consensus that the uranium enrichment enterprise simply cannot continue to operate as it has in the past.

In order to resolve these problems, a comprehensive program is desperately needed.

Fortunately, the uranium producers and nuclear utilities have cooperatively sought development of such a program through the legislative process. On October 1, 1987, the Senate Energy and Natural Resources Committee ordered reported S. 1846, a comprehensive bill that ensures this country's utility and defense requirements for uranium will be met. Among other things, this legislation eliminates any restriction on the enrichment of foreign uranium for domestic use. For an interim period, this restriction is replaced by imposing a sliding scale of charges for the use by utilities of foreign uranium above specified levels. All restrictions expire automatically on January 1, 2001. The bill also totally reorganizes the uranium enrichment enterprise to permit operation as a continuing, commercial enterprise on a profitable and efficient basis.

We believe the uranium supply policy embodied in this legislation is compatible with the proposed U.S.-Canadian Trade Agreement. Canada does not sell uranium to the United States for military purposes. Therefore, it is imperative that any trade agreement with Canada recognize the importance of the U.S. uranium industry to our national defense.

The legislation reported by the Committee on Energy and Natural Resources revitalizes the domestic uranium mining industry in a manner that achieves the uranium

trade objectives of Agreement. The bill repeals section 161(v) of the Atomic Energy Act, which requires the Secretary of Energy to restrict the enrichment of foreign uranium.

The bill also preserves existing contracts for the purchase of foreign uranium. It imposes limited charges for the use of foreign uranium in the next few years, while preserving a substantial share of the U.S. uranium market for foreign producers. In fact, taking into account the provision respecting preservation of existing contracts, the net effect of the legislation is to preserve 50 percent of the domestic market for imported uranium during the period of transition to a free market.

In summary, S. 1846 provides for a phased implementation of free trade in uranium. We understand that a gradual approach will also be proposed in implementing other areas of the U.S.-Canadian Agreement. We urge that in developing the Administration's proposals for implementing legislation for the uranium provisions of the Agreement, the Administration take advantage of the consensus among uranium producers, electric utilities, and Members of Congress that is reflected in the legislation reported by the Committee on Energy and Natural Resources.

Sincerely,

Wendell H. Ford, J. Bennett Johnston, Pete V. Domenici, James A. McClure, Jeff Bingaman, Jake Garn, Orrin G. Hatch, Don Nickles, Robert Dole, Chic Hecht, Ted Stevens, Steve Symms, Bill Armstrong, Richard Shelby, Malcolm Wallop, Alan K. Simpson, John Breaux, David L. Boren, John W. Warner, Mitch McConnell, Dennis DeConcini, John McCain, Frank H. Murkowski, Robert C. Byrd.

Mr. JOHNSTON. The administration will have to cooperate with Congress to achieve its goals with respect to trade with Canada, including trade in uranium. The vote on amendment 1465 may provide us with a good indication of how the Senate feels about the cooperation received so far.

URANIUM TAILINGS RECLAMATION

Title II of S. 2097 establishes a procedure to fund the reclamation of uranium tailings at sites owned by private companies.

Many of these sites were operated to produce uranium for defense purposes. So the Federal Government bears some responsibility for an environmentally acceptable cleanup of the tailings at these sites. The same is true for the ratepayers who benefit from electricity generated from nuclear power. And, finally, the site owners bear the major portion of the responsibility for this work.

This is the policy embodied in title II of the bill. The initial costs of cleanup are split three ways, with costs above $4.50 per ton the total responsibility of the site owners. This is an equitable solution to the problem of allocating cleanup costs. Most importantly, the establishment of this funding procedure will mean that the cleanup can begin. That will be the most important result of enacting title II.

URANIUM ENRICHMENT

The U.S. Uranium Enrichment Program has been in need of reform for several years. Our present program is governed by a statute written when the U.S. Government held a world monopoly in the provision of uranium enrichment services. That monopoly is a thing of the past. The U.S. enrichment enterprise has competition from consortia backed by foreign governments in Europe and from the Soviet Union. Several governments are active in developing the next generation of enrichment technology-atomic vapor laser isotope separation.

So today there is a market for uranium. The market is competitive now and will become much more competitive in the future. The U.S. enterprise must react to that market far more flexibly than it has in the past. Over the past decade the U.S. share of the world enrichment market has dropped from 100 percent to below 50 percent.

There is a market for uranium enrichment services, but it is far from a free market. All participants are governments. In Europe and in the Soviet Union these governments frankly subsidize their enrichment programs. This fact of life must be taken into account in devising legislation to restructure the U.S. enrichment enterprise to face current competitive realities and the evolution of the market over the long term.

This is what we have attempted to do in title III of S. 2097. It is our intent that the U.S. Enrichment Corporation established by title III represent the interest of the United States aggressively in the world enrichment market both today and over the long term. The Corporation should defend the very strong current present U.S. position in the domestic market and seek to restore to the extent practicable the role the United States once held as a supplier of services in the world market.

The returns to the United States, if we are successful, will be both tangible and intangible. A secure, low-cost supply of enrichment services domestically will enhance U.S. energy security and pay dividends to U.S. ratepayers and industry dependent on supplies of reasonably priced electricity. It is my belief that the nuclear share of our electricity supply can only grow over the long term. We will need a strong domestic enrichment enterprise to fuel this generating capacity.

In addition to our own energy security, we need to care about the energy security of our allies. We learned this in a very painful way in the 1970's, when energy concerns intersected with our efforts in foreign policy in ways we could not adequately control. Nuclear power helped soften the energy price increases of the 1970's. We could find its role important in the 1990's. The fulfillment of that role requires a secure supply of enriched fuel.

Finally, we do not want to encourage every nation in the world interested in electricity from nuclear power to conclude that it must develop the capability to enrich its own uranium. This technology that is essential for power production is also adaptable to weapons production. We will be better off if there are fewer rather than more places in the world where weapons-grade uranium can be produced. A strong U.S. Enrichment Program that is a competitive and reliable supplier of services worldwide can substantially reduce the pressure to develop enrichment capability on the part of countries seeking to use nuclear electricity.

These intangible concerns are very much a part of the committee's intent in designing the Corporation being presented to the Senate today and in the direction provided to the managers of the Corporation in the proposed organic statute for the Corporation.

The goals set forth for the Corporation will place strong demands on the managers of the Corporation to operate as a business, but with these security concerns in mind. This will require rigorous cost cutting, a strong marketing organization and intelligent investment in the development of enrichment technology.

If the structure we are setting up today performs as we intend, these goals will be achieved, and the United States will also make money from the sale of enrichment services. However, it will take time and hard work to get to a point where this can happen. The U.S. enterprise is presently carrying the burdens of years of unfortunate decisions and artificial costs.

The primary goal of the new Corporation is to restore the health of the U.S. enrichment enterprise and to get it moving again as a competitive force in the world market. If this is successful, the time for profit from the enterprise will come. But that time may not be soon. It would be wrong to regard the enterprise in its current state as a significant source of revenue for the Treasury. Too much damage has been done to customer confidence in the enterprise in the past by attempts to harvest revenue from the enterprise for the Treasury to the detriment of the long-term viability of the U.S. role in the enrichment market.

In the debate over the restructuring of the enterprise, no issue has been more contentious than the issue of the so-called enrichment debt. At time it appeared that we were being asked to restructure the enterprise to pay into the Treasury, over and above the costs of operating the business and providing the needed investments for the future, as much as $8.8 billion. In fact, there is no way this could conceivably happen. If enrichment services were

priced to raise this kind of cash in addition to the demands of the enterprise itself, the enterprise would lose all of its customers very rapidly, and the result would be a total collapse.

Fortunately, almost no one is now proposing such a thing. S. 2097 provides for a repayment as a debt of the net excess appropriations to the program for commercial purposes since its inception—$364 million. The Government investment in the enterprise, represented by the assets transferred to the Corporation by this legislation would remain as the basis for the calculation of dividends to be paid to the Treasury. In this way this investment will provide profits for the taxpayers year after year from the net earnings of the Corporation.

In the event that the enterprise is sold, after authorization by a future Congress, the Government could then convert these assets to cash. But this is the only sense in which prior Government investment in the program would be directly converted into its value in cash.

Mr. President, I want to thank Senator CHILES, Senator PROXMIRE and Senator HUMPHREY for their efforts in shedding light on this complicated issue. I ask unanimous consent that a letter dated March 25, 1988 from Secretary of Energy John S. Herrington to Senator CHILES and the responses of the Department of Energy to a series of questions posed by Senator PROXMIRE and Senator HUMPHREY be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, March 25, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of March 21, 1988, regarding your interest in proposed legislation to reform the Department of Energy's uranium enrichment enterprise and a specific need to more fully understand its current financial prospectus.

The Department is also interested in legislative efforts to restructure the uranium enrichment enterprise as a Government corporation. We have been working with Congress in this regard, and specific attention has focused upon Title III of the Bill, S. 2097, that would accomplish this result. It is felt that any restructuring initiative should provide the enterprise with the flexibilities and advantages of a commercial business entity as a necessary element in improving its competitiveness and future viability. We believe that ultimately the enterprise should operate as a private business in order to achieve its fullest measure of success. The measures proposed in S. 2097 represent progress in establishing a more competitive enrichment enterprise; however, we continue to believe that the Bill does not represent the most effective basis to ensure its long-term success as a commercial entity.

One area of improvement in the existing legislation that could make the enrichment enterprise stronger involves the mechanism for recovering the Government's investment in the enterprise. In particular, we believe that significant benefits would occur if the proposed Government corporation was created as an entity that issued stock that was held by the U.S. Treasury. This provision would provide the means by which payments to the Treasury as dividends could be applied toward recovery of the remaining investment in the enterprise. Also, should the stock be subsequently sold to the public, receipts from this sale could further contribute to a return on the Government's investment.

The Department recognizes that concerns have been expressed regarding the issue of unrecovered Government investment in the enrichment enterprise. Specifically, it has been suggested that the original Government investment in the enterprise represents a "debt" which should be repaid through revenues generated by the enterprise. We share the goal of returning to the government amounts representing the investment it placed in the enterprise. However, in our view, these amounts represent an unrecovered investment in the enterprise as opposed to a specific debt for which the enterprise remains liable. The issuance of stock by the enrichment enterprise in the form of a Government corporation allows a return on investment by the payment of dividends on the stock, plus the potential for an even higher return by the eventual sale of this stock to the public. It is felt that this represents the most productive means by which the Government's investment in the enrichment enterprise can be recovered.

Creating an efficient mechanism for recovery of the Government investment by authorizing the issuance of stock represents just one of the benefits of providing the Government corporation with features more characteristic of a private business. Other features of a proposed Government corporation that are essential to its success include self-financing authority with the ability to borrow from the public for project financing, marketing independence and flexibility to effectively compete in the marketplace, and compensation at sufficient levels that can attract and retain quality executives. (See Exhibit A, attached.)

Creating the most efficient framework for restructuring the enrichment enterprise with enhanced commercial capabilities must take into account existing financial parameters associated with the enterprise. Your letter requested a number of specific explanations regarding the financial background of the uranium enrichment business. A detailed explanation addressing each of your questions is contained in the enclosure to this letter.

I trust that you will find this information responsive to your inquiry. If I can be of any further assistance, please let me know.

Yours truly,

JOHN S. HERRINGTON.

Enclosure.

Question: Given these potentially competing objectives, I am requesting the Department of Energy projections of the enterprise's operations. I would also like to know whether these projections show that the uranium enrichment enterprise will be both competitive and viable given a requirement to repay unrecovered costs of $3 billion of the Treasury. If not, at what unrecovered cost level will the enterprise remain viable?

In addition to Department of Energy projections regarding repayment, I am interested in an estimate of the net present value of the stream of payments for the $3 billion of unrecovered costs. S. 1846 requires that $364 million be repaid within 20 years. How does the net present value of that stream of payments compare with the projections you include for your estimate?

Answer: Regarding the current future financial condition of the enterprise, Department of Energy (DOE) analyses indicate that the enterprise could potentially be both competitive and viable. Our cashflow estimates indicate that substantial moneys can be generated through the end of the century.

While we believe there is a substantial surplus, there are a number of circumstances which have the potential to significantly reduce annual surpluses. These possibilities involve the amount of Government investment to be recovered, the potential of higher power costs caused by acid rain legislation, a possible strengthening of the U.S. dollar, and unexpected expenditures for decontamination and decommissioning (D&D) during the period. If the financial impacts of these factors prove to be negligible in the future, then the enrichment enterprise could recover as much as $3 billion of the unrecovered Government investment and remain viable.

In contrast to the current Administration position that identifies an unrecovered Government investment of about $3 billion, but not debt liability, both S. 1846 and S. 2097 would establish an initial debt of $364 million and require its recovery with interest over 20 years. This debt amount is significantly less than the surplus shown in DOE's cashflow projections and therefore it could be repaid under most conceivable scenarios. However, as noted previously, there are a number of uncertainties associated with DOE's projected cashflow and costs for items such as D&D have not been defined explicitly or included in the calculations.

Question: I would also like an explanation of the methodology the Department of Energy uses to determine its unrecovered cost figure. I am particularly interested in the logic behind the inclusion of an initial capitalization expense of $1.5 billion dollars.

The estimate used in S. 1846 excludes this expense. Why does the Department of Energy include the expense in its calculations? What percent of the $3 billion estimate the Department employs is accounted for by the initial capitalization?

Answer: Guidelines for recovering the cost of providing uranium enrichment services are derived from the Atomic Energy Act. This Act requires that the charge or price for enrichment services recover the Government's costs of providing enrichment services over a reasonable period of time. The Department has defined the costs to be recovered in enrichment services criteria that were formally published after congressional review. With one minor exception (in 1979 we added imputed interest costs on the uranium inventories needed to provide enrichment services), the costs to be recovered in the enrichment price have remained the same since 1969, when commercial sales began. The list of costs to be recovered include the power and other costs of operating the enrichment plants, research and development costs, depreciation of the enrichment plants, and imputed interest on the Government's investments in uranium enrichment.

The first identification of enrichment costs to be recovered occurred in 1969. Considerable judgment was exercised when the initial Government investment of $1.5 billion was established in 1969. At that time,

the Department allocated the undepreciated value of the original enrichment plants (about $1 billion) that were built for defense needs as a cost to be recovered in future enrichment sales. The Department also assigned the existing inventories of separative work (produced at a cost of $500 million) as an asset to be sold to future enrichment customers. It was determined that these cost allocations were equitable because these assets were needed to provide enrichment services and therefore their costs should be recovered. To exclude these costs would have resulted in the Department using its enrichment plants to provide enriched uranium without a charge for the use of production plants that were not fully depreciated. Also, the exclusion of the costs associated with the separative work inventories would have meant that the Department would not recover the costs of generating this inventory.

With the establishment of the initial Government investment at $1.5 billion, the Department set prices to recover depreciation costs, while imputing interest on the unrecovered portion. During the 1970's, new assets were acquired for the enrichment enterprise, including an expansion of the enrichment plant capacity by 60 percent; the build up of a large stockpile of separative work units; and beginning in 1976, the construction of the Gas Centrifuge Enrichment Plant (GCEP). These expenditures greatly increased the Government's investment in uranium enrichment. All were financed from annual revenues. In 1984 and 1985, the Department determined that it was not appropriate to recover the Government's investment in unused and unneeded enrichment capacity. Therefore, the Department wrote off the Government investment in $1.2 billion of the gaseous diffusion capacity and the entire investment in GCEP of almost $3 billion. With these adjustments, the Department is reporting an unrecovered Government investment of $3.019 billion as of September 30, 1987.

Question: Finally, the Administration's 1989 budget includes a proposal to examine sale of the uranium enrichment enterprise. Although I appreciate the potential benefits to be derived from privatization, I am concerned that such a sale would not be viable without significant concessions on the part of the federal government with regard to the costs of decontamination and decomissioning of the uranium enrichment facilities. What are the Department of Energy projections of decontamination and decommissioning costs for the enterprise—assuming current environmental statutes are applied to its activities? What effect would these costs have on a proposed sale?

Answer: In addition to the investments that remain to be recovered, a future liability that will have to be addressed in enrichment pricing involves D&D costs. Estimates for D&D of the gaseous diffusion plants (GDP) are difficult to make because of uncertainties regarding potential alternative uses of the GDP facilities and the timing, extent, and technologies to be used for clean up. Clean up activities are not projected to be necessary until after the Year 2000 and the specific technology expected to be used for this clean up remains uncertain. In any event, after ensuring that these facilities are in an environmentally safe and secure condition, the first priority will be to identify alternative productive uses for them. Our preliminary estimate is that D&D, if required, would cost between $1 and 3 billion. It is expected that these costs would be allocated on an equitable basis between the Government and commercial customers.

The responsibility for eventual D&D of enrichment facilities that may be transferred to a potential new owner or operator would need to be addressed before effecting such a transfer. By requiring establishment of an appropriate D&D sinking fund, the financial impact on a possible future sale could be minimized.

EXHIBIT A: QUESTION AND ANSWER PREVIOUSLY SUBMITTED TO INQUIRIES FROM INDIVIDUAL SENATORS

Question: The report accompanying S. 1846 sets forth (S. Rep. No. 100-214, page 33) that ". . . the Corporation is authorized to price its services according to the market with no necessary expectation that these costs will be recovered at a later time." We would be interested in DOE's comments on this as well as on the structure of the new corporation in general.

Answer: Section 1508 of S. 2097—as well as the language contained in S. Rep. No. 100-124—makes it clear that the pricing objectives of the corporation shall be to recover costs and to generate profits. The committee report accompanying S. 1846 states:

". . . (the) recovery of costs and profitability are goals of the Corporation over the long-term, but not legal requirements that must be satisfied when business conditions make their satisfaction impractical."

With regard to the structure of the new corporation, the bill provides an approach to managing the enrichment enterprise that is an improvement over current law. However, it is felt that further changes should be incorporated to more fully allow the enrichment enterprise to operate with the flexibilities characteristic of a commercial business. The Administration in previous documents has submitted the following items to achieve this objective:

The successor government-owned corporation needs to be a profit-making business entity with a true corporate structure;

Stock should be issued by the corporation and held by the Secretary of the Treasury;

Corporate operations need to be managed under an independent Board of Directors appointed by the President, with the Board selecting its chief executive officer;

The corporation clearly needs to be a self-financing enterprise not funded by congressional appropriations and without access to the Federal Financing Bank (but with the authority to borrow funds from the public for project financing with no "agency" borrower characteristics or banking by the Government);

The corporation needs to be required to establish a decommissioning reserve account;

The Board should be required—within 2 years of incorporation—to complete a study and make recommendations to the Secretary of the Treasury and Congress on how it plans to proceed with the sale of corporation stock to the public;

The corporation needs to be explicitly exempted from section 161v. of the Atomic Energy Act; and,

Legislation establishing the new corporation needs to ensure that national security needs will be met on a priority basis.

QUESTIONS FROM SENATORS PROXMIRE AND HUMPHREY

Question 1: In 1986, the Department of Energy estimated the amount of unrecovered costs appropriated for recovery to be about $3.4 billion. Based on DOE's 1986 criteria (51 Fed. Reg. 27132-27146), what is the current estimate regarding the amount of unrecovered costs appropriate for recovery?

Answer: At the time the uranium enrichment services criteria were revised in 1986, the Department reported that the unrecovered Government investment or cost was $3,394 million. This investment decreased to $3,275 million as of September 30, 1986, and was estimated to be $3,019 million on September 30, 1987. This decrease primarily results from DOE payments to the Treasury to reduce the unrecovered investment in the enterprise.

Question 2: What is DOE's position regarding establishing the initial debt of a new uranium enrichment corporation at $364 million to be recovered over a period of 20 years?

Answer: We believe the Government corporation should be a stock issuing corporation. The unrecovered investment would then be returned in the form of dividends and, if any of the stock were subsequently sold to the public, the amounts received could also be applied for this purpose. This approach would eliminate any need for establishing the level for unrecovered investment in the enrichment enterprise.

Question 3: What level of unrecovered costs does DOE expect to return to the Treasury based on the current pricing structure?

Answer: For FY 1989, we have proposed that $90 million in revenues be invested in AVLIS and $91 million in revenues be returned to the Treasury as partial repayment of the unrecovered costs in the enterprise.

Question 4: What are DOE's estimates, on a utility by utility basis, of the cost associated with recovering $3.019 billion?

Answer: Because prices and utility requirements for enrichment services vary, it is impossible to provide precise estimates of which portion of past and present customer's costs could be associated with a recovery of about $3 billion.

Question 5: The report accompanying S. 1846 sets forth (S. Rep. No. 100-214, page 33) that ". . . the Corporation is authorized to price its services according to the market with no necessary expectation that these costs will be recovered at a later time." We would be interested in DOE's comments on this as well as on the structure of the new corporation in general.

Answer: Section 1508 of S. 2097—as well as the language contained in S. Rep. No. 100-214—makes it clear that the pricing objectives of the corporation shall be to recover costs and to generate profits. The committee report accompanying S. 1846 states:

". . . (the) recovery of costs and profitability are goals of the Corporation over the long-term, but not legal requirements that must be satisfied when business conditions make their satisfaction impractical."

With regard to the structure of the new corporation, the bill provides an approach to managing the enrichment enterprise that is an improvement over current law. However, it is felt that further changes should be incorporated to more fully allow the enrichment enterprise to operate with the flexibilities characteristic of a commercial business.

The Administration in previous documents has submitted the following items to achieve this objective:

The successor Government-owned corporation needs to be a profit-making business entity with a true corporate structure;

Stock should be issued by the corporation and held by the Secretary of the Treasury;

Corporate operations need to be managed under an independent Board of Directors appointed by the President, with the Board selecting its chief executive officer;

The corporation clearly needs to be a self-financing enterprise not funded by congressional appropriations and without access to the Federal Financing Bank (but with the authority to borrow funds from the public for project financing and no "agency" borrower characteristics or backing by the Government);

The corporation needs to be required to establish a decommissioning reserve account;

The Board should be required—within 2 years of incorporation—to complete a study and make recommendations to the Secretary of the Treasury and Congress on how it plans to proceed with the sale of corporation stock to the public;

The corporation needs to be explicitly exempted from section 161v. of the Atomic Energy Act; and,

Legislation establishing the new corporation needs to ensure that national security needs will be met on a priority basis.

Question 6: Under both S. 1846 and S. 2097, the Federal Government is required to contribute $300 million to the uranium mill tailings fund. What is DOE's position regarding the appropriate Federal contribution to this fund?

Answer: As a general rule, DOE does not believe that it is appropriate for the Federal Government to contribute to a fund for the cleanup of active mill tailing sites. Nevertheless, if the overall bill is acceptable, the Administration would not object as long as the Federal liabilities are explicitly limited to $300 million or 30 percent, whichever is less, concurrent with non-Federal cost sharing.

Question 7: What is DOE's position with respect to the contributions to the uranium mill tailings fund which would be made through imposition of a fee of $22 per kilogram of uranium loaded in each reactor from nuclear licensees? What is the expected annual revenue which will be derived through this fee?

Answer: The Department does not object to Title II provisions as long as the overall bill is acceptable to the Administration and the Federal contribution to financing remedial actions at active sites is explicitly limited to a total amount of no more than $300 million or 30 percent, whichever is less, concurrent with non-Federal cost-sharing and based on total cleanup costs of about $1 billion.

We would point out, however, that there is no direct relationship between the amount of uranium loaded into a reactor for future years (1989 through the year 1993) and the cleanup costs for tailings produced well before that time. This serves as the basis for establishing a $22 per kilogram fee on U.S. utilities as that industry's contribution to the cleanup of active mill tailing sites. For example, Congress established a mechanism to fund Nuclear Waste Fund activities using the proportional relationship that exists between nuclear-generated electric power and the amount of spent fuel that is generated. There is no similar rationale to support Congress as it attempts to further "tax" the utility industry and its ratepayers to help pay for performing remedial actions at active mill tailing sites.

We estimate that imposing this fee on utilities could generate between $30 and $50 million annually to fund the cleanup of active mill tailings sites. We have developed this rough estimate using the following assumptions:

105 GWe of nuclear plants expected online in 1990;

65 percent average plant capacity factor;

42 Mwd/Kg average fuel burnup; and,

32 percent thermal-to-electric conversion efficiency.

This appears to represent about a 1 mill per kilowatt assessment on nuclear-generated electric power.

Question 8: What is DOE's position with regard to the imposition of charges imposed on foreign uranium included in Title I of S. 1846?

Answer: The Administration is opposed to imposing penalties on the use of foreign uranium in domestic facilities. If import restrictions such as those contained in Title I of S. 1846 are included in legislation, the Administration would veto such legislation.

Question 9: What effect on prices and production does DOE project from an import fee such as that proposed in Title I of S. 1846?

Answer: The Energy Information Administration (EIA) has done a preliminary analysis regarding the impact of imposing charges on foreign uranium as provided for in Title I of S. 1846.

For current market conditions, the EIA projects domestic prices of uranium (in 1987 dollars) to be about $25 per pound of uranium concentrate (U308) in the early 1990's, increasing to over $30 per pound by the late 1990's.

Enactment of Title I of S. 1846 would likely increase the cost of uranium concentrate by $5 to $10 per pound in the early 1990's and over $10 per pound in the late 1990's. This represents added annual costs of between $2 and $4 million to cover the costs of higher-priced uranium used to fuel each reactor. In addition, the fee that a utility pays to purchase foreign uranium could add another $6 million to the cost of annually refueling a reactor. Therefore, we can roughly estimate that the enactment of Title I of S. 1846 could cost a utility an average of $10 million more per reactor each year if it decides to use fuel that contains foreign uranium. With over 100 reactors now in commerical operation, enacting Title I provisions can represent a $1 billion increase in the annual cost of providing nuclear-generated electricity. These costs would have to be passed on to consumers in the form of higher rates.

EIA forecasts domestic uranium production to range from 10 to 20 million pounds per year throughout the 1990's. Enactment of S. 1846 could increase total domestic uranium production about 20 percent during this 10-year period.

Question 10: What is the current price of DOE's enrichment services? Please indicate the current ceiling price provided in DOE's enrichment contracts.

Answer: DOE is currently charging $117 per SWU for the first 70 percent of a customer's requirements and $90 per SWU for the remaining 30 percent.

The current ceiling price is $119.10 per SWU. While our FY 1989 ceiling price will not be known before June 1988, our ceiling price may decrease slightly because of lower power costs.

Question 11: What are the current prices being offered by Eurodif and Urenco for spot sales of enrichment services and for long-term sales of enrichment services?

Answer: DOE's competitors do not publish their prices; rather, they negotiate prices on an individual basis. Industry sources, however, have advised us that Eurodif prices to their partners are about $190 per SWU, whereas customers in the United States may receive prices as low as $115 per SWU. Industry sources have also told us that Urenco's partners pay about $170 per SWU. These industry sources inform us that Urenco's price may be as low as $120 per SWU for sales in the United States.

We are aware of several reports of spot sales or selected offers by Eurodif and Urenco at prices of about $100 per SWU.

Question 12: Please estimate the amount of excess capacity (available capacity over contracted demand given no cancellations) for the years 1988 through 2000 at DOE, Eurodif and Urenco.

Answer: It is estimated that significant excess enrichment capacity exists. With additional supply from the capacity expansion capability from both European suppliers, the potential to absorb most of DOE's existing market is of some concern. The attached table which presents the data of excess capacity from 1988 through the year 2000, assuming there are no contract cancellations, illustrates this point.

Question 13: What is DOE's rough estimate of the uncommitted demand for enrichment services, world-wide, for the period 1988-2000?

Answer: Assuming no cancellations of existing contracts held by each of the major enrichment suppliers, i.e., DOE, Eurodif, and Urenco, an estimate of enrichment requirements which are presently uncommitted is shown in the attached table. It should be noted that DOE's existing market does not currently extend beyond 1995, and a number of Eurodif's and Urenco's existing contracts expire before the year 2000. DOE's current commitments may or may not be renewed; however, there is enough supply capacity available from non-DOE sources to satisfy a substantial portion of DOE's existing market.

Question 14: What are the estimated costs associated with cleaning up and decommissioning DOE's existing enrichment facilities?

Answer: Our preliminary estimate is that a program that involves complete decontaminating and deocmmissioning (D&D) of the existing gaseous diffusion plants could cost between $1 to $3 billion. If such a program were ever actually conducted, these costs would be allocated between the Government and commercial customers.

Estimating these costs with any precision is difficult because of uncertainties regarding potential alternative uses of each facility, the extent of the D&D work that will need to be performed, and the technologies that we will use to decommission the facilities. D&D activities will not begin until after the facilities are retired from service and an approved plan for remedial action has been put forth. We are now in the process of assessing the scope and timing of needed D&D activities as well as determining whether DOE needs to seek authorizing legislation or to revise the uranium enrichment services criteria to recover these costs in the prices we charge for enrichment services.

EXCESS ENRICHMENT CAPACITY

[Millions of SWU]

Supplier	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
DOE	8.5	7.9	5.8	5.1	4.5	4.9	5.5	5.5	3.5	4.3	4.6	2.9	2.8
Eurodif	1.2	.3	1.8	5.1	4.4	3.8	3.3	3.1	3.4	2.2	2.0	2.1	1.4
Urenco	.3	.9	.9	.8	.7	.4	.8	1.2	.7	1.0	1.2	1.6	2.0
USSR	2.1	2.3	2.2	2.0	1.9	1.8	1.8	1.9	2.1	2.1	2.1	2.1	2.3
Total	12.1	11.4	10.7	13.0	11.5	10.9	11.4	11.7	9.7	9.6	9.9	8.7	8.5
Capacity Expansion Capability													
Eurodif	1.2	1.2	1.2	1.2	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8	4.8
Urenco				0.6	1.3	2.0	2.7	3.1	3.3	3.7	3.8	4.1	4.5
Total	1.2	1.2	1.2	1.8	6.1	6.8	7.5	7.9	8.1	8.5	8.6	8.9	9.3
Total non-DOE excess capacity and capacity expansion capability	4.8	4.7	6.1	9.7	13.1	12.8	13.4	14.1	14.3	13.8	13.9	14.7	15.0

UNCOMMITTED OPERATING REQUIREMENTS

[Millions of SWU]

Region	1988–90	1991–95	1996–2000	Total
United States	1.2	6.9	57.4	65.5
Far East	0	.8	31.9	32.7
Europe	.2	1.8	11.0	13.0
Other	0	.3	.7	1.0
Total	1.4	9.8	101.0	112.2

Mr. JOHNSTON. Mr. President, what this bill is about is preserving a domestic uranium-enrichment enterprise. That is really what it is designed to do and what it does do. If Senators will keep their eyes on that bill, they will not be confused by accounting methods and all kinds of arguments about what is the amount of the "debt" owed by the uranium-enrichment enterprise, by the electric utility industry, by the nuclear industry, to the Government. Because I think you cannot satisfactorily demonstrate what the amount of unrecovered investment is. But whether you can or not, that is not the question. If we could balance the budget on the back of this uranium-enrichment enterprise, we would do it in a New York second; and we would all be glad for it because it would be a source of free money. But this is no more of a cash cow than the golden goose that exists in the Treasury. It just cannot be done.

What we can do in this legislation and what we do in this legislation, Mr. President, is provide a domestic uranium-enrichment industry that will preserve the 5,205 American jobs that we have today and that will attempt to go back and increase that number of jobs.

In 1984 we had 11,582 jobs in uranium enrichment. Today we have 45 percent of what we had in 1984.

What has happened in the meantime? Well, what has happened in the meantime is that those who have wanted to balance the budget on the backs of the uranium-enrichment enterprise have run up the costs of what we call SWU's. We will be talking the rest of the day about a SWU. A SWU is a separative work unit which is a measure of an amount of work to produce enriched uranium. A SWU sells for $90 to $117.

But, in any event, by trying to balance the budget by running up the costs of a SWU, we have nearly run the DOE, which employs Americans, out of the business. That is what happened to those 6,000-odd workers. Over 6,000 workers lost and they have been lost because OMB saw a cash cow here and ran up the costs.

In fact, what we have got here today, Mr. President, is the DOE, which operates the American domestic uranium-enrichment enterprise, and charges $117 for a SWU. That same SWU is available in the international market for between $90 and $100 a SWU.

You say, how in the world is it that DOE can sell anything? How do you even retain 5,205 employees if you are selling above the world market price?

It is even a little more complicated than that because you have 10-year rolling contracts, so DOE's customers are locked in. They are locked in for 10 years and the way it works is every year they will have to say whether or not they want to extend for an extra year.

In 1982 they asked them, do you want to extend until 1992? And many of them said yes, and they did that up until 1985.

In 1985, when we were above the world market price, DOE knew that anybody was going to renew so they did not ask them for renewal for 1985, 1986, or 1987. So instead of having 10-year contracts that would go through 1997 or 1998, now all those contracts are cut off in 1995.

Moreover, there is a way to get out of existing contracts with a 10 percent per year penalty. In other words, if you are going to stop your contract 5 years ahead of time, you have a 50-percent penalty or 4 years 40 percent, 3 years 30 percent, 1 year 10 percent.

Those who would regard the uranium-enrichment enterprise as a cash cow would say that the debt is almost $9 billion—as if you are going to be able to squeeze this turnip for 9 billion dollars' worth of cash. In the first place, it is preposterous that $9 billion would be a debt or an unrecovered cost; totally preposterous, as I will explain. But if it was true, there is just no way that you can get utilities to buy uranium-enrichment services from DOE, and pay that debt. Because there is a world market.

Mr. President, we invented all this stuff, all the uranium-enrichment processes, the original gaseous diffusion technology, which still in use. It uses a tremendous amount of electricity, and it is not particularly efficient. But it will make enriched uranium as it made the bombs at Nagasaki and Hiroshima. It still can be used.

Then we came along with gas centrifuge enrichment. We invented that as well.

The gaseous diffusion process is in use up in Ohio and Kentucky; Portsmouth, OH and Paducah, KY. We have since invented an even more advanced technology called AVLIS, which is a laser driven isotope separation.

Each time we have invented a new technology, we have driven down the costs. We used to have 100 percent of the world market, we are now down to 50 percent of the world market. We only have 70 percent of the U.S. market.

We do not even have all of our own market now. We have got 70 percent of the Far East market. Only 11 percent of the West European market. And those shares are dropping like a rock.

People are waiting, indeed this very moment, to decide whether or not they are going to renew these very contracts.

They would really like to do business with the United States because they figure the United States, first of all, invented all the technology. We are a reliable supplier. We are a free country. We have been reliable in the past. If only we adopt a policy so that you do not try to balance the budget on the backs of uranium enrichment enterprise.

Electricity consumers' and utilities buy enriched uranium. In other words, if we can assure people we will be competitive, they will renew those contracts and the 5,200 jobs will remain

and possibly go up, hopefully, to the 11,000 that it was in 1984.

This is not just a jobs bill. There are many reasons for wanting to be in this market. Right now we are selling 1 billion dollars' worth of enriched uranium on the world market. We could sell over $2 billion and we will, if this bill is passed, in my judgment. I think it is very clear we will. And that will, of course, help the balance of payments a great deal in addition to the 5,000 people employed.

There is every reason, Mr. President, to have a strong and viable uranium-enrichment business.

The potential market between now and 2000 could be as much as $10 billion.

Indeed, we could get those foreign sales.

Mr. President, much has been made about the amount of so-called debt. There is no debt. To have a debt, you must have a debtor and a contract. There was never any debt where the nuclear industry came in and made a deal with DOE.

What we did was starting to enriching uranium back then in 1944, maybe late 1943, as part of the nuclear weapons program to build some bombs. We did it at Oak Ridge, with the gaseous diffusion plant. We invested over $1 billion, and those were real dollars in those days; and then we started enriching uranium in the 1960's, I believe it was, for civilian nuclear reactors.

Did the civilian nuclear reactor industry agree to pay back the Government for all the bomb plutonium that was blown up at Nagasaki or Hiroshima? Mr. President, to ask the question is to answer to. Of course, it would have been absurd for them to do so. But that is what a lot of these writers, one on my own hometown newspapers, well-motivated, talking about a $1 billion debt, that is what they are talking about, about the uranium blown up and all of that equipment and everything back 40 years ago.

Obviously, that cannot be so.

If you want to know what the amount is, our calculation, for whatever relevance it is, is that there is an unrecovered cost—and really, that is what we are talking about—of $364 million. We have a detailed worksheet on that where it is explained, how much was invested, how much was recovered in costs, and what the interest rate on the unrecovered part is. For example, the interest rate in 1981 was 11.3 percent, the interest rate in 1982 was 12.3 percent. We charged interest on all that. It comes up to $364 million.

Mr. President, I ask unanimous consent that this table and explanation be placed in the RECORD.

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

I. CALCULATION OF THE UNRECOVERED COSTS OF THE URANIUM ENRICHMENT PROGRAM

The Government's cost of providing uranium enrichment services that has been incurred and not recovered—pursuant to section 161v of the Atomic Energy Act of 1954, prior to Fiscal Year 1987 is determined to be $364 million. The methodology for arriving at this figure follows.

Column I of the table below sets out the net appropriations to the uranium enrichment program. Net appropriations are defined as the difference between expenditures and revenues, from 1969, when the commercial operation of the enrichment enterprise began, through the end of Fiscal Year 1986. Expenditures consist of capital investment and operating expenses, including those costs incurred for the Gas Centrifuge Enrichment Plant in Portsmouth, Ohio. Revenues include all funds received from commercial customers from the sale of enriched uranium. This date is based on information from the Department of Energy's annual budget submissions and from the annual financial reports of the enrichment enterprise. Net appropriations at the end of Fiscal Year 1986 totaled $1.774 billion.

Column II represents revenues that would have been received from the sale of enriched uranium to the Government, if the Government had been paying the commercial price for the enrichment service. This is equal to outlays incurred in providing enrichment services for Government users. From 1969 through 1983, Government revenue is calculated by multiplying the number of separative work units (a measure of enrichment service) provided to the government by the commercial price. During this period, no appropriations were provided to government customers to pay the enrichment program for enrichment services.

From 1983 through 1986, funds were provided in appropriations bills for the separative work units produced for the government, although they were insufficient to cover expenditures. Government customers are not charged for non-cash expenditures, such as interest and depreciation, in their price for enrichment services. For these years, the difference between the amount provided in the appropriations bills and the commercial price is included in column II.

Column III, the sum of Column I and Column II, is equivalent to the net amount of money borrowed from or received by the Treasury in each year. In the years when money was borrowed from the Treasury, the amount of Column III becomes the principal upon which interest must be calculated.

The interest rates in column IV are the average long-term cost of money to the U.S. Treasury. This is documented in the financial reports of the uranium enrichment program in each year.

Interest is calculated on each amount from Column III, from the year when the money was borrowed or loaned to the end of Fiscal Year 1986, at the fixed rate in Column IV. Each year is treated as a separate "loan" from the Treasury, at a specific interest rate. Column V is the total amount owed on the "loan," principal plus interest, for each year. The total amount that has been borrowed from the Treasury since the inception of the commercial enrichment program in 1969, until the end of Fiscal Year 1986, is the sum of the yearly loans.

The unrecovered costs of the uranium enrichment enterprise under this interpretation are $364 million.

Fiscal year	Col.I App. net	Col. II Rev. net	Col. III Govt rev.	Col. IV Int. rate	Col. V Prin. and int.
1969	−105.7	60.0	−45.7	4.985	−104.5
1970	−89.1	60.0	−29.1	5.785	−71.6
1971	29.1	60.4	89.5	5.665	204.5
1972	−69.7	21.1	−48.6	5.242	−99.4
1973	−76.1	29.9	−46.2	5.600	−93.8
1974	302.9	22.3	325.2	6.782	714.7
1975	−79.9	34.1	−45.8	7.015	−96.6
1976	−300.0	53.0	−247.0	6.644	−470.0
1977	−507.0	116.3	−390.7	6.403	−683.0
1978	−283.8	114.3	−169.5	6.979	−290.8
1979	−91.0	121.5	30.5	8.202	53.0
1980	−204.0	109.8	−94.2	9.685	−164.0
1981	−237.5	177.3	−60.2	11.335	−103.0
1982	56.3	230.0	286.3	12.395	456.9
1983	79.8	98.2	178.0	11.050	243.8
1984	10.6	124.2	134.8	11.052	166.2
1985	300.1	90.0	−210.1	10.875	−232.9
1986	90.7	115.6	206.3	6.319	206.3
Total	−1,774.0	1,638.0	136.5		−364.0

Mr. JOHNSTON. Having described that and having put that into the RECORD, let me say, Mr. President, it is utterly irrelevant. Whatever it is, it belongs to the U.S. Government. The DOE belongs to the U.S. Government; the corporation created under this legislation belongs to the U.S. Government. You can say it is $1 trillion and it would be totally irrelevant, because what we should do, and what this bill does, is have a strategy whereby the price of uranium enrichment services is set at the optimum amount to not only make a profit but to optimize our markets. If you do not have any markets—you know the guy who was going broke selling apples on the street because he was charging a dollar. A guy comes along and says, "You are going broke. You are not selling any apples. Why not up your profit?"

He said, "Fine, I will double my profit. I will double the price." So he doubled the price to $2 and he still did not sell any apples.

We cannot continue to increase our price above the market price of uranium and expect to recover any debt, but we cannot say in business if we increase the price. We cannot the keep 5,200 people employed by doing that.

We are going to accept an amendment later on, Mr. President, and the distinguished Senator from Wisconsin has worked it out with us, whereby we are going to provide for stock to be held by the Treasury and at an optimum time later on, if the Congress so decides, they can sell that stock to the public and recover thereby whatever this cost of investment is, or if you want to call it a debt you can call it that. That will fully recognize the market price of not just the investment but the whole enterprise. We hope the enterprise, that is, the uranium enrichment business, will be worth a lot more by that time.

We hope that we can double our jobs, double our output, and capture more of the world market because it ought to be our market. We invented it. We are the most reliable supplier. We have the lowest factory cost. In

other words, our productivity in uranium enrichment is better than anybody else in the world. It is one thing we do very well and we will continue to do better if we will adopt this market strategy.

There are a couple of other parts of this bill that I will very quickly go over, Mr. President.

We have a title dealing with mill tailings. Most of that was commingled mill tailings which are radioactive, of course, and ought to be cleaned up. We have a shared cost provision on that so that that will be done. The cost will be shared between private industry and the Government.

We have a uranium mining provision which is consistent with our trade agreement with Canada because it repeals the present law. The present law requires that you keep a healthy and viable domestic mining industry. We repeal that and provide that users of uranium may use 37.5 percent of foreign uranium without paying any tax. Then we provide a sliding scale for any amounts of foreign uranium used in excess of that percentage, and also provide for removal of that tax. Really, it is a fee for the using of it. I do not want to call it a tax because it it not a tax. It is a fee for the using of that. It is not an import fee but a fee for the use of the uranium. That also disappears in 2000.

What that will do is bring our domestic mining business back into a healthy state and once back in existence then put them on their own feet and let them compete.

Uranimum, Mr. President, I need not remind my colleagues, is an industry impressed with the public interest of the highest priority. It involves nuclear weapons as well as 20 percent of the domestic electricity business. I would hate to say what would happen if we were totally dependent on foreign, and what could be indeed unreliable, sources for our uranium for our nuclear weapons program. Canada is, of course, a good friend and they have been reliable, but we know, as in the case of New Zealand, how occasionally good friends do not sometimes walk down parallel paths in terms of policy. True independence, true sovereignty, certainly the status of being a superpower, demands that your more basic defense commodity be domestically produced.

(Mr. BUMPERS assumed the Chair.)

Mr. JOHNSTON. Mr. President, I am delighted that we have worked out most of the problem in this bill. I must say that the principal credit for this bill goes to my colleague from Kentucky, Senator FORD, who has for really longer than a few months—for years—worked on this matter; my colleague from New Mexico, Senator DOMENICI, who has had a long and abiding interest in this matter and who has been exceedingly helpful especially in putting together the corporate structure of this bill; and, of course, Senator MCCLURE.

He and I traded posts as chairman and ranking member on that matter and both see the necessity for preserving not only the domestic uranium enrichment business, but the domestic mining business.

Mr. President, upon examination, I think the case for this bill is overwhelming, and I invite anyone who is concerned about this question of unrecovered costs, or call it debt if you will, to give us a chance to talk to you because I honestly believe that it is not an issue on which reasonable minds can disagree. Please understand, I think reasonable minds could disagree as to what the amount of the unrecovered cost is, because that is sort of an accounting question, and maybe it is not $364 million, although we think it is. We have laid out our figures and showed our methodology and would invite anyone to disagree with that. The real question is if it is a debt, or if it is an unrecovered cost, what is the best rate of recovery. I think the answer to that question is clear. That is to adopt a strategy to maximize your hold on the world market and not to minimize it. I yield the floor.

Mr. MCCLURE addressed the chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. MCCLURE Mr. President, I thank the Senator from Louisiana for his statement and particularly for the credit that has been given to the distinguished Senator from Kentucky, Senator FORD, and the distinguished Senator from New Mexico, Mr. DOMENICI.

If work is the measure of paternity of the legislation, then Senator DOMENICI should be managing this bill, not I. As a matter of fact, he would be managing this bill on the floor except that as the ranking Republican on the Budget Committee, he has certain current responsibilities that require him this afternoon to be at the White House and also to confer with other Members of the Budget Committee on that measure coming to the floor.

I say that not to indicate any lack of interest on my own part or any lack of commitment or energy in bringing the bill to this point but to recognize the tremendous contributions that the Senator from New Mexico has made. I wish to recognize and honor that commitment.

I have a very brief statement at this point and then I will yield to the Senator from New Mexico.

Mr. President, the availability of competitive, domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to American consumers. Today the Senate considers legislation to revitalize domestic uranium production and its associated enrichment industries.

Mr. President, I am pleased to join my colleagues in support of S. 2097 and amendment number 1465, which address several as-yet unresolved issues currently plaguing our uranium fuel cycle. Amendment 1465 is the text of title I of S. 1846, as reported by the Committee on Energy and Natural Resources.

Specifically, the bill and amendment together, as a package, would revitalize a severely depressed domestic uranium mining industry, would assign appropriate funding responsibilities for cleanup of active uranium mill tailing sites, and would restructure the Department of Energy's uranium enrichment enterprise in order for it to be able to function in a more businesslike and competitive manner.

In this manner, this measure will ensure adequate long-term, domestic supplies of uranium to meet the requirements of commercial nuclear power plants and the needs of the Department of Defense. In the furtherance of these purposes, S. 2097 in conjunction with the amendment 1465, contains three major initiatives. Title II creates a system for funding the reclamation of uranium mill tailings. Title III creates an independent Federal Corporation to operate the Federal enrichment program as a commercial enterprise. In addition, amendment 1465 adds a provision that reestablishes the viability of our domestic uranium mining and milling industry by imposing charges for the use of foreign uranium. Let me address each of these issues in some detail.

URANIUM MINING ISSUES

First, we have in this Nation a uranium industry that is down for the final count. Not only has production plummeted by over 75 percent in the last 5 years, but the Secretary of Energy has declared this industry to be "nonviable" for the last 3 years.

But because the Secretary was not responsive in carrying out the statutory requirements of 161v. of the Atomic Energy Act—dealing with restrictions on the enrichment of foreign uranium—the miners have sought relief in the courts. Their case was upheld in the 10th Circuit Court of Appeals, and is now pending before the Supreme Court. If the miners win in this final round, the Department will be forced to restrict its enrichment of foreign uranium, and this may bring down the entire enrichment enterprise, and the uranium industry along with it.

If, on the other hand, the miners lose in this final round, then they will surely become an extinct industry.

Neither outcome is acceptable to me, nor to the Committee on Energy and Natural Resources, and hence we offer an alternative that is embodied in amendment number 1465 which, as I

mentioned earlier, is the text of title I of S. 1846 as reported by the committee, and is discussed in Senate Report 100-214.

Amendment No. 1465 would repeal section 161v, and replace it with a more acceptable and effective mechanism for sustaining a viable domestic uranium industry. It does so by discouraging the use of foreign uranium in domestic nuclear power plants via the imposition of a sliding scale of fees on excess amounts of foreign uranium. The restrictions do not place an undue hardship on our foreign customers, simply because the level of restrictions reflects current import levels. Furthermore, current contracts are grand-fathered, and the restrictions are lowered in 1995 and totally phased out by the year 2000. It is assumed that, by that time the domestic industry will have had adequate opportunity to recover the ground it has lost so badly and unfairly over the last 5 to 10 years.

Now, there are some critics of this amendment that will argue that we ought to let the free market decide the fate of this industry. To those people I would reply that the so-called free market does not, in fact, exist, especially with respect to some of our so-called friendly foreign suppliers whose industry is cleverly and indirectly supported by the Government.

Second, I would remind my colleagues that if, in fact, we lose our uranium industry through natural attrition, we should not assume that our energy security, let alone our national security, would remain secure in the hands of "friendly" trading partners. These "friendly" partners would not, as a matter of policy, supply our military needs with respect to uranium. And those "friendly" partners would not, as a matter of policy, fulfill our commercial market needs if such exports severely stressed their ability to meet their own domestic requirements.

So there are some very real, very necessary reasons to sustain a viable domestic uranium industry in this country, and I would hope my colleagues would support amendment No. 1465 when it is offered later in this debate.

UNITED STATES/CANADA FREE TRADE AGREEMENT

Before I leave this matter, I feel compelled to reconcile the approach of this amendment to the provisions of upcoming, proposed United States/Canada Free Trade Agreement.

There are some who would say at the onset that the United States/Canada Free Trade Agreement is generally unfavorable to United States interests, especially in our energy and natural resources sectors. Even the Canadian's own chief trade negotiator, Simon Reisman, is quoted as saying "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. * * * Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." But more importantly, our own National Governors' Association as well as other knowledgeable, concerned parties, have recognized the clear fact that this agreement treats our uranium industry unfairly.

Rather than reject the uranium provisions of the agreement out of hand, we propose a compromise that is consistent with other provisions of the agreement, wherein a phaseout of restrictions is allowed over a period of time. We see this approach taken with respect to many commodities and practices covered under the agreement, including wine, customers duties, investment limitations, automobile embargoes, log export restraints, architects' professional qualifications, and certain tariffs. All we are asking is that this phased approach be extended to uranium. At the same time, our approach does repeal section 161(v) of the Atomic Energy Act, as the United States/Canadian Free Trade Agreement would require. So we are not very far off the track with our approach, and we are anxious to speak to this issue now, before the implementing language of the Free Trade Agreement comes forward, by which time it will be too late to speak out on this particular issue.

So, in conclusion, I would ask my colleagues to view our uranium usage requirements under amendment 1465 as being compatible with the intent of the United States/Canada Free Trade Agreement, and moreover, vital to our national security interests.

URANIUM MILL TAILINGS RECLAMATION

Now, let me turn a moment to the second issue treated in S. 2097, that is, funding for uranium mill tailings reclamation. While I view this title of the bill as being the least controversial, I did want to impress upon my colleagues the importance of this title in terms of getting the reclamation job accomplished, and the fairness with which we have allocated the costs of this reclamation effort.

When Congress passed the Uranium Mill Tailings Reclamation Act of 1978, we had no idea of the extent of regulatory requirements that would be attached to the task of cleaning up mill tailing sites. In fact, we did not know anything about these regulations until just a few years ago, when the Environmental Protection Agency finally issued the regulations. The regulations turned out to be far more stringent than anyone could have imagined, and will cost nearly $1 billion to accomplish, according to DOE estimates. So we find ourselves in a situation where the industry has generated almost 200 million tons of mill tailings well before the regulations were known, at a customer price that did not and could not have reflected such exorbitant cleanup costs.

That same industry, now nearly extinct, should not and could not be held totally liable for these unanticipated costs, when it is in fact the customers who, under normal circumstances, would have paid this cost in the original price of the ore.

Title II of S. 2097 allocates the costs of this reclamation to the mining industry and its customers. The apportionment is roughly one-third miners, one-third commercial customers, and one-third the Federal Government—who was also a customer—up to a total of approximately $1 billion. Any costs above this are assigned to the miners. I think it is worth stressing that the private and Federal Government's obligations to this cleanup fund are limited and capped, so that ultimately the mining industry will be responsible for any unanticipated cost overruns associated with the cleanup activity. More importantly, I should note that the provisions of this title are vital to the accomplishment of this cleanup effort, which we would all agree is an environmentally sound objective.

Now, let me turn to the third title in S. 2097 dealing with the restructuring of our uranium enrichment enterprise.

UNITED STATES ENRICHMENT CORPORATION

Title III creates the U.S. Enrichment Corporation to manage the Federal enrichment program. The Corporation is charged to operate as a continuing, commercial enterprise, on a profitable and efficient basis.

For many years the United States had a worldwide monopoly on uranium enrichment services. For more than 20 years, the Federal Government has provided these enrichment services on a timely, reliable, and competitive basis. These services, now provided by the Department of Energy, were initially provided by the Atomic Energy Commission.

For a variety of reasons, that monopoly has been lost in the intervening years to foreign competitors. The program no longer possesses the necessary flexibility to adjust to changing international market conditions. The present situation must change. The legislation before us provides the necessary flexibility to reverse recent trends and enable the United States' enrichment services to once again be competitive. I am confident that if the restructuring which is provided for by S. 2097 can be facilitated then the United States can reestablish itself as the world's principal supplier of enrichment services.

When the United States was the sole suppliers of such services it was able to effectively promote our nonprolifera-

tion goals, preventing other countries from developing the capability to produce nuclear weapon's grade materials. If we are to continue to be effective in that regard, the United States must be able to provide foreign customers with assurances that it will continue to be a reliable, competitive supplier of enrichment services. Enactment of the legislation before us is essential in that regard.

In recent years, budgeters, as a part of efforts to balance the Federal budget, have sought to use the provision of uranium enrichment services as a potential source of Federal revenues, rather than recognize it for what it is—a service industry. Others have sought to indirectly constrain nuclear power development in the United States by raising the price paid by electric utilities for enrichment services.

Over the years the Federal Government has invested considerable funds in facilities to provide these services, which have been priced at cost, as required by law. When an attempt was made by the Atomic Energy Commission in the 1970's to price these services at higher than cost, the Congress specifically rejected the attempt.

In both 1970 and 1971, the GAO confirmed that the pricing methods employed by the Atomic Energy Commission were appropriate and in compliance with the Atomic Energy Act.

There are several different approaches that can be taken in estimating whether costs have been fully recovered or whether there exists a so-called "debt."

For example, between 1969 and 1986 total appropriations for the Federal uranium enrichment program were $18.4 billion. The program, in turn, collected $16.6 billion in revenues for services provided to defense and commercial customers. Therefore, there remains a net appropriation of $1.8 billion over this period. However, this figure includes an estimated $1.638 billion in costs incurred in the providing enrichment services to defense programs, that were not recovered and, arguably, are owed the Department of Energy as the provider of enrichment services to itself, in the capacity of a customer. If an adjustment is made for these unrecovered defense expenditures—or unrecovered costs—then the net appropriations are instead $136 million in excess of revenues. When imputed interest of $228 million is included the unrecovered Government appropriations—often characterized by others as unrecovered costs—becomes $364 million, the amount defined as debt in S. 2097.

For comparative purposes, let us look at two other approaches that are often taken to calculating unrecovered costs, which, as I will observe, do not necessarily equate to debt owed the Federal Government, but are more appropriately characterized as equity.

First, let us look at the GAO estimates that are frequently used to calculate debt. In 1988, the GAO also took the position that through 1986 the Federal Government invested $3.019 billion in its uranium enrichment facilities.

Second, let us look at the Department of Energy's estimates. The Department estimates that $3.019 billion have been invested in its uranium enrichment facilities that have so far been unrecovered. At this time, the majority of this investment consists largely of inventories of uranium, physical facilities—including gaseous diffusion facilities—the AVILIS project, and imputed interest. These are the very inventories and facilities that enable the Department of Energy to provide current enrichment services.

Rather than debt, these unrecovered costs consist of a physical, viable asset that the Federal Government which it owns and operates. This figure does not represent debt, rather it represents the equity that the Federal Government has in this asset. Under the legislation, title to these facilities would continue to reside with the Federal Government, in particular, the U.S. Enrichment Corporation. The Federal Government thus retains title to this equity.

The concept of converting this equity into debt is not consistent with generally accepted accounting procedures. Title to these facilities will not transfer from the Federal Government to someone else. The only money that the Federal Government is out of pocket is the difference between appropriations and recovered costs which have been assessed at $364 million and this amount has been appropriately defined as debt in the legislation before us. Everything else is appropriately classified as equity, which it is.

Administration of the Corporation resides in an Administrator, to be appointed by the President and confirmed by the Senate. The power of the Corporation is solely vested in the Administrator, notwithstanding any provisions of other law. However, because the committee was concerned that the Corporation have access on a continuing basis to expertise in the management and other disciplines relevant to the enrichment enterprise, S. 2097 provides for an advisory committee.

While the Corporation and the Administrator would be under the general supervision of the Secretary of Energy, the Secretary's supervision is limited to matters involving the common defense and security, health and safety, the environment, and nuclear hazard indemnification. In all other respects including all fiscal matters, such as the declaration of dividends, the Corporation would operate as an independent Federal Corporation. In particular it is intended that the Corporation be free from the restraints of budgetary and appropriations processes. It is not intended, either directly or indirectly, that any officer or employee of the executive branch—including the Director of the Office of Management and Budget and the Secretary—exercise any authority over the Administrator and that the Corporation would be free to manage its activities.

With respect to the declaration of dividends, under S. 2097, as well as the amendment that will be offered later by the Senator from Louisiana and myself, the decision of when to pay such dividends and their amount will be the exclusive decision of the Administrator.

In determining the need of the Corporation, the Administrator is required to retain such amount as are needed for the furtherance of the Corporation's functions, including, but not limited to, research and development, capital investments, and the establishment of cash reserves necessary for its purposes.

The structure of the Corporation as provided for in S. 2097 is intended to provide the Administrator maximum flexibility to operate the Corporation in a business like manner but still have some degree of accountability to the executive branch and the Congress until such time that the enterprise is privatized. In this regard, the bill provides for a report by the Administrator setting forth his recommendations for the eventual transfer of the functions and assets of the Corporation to private ownership.

Consistent with this objective, other amendments will be offered to clarify the structure of the Corporation and its budgetary treatment. For example, an amendment will be offered to clarify that the Corporation is to be self-financed. The amendment will direct the Corporation to issue stock representing the book value of its assets. This nonvoting stock will be held by the Federal Government until such time that the Congress authorizes its disposition, for example, as a part of privatization.

An amendment also will be offered to place the Corporation on budget. This amendment is in response to concerns raised by the Budget Committee.

In addition an amendment will be offered to provide for the eventual decommissioning and decontamination of the various properties of the Corporation.

Mr. President, as I stated in by opening remarks, the availability of competitive, domestic uranium supplies for nuclear electric power generation is critical to the provision of reliable electric supplies to American consum-

ers and to meeting the needs of the Department of Defense. This measure and amendment 1465 will revitalize a severely depressed domestic uranium mining industry and would restructure the uranium enrichment activities of the Department of Energy into a Federal corporation that can function in a businesslike and competitive manner.

I urge your support for its early enactment.

Mr. President, I yield to the Senator from New Mexico 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senator from Idaho has correctly stated the predicament I am in. We are trying to finish the budget tomorrow or the next day and the chairman and I have been asked to go down and talk to the President a little bit. Hopefully, tomorrow, even though I can spend some time on the floor, we will try to mark up the budget and the next day get it completed. So I will do my best to share this activity on the floor.

It has been a long time coming as far as the Senator from New Mexico is concerned, and let me just quickly summarize for the Senate why we have what I believe to be a very excellent three-part legislative package in an area that is very critical to the United States of America and that has been ignored for far too long.

If you started back 5 or 6 years ago and looked at the uranium enrichment business in the United States, you would find, probably for lack of a better word, I would say confusion and diminishing capability to compete and operate a very vital business called the uranium enrichment business in the United States. We had a monopoly as a government on those kinds of activities for many years in our country, and in moving from a government monopoly to furnishing services to the utility companies I can tell you that nothing but confusion ensued for about two decades, and before we finish today, or tomorrow, I will once and for all put in the RECORD a 25-year history of this accounting issue.

I have now researched it to the extent that every bit of legislative history that was ever written about it is now in an article, and if I cannot give it, I will share it with anyone who wants to know, but it will be in this RECORD so that we will not have GAO changing its mind. They ruled another way back yonder, I say to the chairman. Congress had two occasions when it was asked to change the rules to fit the current OMB interpretation of the debt, and Congress openly said no, that is not a fair treatment of what the private sector owes this Government for the enrichment business that they began to operate midway down its life. And yet we have people telling the American public that there is this huge debt, $8 or $9 billion, because somebody has decided that they would provide the rules, that they would vitiate the entire presentation of Congress heretofore twice ruled upon, and nonetheless say there is this golden goose that we ought to tap as part of the enrichment business.

So there sat an enrichment problem of high proportions. Out there in our sovereign States, because the Federal Government was the principal actor in the entire uranium business, we had a growing problem of mill tailings around our uranium mines. And so no one will think we are seeking a Federal gift here, it is estimated that 30 percent of the currently partially active-partially inactive mill site tailings around the country are the direct result of the Federal Government's monopoly days. It was their rules, their regulations; they paid for it; they set the price. So we are confirming that they ought to pay 33 percent.

We found that the utility companies were willing to sit down and talk about paying a portion of the cleanup because they, too, got into the business of buying uranium from American industry before the rules and regulations on cleanup were established. Incidentally, that did not occur until 1983. And so, obviously, the uranium mining companies, which have been going broke regularly, were going to be unable to pay for the cleanup. But the utility companies said, "We owe some of it." And we have worked some kind of real legislative compromise here by getting them to agree they will pay for a third of the cleanup. Then the uranium mining companies will pay for a third, and we have a chance at cleaning up $1 billion worth of mill tailings sitting around. You can see now where we have begun to put two pieces of the problem together. That is one. The episode on the new corporation, on which I have been pleased to work with my friend from Kentucky, Senator FORD, started some 4 years ago. It has evolved to the point where we have a bill before us which, while it will not go all the way in the direction of privatization, will set up a quasi-private, quasi-Government corporation to begin managing the uranium enrichment business in an orderly manner without hurting anyone and giving us a chance to remain competitive in a billion-dollar business that we are going to otherwise lose.

So we were able to put together working with the utility companies those two parts, and now with many interested Members of the U.S. Senate, this corporation that is in this bill to take over and manage the business. That left the third leg of the stool as the Senator from New Mexico started putting this together and it had to do with whether or not we should have a uranium mining industry.

We have had about 25 years under the Atomic Energy Act of this Nation a statutory provision saying we will have a viable uranium industry. Mr. President, Members of the Senate, there are some, including our trade ambassador who really believe that that has nothing to do with energy independence, and a viable nuclear industry in this country. And they go off and negotiate about uranium in total disregard of the fact that Congress has said, and never repealed by statute, we will have a viable industry.

So what we have done is to help the mining industry of this country with background information. We managed to have the Secretary of Energy under mandate to finally rule that we had a nonviable industry and lo and behold the courts of the United States, district and circuit within the Federal system, have granted relief to the mining companies of America saying your Government is in violation of its own laws by not doing what it should to maintain a uranium industry. That is now pending before the U.S. Supreme Court, and as my good friend, the chairman of the committee indicated, we have come forth in this bill with a repeal of that provision requiring that we have a viable industry and we have a 12-year transition rule to give us a chance to stay alive as we attempt to compete with the Canadians, Australians and the others, and I will have more to say about them, their current state of competitiveness, and their smugness at sitting off there at the extreme saying, "Don't worry, America, we will sell you uranium whenever you want it, whenever you need it."

Incidentally, I say to my friend from Louisiana, just recently the two largest producers of uranium in Canada have merged. While this bill is here on the floor, they have now merged and 50 percent of world spot market sales mining production are controlled by one company.

I remind the U.S. Senate that there has been one cartel that preceded the cartel on oil, and it was a cartel of Canadians, Australians, and others on uranium. And the United States of America just wants to be competitive. We want our mining companies to have a chance to come alive, to get into the business and provide us with some of our uranium.

When you put the three together, we have a very viable bill. For Senators who have been reading articles about the waiver on the debt, and those who have been reading about this terrible import quota that we are putting on, let me just say to all of you, the Energy Committee which is not known for the unanimity and harmony on matters nuclear voted 13 to 2 for this bill in its entirety, including the Domenici amendment which I will

have to add on the floor, which I hope the committee supports and I believe they do. We did that because of jurisdictional issues, and not because of the support in our committee.

So I will return and I believe between us we can answer questions on all three major provisions of this three-pronged approach, which will revitalize our uranium industry and let it compete, which will put uranium enrichment back front and center as a viable industry, and which will permit American States to clean up the mill tailings mess that we have out there as a result of the confusion in this industry in going from Government to private sector control and ownership. I thank the distinguished ranking member for yielding. I yield the floor.

Mr. FORD. Mr. President, will the distinguished floor manager, our chairman, yield to me 4 minutes?

Mr. JOHNSTON. Mr. President, I yield 4 minutes to the distinguished Senator from Kentucky, but before I do, let me mention one other thing that we accomplished in this bill which was who would be the negotiator and work out with the TVA the amount of the demand charges. The demand charges were making up a very major part of the cost of the separative work unit, and until we had that worked out and figured out in this bill, it was very difficult to go forward. Working with the TVA, working with the industry, the Senator from Kentucky arrived at a legislative solution. That in turn was adopted by the TVA. We did not even need to put it in this bill. I think it was really a monumental accomplishment for which this Senator is grateful, and I know the whole industry is grateful.

So I yield to the Senator 4 minutes.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I thank my good friend from Louisiana, and chairman of the Energy Committee. No one has been better to work with than the Senator from Louisiana. I want to compliment my friend from Idaho Senator McCLURE, for his strong effort and understanding, and Senator DOMENICI as we have labored through this particular effort.

The staff has been magnificent. I want to say that up front instead of after the bill passes, because that takes the chance that if it passes we give them accolades; if it does not pass we might not do that. So I want to tell the staff how much I appreciate all of their hard work on both sides of the aisle, the trips they have made, the problems they have had with me personally because I wanted this, and they argued with me a little bit and I like that. Shoot, if the staff agreed with me and they rubberstamped so much, I would not have them. This side does not. So they are a joy to work with.

Let me just take a couple of items that are in addition to the detailed explanation of my distinguished colleagues.

Mr. President, I support all three titles of S. 2097. I would like to say a few words with respect to title III—U.S. Enrichment Corporation.

Mr. President, the DOE uranium enrichment enterprise is on the brink of disaster. The DOE business, as organized under the present law, is operated like a monopoly, but it is now operating in a highly competitive internal business environment.

The issue presented in S. 2097 is a very simple issue, Mr. President. Does the United States intend to stay in the enrichment business or not?

Mr. President, we should realize what we are giving up if this enterprise is not turned around and if killer amendments are adopted to S. 2097.

If not, the Congress should be honest and admit that the effort is too much—that it is better for foreign interests to furnish our uranium-enrichment services. That is the question and that is the answer if this bill does not pass.

The uranium-enrichment business is a $2.5 billion a year world market now. It will be a $3.6 billion a year market in 1996. And enrichment services revenue to DOE is $1.3 billion this year alone. It amounts to $400 million in trade, and some 4,600 jobs. It fuels our submarines and gives energy security for 17 percent of our domestic electricity.

All of this will go if our domestic enrichment enterprise collapses. That is what this bill will prevent.

It is approaching collapse if not turned around, and S. 2097 is an opportunity to turn it around. Four days of hearings held last March and May left little doubt in my opinion about that in this Senator's mind. The United States has lost 50 percent of the world market since the 1970's. If things continue as they are, DOE is in danger of losing more customers including much of the domestic electric utility market.

DOE's price is too high—$117/SWU versus $90 to $100 from the foreign competitors.

After 1995, and I make this point for a purpose, DOE projects that our foreign competitors will have over 14 million SWU capactiy and can take all of our business and any growth in the market, and this would shut us down. I was directly told by one of the largest users if things did not change, they would be forced to cancel their contracts and go to foreign markets. They were and would be forced to do that because of the cost, and we would be costing ourselves out of the market and out of customers.

Now, why is 1995 so important? We have a turnover contract with these people. They notify us this year whether they are going to continue the contract for another 9 or 10 years. The last 3 years, because of the shaky condition, they have not been asked, so we have only 7 years left under those contracts. If we are notified that they are not going to renew those contracts because they can purchase SMU's for a lot less money, then we are automatically out of the business.

So it is vitally important that we show an effort here to save this industry, so that we might be able to tell our customers and our prospective customers we are in the game as a player.

This Friday is the date that DOE must ask its customers if they are ready to continue with their contracts. So, at the end of this week, if we do not show some enthusiasm here, if we do not show a new direction, I am of the opinion that we will have a lot of triggering of contracts that will say, "No, we do not want these contracts after 1995."

This bill meets all the urgent needs, in my opinion. It converts the program to a Government corporation operating like a business, priced aggressively, to meet the market, to limit political intervention by OMB and Congress, to try to restore confidence of our customers. By all means, we need to be aggressive in this new technology that was referred to by our distinguished chairman.

All these things are important, and I hope it will be approved.

Utilities and ratepayers are threatened by a twist to turn an investment into a multibillion dollar debt.

Utilities fear that politicans will continue to drain revenues from the program and politicans—(domestic and foreign)—will continue to distort the program.

There is widespread doubt that the United States wants to stay in the enrichment business or will be a long-term supplier.

The enrichment enterprise faces stiff competition from foreign, government-backed consortia. The enterprise's efforts to meet this competition are hampered by an unwieldy and inflexible agency structure and by a statutory pricing provision that requires the Department of Energy to price enrichment services 30 to 40 percent above the world market price.

However, with this competition, we cannot guarantee that our customers will continue to be there: today's customers have someplace else to go. The Department of Energy has done an analysis of excess enrichment capacity and the capacity expansion capability of our competitors. Non-DOE excess capacity is 4.8 million separative work units [SWU]. A separative work unit, or SWU, is a measure of enrichment services. DOE's current commercial sales are at the 10 million SWU level.

Therefore, our competitiors could steal 50 percent of our business today.

But, DOE contracts are fairly firm through 1995, so I don't expect this to happen right away. However, after 1995, DOE projects that our foreign competitors will have over 14 million SWU capability and could take all of our business and any growth in the market. This would shut us down. I was directly told by one of the largest users if things did not change they would be forced to look elsewhere for SWUL's.

The 100th Congress must totally restructure the Enrichment Program to ensure that there will be a viable enrichment capability in the United States. S.2097, the legislation reported by the Energy Committee, is clearly needed.

The bill meets the following urgent needs:

Need for congressional statement that the United States intends to stay in the business.

To limit artificial costs—TVA demand charges, deficit reduction, spectre of $8.8 billion debt.

To take advantage of the fact that DOE plants are still lowest cost in the world—about $60/SWU at optimum capacity, excluding TVA demand charges and payments for deficit reduction.

To convert program to Government Corporation operating like business—price aggressively to meet market.

To limit political intervention by OMB, Congress.

To try to restore confidence of customers.

To develop AVLIS.

Mr. President, S. 2097 should pass.

Mr. President, S. 2097 and amendment 1465, offered by Senators JOHNSTON, MCCLURE, DOMENICI, BINGAMAN, WALLOP, and me, are important pieces of legislation directed at addressing three problems in the uranium industry.

First, there is an ailing uranium industry that has been declared not to be viable by the Secretary of Energy for the last 3 years.

Second, there are mill tailings located in many of our Western States that have resulted from the mining of uranium. Many of these mines and mills have closed and it is now time to clean up the mess out there and prevent any environmental hazards from getting out of hand.

Finally, there is a DOE uranium enrichment enterprise which is on the brink of disaster. The DOE business is organized and operated like a monopoly, but it is now operating in a highly competitive international business environment. It is no wonder that DOE's share of the world market has fallen from 100 percent to less than 50 percent. Restructuring and providing the enterprise with a clear mandate to compete are imperative.

THE TITLE I/AMENDMENT 1465 REVITALIZATION OF THE DOMESTIC URANIUM MINING INDUSTRY IS NECESSARY FOR ENERGY AND NATIONAL SECURITY

Title I of S. 2097 and amendment 1465 repeal section 161v of the Atomic Energy Act. This section states that "to the extent necessary to maintain the viability of the domestic uranium industry" there should be restrictions on the enrichment of foreign uranium for domestic reactors. When this was written, DOE was the only supplier of enrichment services in the world. Invoking section 161v at that time would have necessarily resulted in a greater usage of domestic uranium. Today, however, if DOE could not enrich foreign uranium for domestic utilities at all, our utilities would go to our overseas competitors for their enrichment services and probably for their uranium as well. Instead of revitalizing an important industry to this Nation, current law would harm two industries. The law is obsolete and must be changed.

S. 2097 and amendment 1465 put in place for an interim period, a sliding scale of charges for the use of foreign uranium above certain levels. All restrictions expire automatically on January 1, 2001.

We believe that this is compatible with the proposed United States-Canada Free Trade Agreement. This legislation, with its gradual approach, is similar to many provisions that are proposed for other areas of the United States-Canada Trade Agreement. In fact, on December 1, 1987, 24 Senators sent a letter to the President expressing this point of view. Mr. President, I ask that a copy of this letter be placed in the RECORD.

It should also be pointed out that Canada does not sell uranium to the United States for military purposes. Therefore it is imperative that we recognize the importance of this industry to our national defense. I urge you to support amendment 1465.

A TITLE II MILL TAILINGS CLEANUP PROGRAM MUST BE ESTABLISHED

S. 2097 establishes a fund for the cleanup of mill tailings in Western States. Reimbursement from the fund is capped at $4.50 per ton. Contributions to the fund will be made by mill licensees and nuclear reactor licensees, according to a specific formula, and a Federal contribution to the fund is capped at $300 million.

This program is necessary because the Uranium Mill Tailings Radiation Control Act of 1978 did not provide for a comprehensive method of financing reclamation and remedial action at active uranium and thorium processing sites. The creation of an assured system of financing will facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites. In fairness, financing should be shared on an approximately equal basis by those parties which have shared in the benefits of uranium produced at these sites.

TITLE III RESTRUCTURES THE U.S. URANIUM ENRICHMENT ENTERPRISE AND DIRECTS IT TO COMPETE IN THE WORLD MARKET

S. 2097 establishes the U.S. Enrichment Corporation [USEC] as a Government Corporation under the Government Corporation Control Act and directs the uranium enrichment enterprise to operate as a "continuing, commercial enterprise on a profitable and efficient basis." In addition, this bill requires the USEC to pay the Treasury $364 million as the sole recovery from customers of any previously unrecovered costs of the Enrichment Program.

Uranium enrichment is a vital link in the commercial nuclear fuel cycle and in the production of fuel for nuclear submarines. Nuclear energy, which currently provides 16 percent of U.S. electric needs, is important to maintaining an adequate supply of energy at reasonable cost. Congress has consistently recognized energy and national security as strong reasons to maintain an efficient and competitive uranium enrichment capability in the United States.

Today's uranium enrichment enterprise brings in revenues of over $1 billion per year, and of that, almost 30 percent is from foreign customers. But this is in danger. Four days of hearings held last March and May in the Subcommittee on Energy Research and Development left little doubt about that in this Senator's mind.

The enrichment enterprise faces stiff competition from foreign, government-backed consortia. The enterprise's efforts to meet this competition are hampered by an unwieldy and inflexible agency structure and by a statutory pricing provision that requires the Department of Energy to price enrichment services 30 to 40 percent above the world market price. The structure under which this program now operates is appropriate to a world without competition.

However, with this competition, we can not guarantee that our customers will continue to be there: today's customers have someplace else to go. The Department of Energy has done an analysis of excess enrichment capacity and the capacity expansion capability of our competitors. Mr. President, I ask that these charts, be placed in the RECORD. Then show clearly that non-DOE excess capacity is 4.8 million separative work units [SWU's]. A separative work unit, or SWU, is a measure of enrichment services. DOE's current commerical sales are at the 10 million SWU level. Therefore, our competitors could steal 50 percent of our business today. But, DOE contracts are fairly firm through 1995, so I don't expect this to happen right away. However,

after 1995, DOE projects that our foreign competitors will have over 14 million SWU capability and could take all of our business and any growth in the market. This would shut us down.

The 100th Congress must totally restructure the Enrichment Program to ensure that there will be a viable enrichment capability in the United States. S. 2097, the legislation reported by the Energy Committee is clearly needed.

S. 2097 IS NOT A BAILOUT

Some have referred to the $364 million payment to the Treasury as a bailout. This is hardly the case. The $364 million is not an arbitrary declaration of program debt; it represents the total cash cost of outlays from the U.S. Treasury to the Enrichment Program since the establishment of the program in 1969. Mr. President, I ask unanimous consent to place a table and an explanation of how this number was calculated in the RECORD.

The idea that this so-called debt may be $3 billion, or as high as $9 billion is nonsense. I do not believe, and the Energy Committee does not believe this to be the case for the following reasons.

First, the unrecovered costs merely constitute the present basis for the pricing of enrichment services. They do not constitute an actual debt that can be recovered from enrichment customers under present law. Neither the accounts of the Federal budget, nor those of the U.S. Treasury carry any "debt" for the Uranium Enrichment Program.

Second, a large component of the unrecovered costs is derived from the initial value assigned to the Enrichment Program when the program began commercial operation in 1969. For the most part, investment in these assets was originally made in the 1940's and 1950's for military purposes. Thus, it is inappropriate to try to recover these costs from the ratepayer of this country today. The value of these assets represents sunk costs which had nothing to do with the Commercial Enrichment Program.

Third, over half of the $9 billion asserted by others to be the unrecovered costs represents imputed interest. Accrual of this interest is not a matter of statutory law and is inconsistent with operation in a competitive world market. Furthermore, it does not represent actual borrowing by the Enrichment Program.

Fourth, the amount of unrecovered costs of the Enrichment Program that are represented by the book value of existing productive assets is not being lost. Rather this value for unrecovered investment will be carried forward on the books of the Corporation. As the book value is depreciated, there will be a return of the investment. Also, to the extent that the Corporation is able to return dividends to the Treasury, as directed in S. 2097, the Treasury will receive a return on these assets.

A corporation which provides profit to the taxpayers of this country is far from a bailout.

Finally, as a practical matter, it is impossible for the Enrichment Program to recover the higher estimate of unrecovered costs, and still remain competitive in the world market.

I urge you to oppose any amendment, which sets the unrecovered costs of the Enrichment Program at any level greater than the $364 million.

A commercial strategy with a clear mandate to compete must be pursued.

Today's enrichment enterprise follows traditional Government agency practices and is strongly influenced by noncommercial business objectives and decision processes. The history of the enrichment enterprise during the 1970's and the 1980's documents how this noncommercial behavior has undermined the competitiveness of the enterprise. In the early 1970's the Government sought to promote civilian nuclear power, so enrichment policies were adopted to promote it. When existing capacity was fully committed, the government stopped taking new orders and forced customers to look to foreign suppliers for enrichment services. By the late 1970's, energy security and nuclear nonproliferation became dominant national themes, and enrichment policies were fashioned to address them.

One of the consequences of the changing U.S. enrichment policy was the birth of strong and aggressive foreign competition. While it is likely that foreign suppliers would have built enrichment capacity anyway, it is doubtful that they would have built so much so quickly if the United States had not been operating under such cumbersome noncommercial practices. By 1984, the foreign competition had capitalized on U.S. policies that were inconsistent with the needs of the marketplace. U.S. market share fell from 100 percent to approximately 40 percent.

Despite DOE's attempts to pursue a commercial strategy, conflicting objectives, varied interpretations of the Atomic Energy Act and special interests create a volatile environment within which basic business issues such as pricing, reinvestment, and general management are obscured. As a result, the Uranium Enrichment Program lacks the clear mandate and structure needed to effectively manage the Enrichment Program. In addition, Congress lacks clearly defined measures of performance and solid accountability for the program.

The objectives of the enterprise must be clarified and the overall mission and appropriate business strategy be adopted. The basic strategic options for the enterprise are:

Harvest the business—deliberate Government exit from the enrichment service business, use of high prices and minimum expenditures on operations, cash-flow maximization, no investment in technology, loss of customers. Results in no assurance of domestic supply, but near-term return to the Treasury, that is, deficit reduction.

Maintain the business—competitive pricing, continue technology development, and pursue strategic market growth when financially viable. Direct efforts toward increasing business value.

Grow the business—deliberate strategy to gain market share by low prices, aggressive marketing, an accelerated technology improvement program, efforts directed toward world market dominance, potential loss leader with significant negative cash-flow.

S. 2097, adopts the middle strategy by restructuring the enrichment enterprise as a Government Corporation with a clear mandate to operate as a "continuing, commercial enterprise, on a profitable and efficient basis." In doing so, the Energy Committee expressly rejected the harvest strategy, which milks the enterprise for short-term profit at the expense of long-term viability.

A Government corporation will allow the enrichment program to compete in the world market:

In 1945, the Congress enacted the Government Corporation Control Act to govern the formation of public corporations where the provision of Government services is characterized by a buyer-seller relationship. The act has been used on numerous occasions to establish a commercial structure, owned by the Government, to conduct the business affairs of a commercially oriented enterprise. Examples include organizations such as the Federal Deposit Insurance Corporation, Export-Import Bank, Federal Savings and Loan Insurance Corporation, and Federal Prison Industries.

As Dr. Harold Seidman of the Brookings Institution, a recognized authority on Government corporations, testified on May 4, 1987, before the Senate Subcommittee on Energy Research and Development:

> There is no doubt that the Department of Energy's uranium enrichment program fully meets the prescribed criteria for the use of a government corporation. Yet the program has been denied the operating and financial flexibility accorded federal business enterprises organized as government corporations and consequently has been seriously handicapped in maintaining the United States competitive position in the world markets. Bringing the program under those systems of government financing, budgeting, accounting and auditing designed for comparable government enterprises would make possible substantial improvements in current performance and at the same time pro-

vide for more effective accountability to the Congress.

Congressional action is required to alleviate the state of confusion and conflict within the current enrichment enterprise and maximize taxpayer investment in these productive assets.

DOE supports restructuring as a Government corporation:

The Department of Energy, in testimony before the House Committee on Science, Space and Technology on March 15, 1988, testified to the following:

The Administration has decided that the program could benefit from restructuring. The Administration has reviewed options and concluded that it would be appropriate to restructure the enterprise as a Government corporation. The Government corporation would, in some aspects, be similar to a private corporation (i.e., profitmaking). The Administration will seek congressional authorization in FY 1988 to form such a Government corporation.

In testimony before the Energy Committee on May 4, 1987, the Deputy Assistant Secretary of Energy for Uranium Enrichment testified that the objectives and advantages of restructuring are:

Establish consensus for enrichment business regarding mission, goals & objectives.

Provide stable policies & predictable prices.

Assurance of long-term supply of enrichment services.

Enhance value of the enterprise. Prevent loss of valuable national asset. Provide benefits to utilities, taxpayers. Improve U.S. competitive position.

Mr. President, S. 2097 fulfills these objectives.

AMENDMENT NO. 1466

(Purpose: To alter the budgetary consequences of the U.S. Enrichment Corporation)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. MCCLURE, proposes an amendment numbered 1466.

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

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

The amendment is as follows:

In section 213 of the bill after "January 1, 1989." insert the following: "Such reimbursement shall be provided only to such extent and in such amounts as are provided in advance by appropriations Acts.".

In section 310 of the bill, strike the new section 1606 of the Atomic Energy Act and renumber the sections accordingly.

In section 310(b) of the bill in the Table of Contents strike the item "'SEC. 1606. Relationship to Federal budget." and renumber the remaining items of the Table of Contents accordingly.

In section 313 of the bill after "title.", insert the following: "For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts.".

Mr. JOHNSTON. Mr. President, this is a budget amendment. It is needed to satisfy the concerns of the Budget Committee. It reduces points of order under the Budget Act.

The amendment would place the enrichment corporation back on budget without compromising its autonomy. It is an independent entity, not subject to sequestration under Gramm-Ruddman. For 1989 expenditures, the corporation may not exceed receipts.

Finally, reimbursement and cleanup costs under title II can only be made to the extent of the amounts provided in appropriation acts. It has been agreed to by the Budget Committee, and I know of no opposition.

Mr. McCLURE. Mr. President, this is the amendment referred to in the unanimous-consent agreement setting time. It is amendment No. 1466. It was printed in the RECORD on February 23, 1988.

I know of no objection to the amendment, and I urge its adoption.

I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1466) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1467

(Purpose: To modify application of the bill to certain pending litigation)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for Mr. FORD proposes an amendment numbered 1467.

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

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

The amendment is as follows:

In section 310 of the bill, beginning with the words "'SEC. 1404. CERTAIN PENDING LITIGATION.—" strike everything through the words "certain enrichment services contracts." and insert in lieu thereof the following:

"'SEC. 1404. CERTAIN PENDING LITIGATION.—The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of Appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.".

Mr. JOHNSTON. Mr. President, this amendment has been agreed to. It deletes that portion of section 1404 of the bill that would settle the DOE-TVA demand charge litigation. Resolution of the dispute as part of S. 2097 is no longer necessary because, as I mentioned earlier, the parties have settled their lawsuit, using the compromise set out in section 1404 as their starting point. So it is no longer necessary as part of the bill.

I yield back the remainder of my time.

Mr. McCLURE. Mr. President, this is amendment No. 1467, identified in the unanimous-consent agreement as the Ford amendment, printed in the RECORD on February 23, 1988, on page S 1479.

Does the Senator desire to speak on the amendment?

If not, Mr. President, I urge the adoption of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 1467) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1910

(Purpose: To clarify the capital structure of the United States Enrichment Corporation and expectations concerning returns paid to the federal government)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment numbered 1910.

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

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

The amendment is as follows:

On page 33, after line 25, add the following and renumber the paragraphs accordingly:

"(6) To establish a corporate structure that is self-financing and would obviate the need for appropriations or other sources of government financing after enactment of this title;"

On page 54, beginning with line 19, strike all of subsection (a) through page 55 line 4,

and insert the following new subsection in lieu thereof:

"(a) Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation."

On page 55, strike lines 13 through 20, insert the following new subsections, and renumber the subsections accordingly:

"(c)(1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for Fiscal Year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States; Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator and the Secretary as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by federal law enacted after enactment of this title.

"(d) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves."

On page 56, at line 3, beginning with "The money" strike everything through line 13 and insert in lieu thereof the following: "The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"(e) Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt, shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title."

On page 60 at line 19 add ", including an explanation of the decision to pay or not pay dividends" after "performance".

On page 74, strike section 313 (at lines 13 through 17) and renumber the sections accordingly.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the coauthors of this amendment be listed as Senators JOHNSTON, FORD, PROXMIRE, MCCLURE, and DOMENICI.

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

Mr. JOHNSTON. Mr. President, this amendment was also alluded to a moment ago. It is a compromise amendment that makes avoidance of the need for Government financing a purpose of the new Corporation.

The Corporation would issue nonvoting, nonsalable stock to the Secretary of the Treasury, who would hold the stock for the United States. Management of the Corporation would remain with the Administrator and the Secretary of Energy, until and unless the stock is authorized by Congress to be sold. The stock would represent an equity investment equal to the book value of the assets transferred to the Corporation. The Corporation would pay a dividend on the stock out of earnings, unless they are needed for other corporate functions.

The stock and appurtenant rights, such as the chance of receiving dividends, together with the repayment of $364 million debt, is the sole recovery by the United States of previously unrecovered costs.

It deletes the superfluous authorization of appropriations so as not to create the impression that appropriations are expected to be made to the corporation.

It requires explanation in financial reports of the administrator's decision to pay or not to pay dividends out of earnings.

In return for these changes, the administration agrees to support S. 2097 with respect to, first, the capital structure of the corporation; second, the treatment of existing unrecovered costs of the enrichment enterprise; third, pricing; and, fourth, taxpayer equity.

The administration reserves its objections to other aspects of the corporation and the bill as a whole.

In other words, we have worked out this amendment with the administration and with Senator PROXMIRE, who had the amendment on unrecovered costs.

In plain language, what I just explained means that we are going to issue stock, hold it in the Treasury, and once this business becomes viable, we can sell that stock for whatever this corporation is worth—we hope at that time it will be worth a great deal—if we sell it, that money along with the $364 million representing the unrecovered costs will go to the Treasury.

It is a very prudent and proper resolution of this question because it not only returns unrecovered costs to the Treasury, but it makes this business a viable business. In the final analysis there is no recovery of profits or dividends or unrecovered costs or anything else to the Treasury unless you have a viable business. This compromise allows us to do that.

For the time being I will reserve the remainder of my time, but I think we will be able to yield it back.

Mr. MCCLURE. Mr. President, I agree with the description of the amendment as stated by the distinguished chairman of the committee, the manager of the bill.

I want to go just a little further in detailing the approval of the administration with respect to this capital structure. I refer to a letter which has been written by the Director of the Office of Management and Budget, addressed to the chairman, dated March 29, 1988. After detailing the question of the so-called debt, the financing, capitalization of this production facility that we are dealing with here, Director Miller states:

> Both Congress and the Administration believe, however, that the problem is to find an equitable way to address the issue of the taxpayer's investment in the program. Perhaps there is a solution to this dilemma.
>
> The Administration believes that as a business the uranium enrichment program would benefit from privatization. Until such time as that is possible, however, the Administration agrees that an interim Government-owned corporation would allow the uranium enrichment program to be run in a more business-like way.

He then goes ahead to describe the structure as set forth in this amendment and then I quote from the letter:

> If an amendment were offered to Title III of S. 2097 covering the above capital structure, then the Administration would support this portion of the Bill. With such changes, the Administration believes that the matter of prior unrecovered Government costs would be adequately addressed and that the interest of the taxpayer would be protected.

The distinguished chairman of the committee referred to the reservations the administration has with respect to other provisions of the bill, but I think it is clear that this amendment meets the objectives as stated by the Director of OMB.

I know of no opposition to the amendment. I do hope that the amendment will be adopted.

Mr. PROXMIRE. Mr. President, I rise in support of the capital structure amendment to the Uranimum Enrichment bill. The amendment, while not perfect, is a vast improvement over the bill as reported out by the Senate Energy Committee. It provides a mechanism for the eventual recovery of the unrecovered costs identified by the General Accounting Office, Department of Energy, and Office of Management and Budget attributable to the enrichment enterprise. These sums are recouped through the sale of stock in the new Uranium Enrichment Corporation and are reflected in the Corporation's equity.

Thus the taxpayer benefits from the sale of stock and the receipt of dividends as well as from the recovery of $364 million which as transferred as debt. In addition, the bill deletes the now unnecessary language providing authorization for annual appropriations since the corporation is intended to be self-supporting.

Mr. President, when Senator HUMPHREY and I first looked at the issue of uranium enrichment in 1986 we wanted to maximize the return to the Treasury of unrecovered costs for the enrichment enterprise as required by section 161(v) of the Atomic Energy Act of 1954. In order to set the proper level for recovery we asked the Gener-

al Accounting Office to prepare a report analyzing past enrichment enterprise data. According to the GAO, the Department had accumulated $8.8 billion of unrecovered costs under their interpretation of section 161(v). This figure drops to $3.019 billion when the Department writes off the value of unproductive assets. Thus the amendment we intended to offer would have adopted this amount for purposes of enrichment pricing.

Until the capital structure amendment was drafted, S. 2097 contained no assurances that the full $3 billion would be recovered. While the provisions of the capital structure amendment are not an absolute guarantee of such repayment, at least they move the program in the right direction since repayment to the Treasury, in the form of dividends, is one of the chief corporate functions.

In addition, I support new language requiring an annual corporation report on the nature of its profits so that the taxpayers get the best deal possible.

Mr. President, I am pleased that the committee has improved the bill and I urge the support of this amendment.

Mr. CHILES. Mr. President, I rise today to discuss the Budget Act and budget policy issues associated with S. 2097. First, let me extend my thanks to the distinguished chairman and ranking member of the Senate Energy and Natural Resources Committee for offering an amendment which brings this bill into compliance with the Budget Act. That amendment ensures that the Uranium Enrichment Corporation created by this bill will remain on-budget while preserving the much needed autonomy and flexibility the corporation will need to operate in today's competitive market.

Second, the issue of the amount of unrecovered costs the corporation would repay the Treasury has generated considerable attention. In fact, concerns over this issue have nearly swamped the larger purpose of title III of this bill.

As Chairman of the Budget Committee, I have taken a particular interest in the debate surrounding the unrecovered costs assigned to the corporation. After careful examination of the legislative history, the myriad of analyses performed on this topic and extensive consultation with the parties involved, I have come to the conclusion that the Energy Committee has taken the right approach with S. 2097. However, the bill does not go far enough in recognizing the equity component of the enterprise.

I understand that an amendment offered on behalf of the administration speaks directly to this issue. I am told the amendment would require the creation of stock in the corporation and require payment of dividends on that stock. Such an approach would assure repayment of unrecovered costs by maintaining a workable debt structure for the corporation. It also provides a reasonable expectation of return for the taxpayer.

This is a novel approach—in theory, the most workable strategy. However, it will be important for Congress to monitor its actual implementation. I have every hope and expectation that the amendment will have the desired effect. Of course, if problems arise, Congress retains the ability to respond.

This amendment is a product of long and exhaustive effort on the part of the Energy Committee and Senators PROXMIRE and HUMPHREY. I commend them on their efforts. I particularly wish to thank Senator JOHNSTON and his staff for their responsiveness to the concerns raised by the Budget Committee.

Mr. JOHNSTON. Mr. President, recently we have been involved in a great deal of controversy and misunderstanding with the administration concerning the unrecovered costs of the enrichment enterprise and how these costs would be reflected in the capital structure of the new Enrichment Corporation created by S. 2097. However, I am happy to report that reexamination has produced reconciliation at least on some fronts. After long discussion with the administration we have realized that our differences are not so great after all.

The amendment that I propose is sponsored by myself and Senators FORD, PROXMIRE, MCCLURE, DOMENICI. It would clarify various points of concern to the administration. With the changes contained in this amendment, the administration now supports the capital structure created for the new Corporation, the treatment of unrecovered costs in S. 2097 and the protection that the bill provides to the taxpayer. The administration continues to have reservations about other aspects of the management of the Corporation. But all financial issues are resolved by this amendment. For my own part I would have to say that the changes contained in this amendment are positive. They are in keeping with the intent of S. 2097. In effect, they make a good bill better.

The specific changes made by this amendment are described below.

First, in the purposes section of title III, the amendment would make it clear that the new Corporation is intended to be a self-financing entity that would not depend on annual appropriations.

Second, the amendment would clarify that the unrecovered costs of the enrichment enterprise are not being ignored by this legislation. Rather, the portion of such costs represented by the book value of the productive assets of the enterprise is being carried forward into the new Corporation as the equity component of the Corporation's capital structure.

This equity investment by the United States in the Corporation would be represented by stock. Under the amendment, the Corporation would be required to pay dividends on the stock out of any earnings of the Corporation, as a return on the Government's investment. However, earnings would not be required to be paid out in dividends if there is an overriding need for them to be retained for use in accomplishing corporate functions, such as research and development and capital investment. Of course, dividends would not be paid by the Corporation to the extent that it has no earnings.

I should mention, Mr. President, that the stock of the Corporation would have certain restrictions attached to it. Unlike ordinary stock it would have no voting rights that could be used to elect a board of directors, and indirectly, executive officers. Instead, management of the Corporation would be the responsibility of an Administrator appointed by the President, subject to supervision in certain areas by the Secretary of Energy, as currently provided in section 1501 of the bill.

Moreover, the United States would be prohibited from selling the stock until specifically authorized in Federal law. At present, I and the other sponsors of this legislation are unwilling to privatize the enrichment enterprise. It is unlikely that the Government would receive fair value from such a sale until the enterprise is placed on a more solid financial foundation. In addition, there are other practical difficulties involved in separating the enterprise from the Federal Government.

At a later time, Congress may well decide that the new Corporation should be sold to the private sector. We will have a better idea of the merits of that idea after we receive the privatization report required under section 1608 of title III. Should the decision to privatize be made, sale of the Corporation's stock will be the easiest way of accomplishing this goal. Until Congress makes that decision, however, the Corporation's stock may not be sold.

Mr. President, the amendment I am proposing would also clarify that the stock of the Corporation—including appurtenant rights—together with repayment of the $364 million debt provided in section 1506, shall constitute the only recovery by the United States of the unrecovered costs of the enrichment enterprise generated prior to enactment of this legislation. Appurtenant rights to the stock would include: First, the right to receive such dividends as the Corporation may declare; and second, the right to receive the

proceeds from sale of the stock should Congress authorize privatization of the Corporation in the future.

Mr. President, this amendment would also require the Corporation to include an explanation of its decision to pay or not to pay dividends in its annual report.

Finally, Mr. President, this amendment would delete section 313 of S. 2097 which is a general authorization of appropriations to the Department of Energy and the new Corporation. Without this section, title III clearly amounts to authorizing legislation. Thus, the inclusion of section 313 creates the unfortunate misimpression, through redundancy, that future appropriations to the Corporation and the Department for purposes of carrying out title III are expected to be necessary. They are not; in fact the opposite is true.

Mr. President, with this amendment the concerns of the administration with the capital structure and other financial aspects of the new Corporation are satisfied. These changes are perfectly consistent with the Energy Committee's intent. They clarify S. 2097 in a positive way, and I believe they should be adopted.

Mr. HUMPHREY. Mr. President, in adopting the administration's proposal regarding the treatment of the unrecovered costs of the enrichment enterprise, the Senator from Louisiana improves significantly the provisions of S. 2097 pertaining to the new Enrichment Corporation. Specifically, the total financial interest of the United States in the Corporation would include the value of the assets transferred, including the opportunity to receive dividends generated from these assets and the right to receive proceeds from future sale of the Corporation, to the Corporation as well as the $364 million debt contained in the original bill. I understand that this totals in excess of $3 billion.

Mr. JOHNSTON. The Senator from New Hampshire is correct.

Mr. PROXMIRE. Mr. President, the Senator from New Hampshire and I have sought to ensure that this legislation provide a requirement for repayment of the Government's investment in the enrichment enterprise. I ask that the chairman of the Energy Committee clarify the obligation of the new Corporation regarding payment of dividends into the Treasury.

Mr. JOHNSTON. I assure the Senator from Wisconsin and the Senator from New Hampshire that under this amendment the new Corporation shall seek to maximize payment of dividends into the Treasury.

Mr. HUMPHREY. It is my understanding that implicit in the bill language is the requirement that the new Corporation shall avoid imprudent and unreasonable expenditures. In fact, an overriding need for retaining funds would likely arise, for example, when the Corporation determined that its business strategy required investments or other actions that would improve the potential profitability of the Corporation in the short or long term. Determinations of overriding need are made in the judgment of the Administrator in accordance with section 1501(c). Further, there is nothing in this legislation which would inhibit the ability of the Congress to require the Corporation to pay dividends to the Treasury if there are earnings. In any case, the Corporation shall seek to ensure a reasonable return to the Treasury.

Mr. JOHNSTON. The Senator is correct in that we cannot bind future Congresses. However, it is not our intent that Congress intervene in business decisions of the Corporation in the future. The whole point of this bill is to free the Corporation from the nonbusiness constraints so it can make profits.

Mr. PROXMIRE. In the event that the stockholders—in this case, the taxpayers—do not receive dividends, the Congress should receive a full explanation as to why the Corporation was not profitable or why it was deemed necessary to forgo payment of dividends to the Treasury.

Mr. JOHNSTON. Mr. President, the annual report required under section 1510 contains a summary of the Corporation's operating and financial performance. In presenting its report to the President, the Secretary and the Congress, the Corporation would provide a full report on this issue.

Mr. HUMPHREY. I appreciate the clarification provided by the senior Senator from Louisiana of his amendment regarding the unrecovered Government investment in the uranium enterprise. We share a common goal of strengthening the Enrichment Corporation and ensuring that the customers and not the taxpayers bear the costs associated with the enrichment of uranium for the commercial nuclear industry.

Mr. McCLURE. I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, if there are no requests to speak I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1910) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1911

(Purpose: To eliminate the treatment of uranium enrichment facilities as "production facilities" under the Atomic Energy Act with respect to the import of such enrichment facilities into the United States)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1911.

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

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

The amendment is as follows:

On page 73 at line 12 strike "import or".

Mr. JOHNSTON. Mr. President, this amendment eliminates the treatment of the enrichment facilities as "production facilities" under the Atomic Energy Act for the purpose of the import of such facilities into the United States.

Under current law, enrichment facilities are treated as production facilities for all purposes. As such, they are subject to the same stringent licensing requirements as nuclear reactors. Yet enrichment facilities involve much less radiological hazard than reactors.

For purposes other than import or export, S. 2097 already recognizes this fact and allows enrichment facilities to be licensed under the less stringent requirements of part 30 and 70 of the regulations.

Upon reflection it is apparent that there is also little reason for those wishing to import enrichment facilities into this country to have such facilities treated as "production facilities" and thus to be required to obtain a license for such import under part 110 of NRC regulations. However, under this amendment enrichment facilities would continue to be treated as "production facilities" for the purpose of export.

Export, unlike import, raises nuclear nonproliferation concerns and it is appropriate that the export of enrichment facilities should remain subject to the stringent requirements of part 110.

Mr. President, I should note that this amendment does not restrict the NRC's ability to regulate the importation of enrichment facilities. Section 312(d)(2) of S. 2097 requires the NRC to promulgate regulations to promote the common defense and security with respect to the ownership or possession of enrichment facilities and important component parts.

This language clearly allows NRC to place such regulations into effect as it

believes are necessary to promote the common defense and security with respect to importation of enrichment facilities.

The only difference is that these regulations will be appropriate for regulating enrichment facilities as opposed to nuclear reactors.

So in effect, Mr. President, what this amendment does is it preserves all of the powers and all of the protections with respect to both concerns of the NRC insofar as they relate to enrichment facilities in the United States or proliferation concerns as they relate to exportation of equipment or facilities out of the United States. But it would not require the onerous licensing procedures as required of nuclear reactors under present law.

I think it is totally noncontroversial and I am prepared to yield back the remainder of my time.

Mr. McCLURE. Mr. President, the distinguished Senator from Louisiana correctly describes the amendment, as I understand it, and I would state only further that I believe this is a clarification of what we had intended in the original language of the bill. After the bill was written, there were those who looked at one of the provisions in the bill that raised some questions about its meaning. This amendment simply clarifies that meaning.

I, too, know of no opposition to the amendment, and I have no request from anyone to speak with reference to the amendment. I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1911) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, for the benefit of my colleagues, we are getting down to the last couple of amendments. There is an amendment in order by Senator REID on unrecovered costs, which may or may not be offered. There is an amendment in order by Senator HUMPHREY, which may or may not be offered.

There is an amendment relating to tax exemption of the Government's uranium enrichment program and fees for the use of foreign uranium, on which there will be a second-degree amendment by Senators EVANS and BRADLEY, which will be probably the principal undisposed of amendment, but Senator DOMENICI is at the White House.

There are two Metzenbaum amendments, one dealing with decommissioning and decontamination and one dealing with NRC licensing.

Other than those amendments, we are ready to go to third reading, but our Senators are out of pocket. So we are sending out SOS's for Senators to come in and offer their amendments.

In the meantime, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is left in a quandary as to whether the time of the quorum call will be divided equally or not.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the quorum call be charged equally on the tax exemption of the Government uranium enrichment program amendment, which is divided between Senators JOHNSTON and McCLURE.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The clerk will now call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Louisiana.

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

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

Mr. JOHNSTON. Mr. President, a moment ago we made a mistake and struck a part of a section.

A moment ago with reference to amendment No. 1910 we inadvertently struck a section which should not have been struck, so I ask unanimous consent that on amendment 1910, which inadvertently struck section 313, it be modified to strike section 313 and insert the following in lieu thereof:

SEC. 313. For fiscal year 1989, total expenditures of the corporation shall not exceed total receipts.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. JOHNSTON. Mr. President, again I tell my colleagues we are waiting on Senators. We have disposed of the most contentious amendments save one. That is the amendment dealing with tax exemption of Government uranium corporation and fee for use of foreign uranium. Senator DOMENICI is at the White House.

Senator EVANS and Senator BRADLEY have second-degree amendments to that.

Senator METZENBAUM has two amendments and he is at another meeting.

Senator REID is supposed to be on his way to the floor.

I would think if we cannot get some Senators to the floor, we should perhaps consider putting the bill over until tomorrow. It is very hard to find where Senators are. I hesitate to go to third reading, although it is very tempting.

Mr. President, in order to restrain my temptation, I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, in Las Vegas, NV, we have the greatest magical act in the world. They are called the maskers of illusion, two people by the name of Siegfried and Roy. The name of their act is called Beyond Belief.

The PRESIDING OFFICER. If the Senator will withhold, who yields time?

Mr. JOHNSTON. Mr. President, I think the Senator has a reservation on his amendment.

Mr. REID. Yes; I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator should send his amendment up in order to utilize the time.

Mr. REID. Mr. President, through you, I wonder if I can direct a question to the manager. Would he be willing to yield 10 minutes of time so I do not have to offer my amendment?

Mr. McCLURE. Will the Senator yield?

Mr. REID. Yes.

Mr. McCLURE. Is it the intention of the Senator not to offer his amendment?

Mr. REID. That is my intention at the present time.

Mr. McCLURE. I wonder if it would be possible to modify the unanimous-consent agreement to allow the Senator to speak for not to exceed 15 minutes in lieu of the time reserved for the offering of an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the unanimous-consent agreement be modified by deleting the amendment of the distinguished Senator from Nevada and, in lieu thereof, the Senator be recognized for not to exceed 15 minutes.

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

The Senator from Nevada.

Mr. REID. I extend my appreciation to the distinguished manager.

As I said, Mr. President, in Las Vegas, NV, we have the greatest magical act in the world called Beyond

Belief, the stars of which are two people by the name of Siegfried and Roy. Well, I submit to this body today some of the magic being performed by the nuclear industry is just as much beyond belief as that act in Nevada that goes on every night at the Frontier Hotel.

Mr. President, I rise today to state my opposition to the massive giveaway of taxpayers' dollars that will take place if we approve title III of the so-called nuclear revitalization and uranium enrichment legislation now before the Senate.

Notwithstanding the assurances of the distinguished chairman of the Energy Committee I continue, as do many others, to believe that this legislation is little short of a new Government subsidy program for nuclear power companies that are already firmly ensconced in the upper echelons of the Fortune 500. Exxon, Conoco, and Anaconda are only a few that will handsomely benefit from this legislation.

The fact is that foreign and domestic nuclear utility companies agreed to reimburse the American taxpayer for the full cost of the Uranium Enrichment Program and testified in 1978 that no subsidies were needed. The Department of Energy has totally mismanaged that program to the point where the bill to the U.S. Treasury has grown to $8.8 billion. And what is the Energy Committee's response? Is it to clamp down of the Department of Energy and nuclear power companies so that this program pays its own way? No. Not quite, instead we now find legislation before the Congress to cancel the nuclear industry's debt.

I have to admit that I find it ironic that the primary justification for ramming the permanent high-level nuclear waste dump down the throats of Navadans last December was to save the Government $3 billion in site characterization costs, and now the very same people are sponsoring an $8.8 billion giveaway to some of the most prosperous companies in the Nation if not in the world. In fact, I find it more than ironic. I find it outrageous. But this is exactly the kind of incestuous relationship that has developed between the Department of Energy and the nuclear industry. Can anyone blame the people of my State who doubt that the Department of Energy will be objective in studying the proposed Nevada dump site which the nuclear industry wants approved so badly?

Further, should this bill pass as presently written, the Federal Government will have squandered the billions of dollars that it has spent to corner the market for a valuable energy commodity for the next 10 years. Not only will it have squandered billions, it will force the Treasury to give up new moneys. Unilaterally giving up the monopoly on uranium enrichment could cost the taxpayers, it is estimated by many, another $30 billion.

This "privatization" initiative would do even more to deny the Government funds that rightfully belong to all Americans.

First, the bill forgives all but $364 million of what I contend is an $8.8 billion debt owed to the Treasury by foreign and domestic nuclear utilities.

Second, the legislation authorizes the Department of Energy to provide financial assistance to some of America's most profitable companies to clean up uranium mill tailings sites that have been allowed to fester as open sores on the landscape of the West since the early days of nuclear power.

Third, it transfers all assets of the Uranium Enrichment Program to a new corporation but leaves the U.S. Government holding the bag for all of the liabilities incurred by that program. The wholly owned Government corporation that would be established would not be required to recover its costs as the law now requires the program under the Department of Energy. Among the liabilities left to the Treasury are the tremendously expensive costs of decommissioning and decontamination of the enrichment facilities. Another nuclear cleanup, the brunt of which will be borne, as usual, by the American taxpayers.

To my mind, this legislation is a totally inappropriate response to yet another example of gross mismanagement and ineptitude by the Department of Energy. If we are ever to achieve a balanced budget and not jeopardize the futures of my children and their children, we must stop the kind of abuses that I believe are contained in this legislation. To give away or to forgive billions of dollars to already profitable companies and to foreign governments is a travesty.

I supported the attempt by Senator PROXMIRE and, I believe, Senator HUMPHREY, to attempt to recover some of the costs of uranium enrichment.

There has been a compromise reached, and I talked to various people, including staff people who worked on this compromise. I still submit that the original amendment is appropriate and was appropriate. I am aware that the amendment would not pass. I am not going to offer the amendment.

I am going to, however, in my form of protest, vote against this bill with or without the stronger language of cost recovery. I do this because I truly believe, as I indicated in my opening statement, that this is a form of magic that will not benefit the people of this country.

I will vote against this boondoggle and I hope that many of my colleagues will join with me in putting the American taxpayer ahead of the mismanagement of the Department of Energy and the greed of the nuclear industry.

I yield back the remainder of my time.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Nevada for his cooperative attitude on this matter. The Senator from Wisconsin [Mr. PROXMIRE] and others did work out a compromise with us, which has now been amended and is part of the bill that I believe satisfactorily and more appropriately deals with that question as previously explained.

I appreciate the fact the Senator from Nevada will let us move on with the bill.

Mr. President, under the unanimous-consent agreement, we are authorized to lay down amendment 1465 relating to the tax exemption of the Government uranium enrichment corporation and fees for the use of foreign uranium. That is subject to a 2-hour time limitation. There is a second-degree Evans-Bradley amendment dealing with the same subject matter which provides for a 3-hour time agreement.

What I propose is to lay down this amendment 1465, and I want to modify the amendment as well. I will ask for that unanimous consent in a moment because it will require a unanimous consent, but to explain to my colleagues, amendment 1465 deals with two matters: First, fees for the use of foreign uranium and, second, an exemption from taxation and a payment in lieu of taxes for the corporation.

What we want to do is simply strike that last proviso that gives the corporation tax-exempt status, and the reason is a very practical one: That we are advised by the distinguished Senator from Texas [Mr. BENTSEN] that this would be blue slip material with the House Ways and Means Committee if we keep that provision in. Since it is a Government corporation and the Government is paying it to itself anyway, it really is not at all essential or rather unimportant in the scheme of things. So it is certainly not necessary for our amendment.

In the initial bill that we reported out of committee, we had that provision in and struck the provision in order not to conflict with the Finance Committee. We were going to put it in as part of amendment 1465.

So this simply deletes it, not only from the bill from which it has already been deleted, but deletes it from the amendment.

So, Mr. President, I ask unanimous consent that it be in order to offer amendment 1465 at this time subject to the same time agreements as set

forth in the unanimous-consent agreement but minus lines 14 through 19 on page 10 of the amendment dealing with the exemptions from Federal taxation of the corporation.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, Mr. President, we need to talk to the distinguished Senator. I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time is the Senator suggesting the absence of a quorum?

Mr. McCLURE. I ask unanimous consent that the time on this quorum call be charged to both sides on the amendment.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, there was a unanimous consent request pending, I believe, when the call for the quorum was asked for. I will repeat that, which is that it be in order to offer an amendment numbered 1465, but striking on page 10, lines 14 through 19, dealing solely with the exemption from taxation and payment in lieu of taxes of the corporation.

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

Mr. JOHNSTON. Mr. President, I also ask unanimous consent that with respect to the same amendment, amendment No. 1465, on page 6, wherever the phrase "September 8, 1986" appears, that in lieu thereof, "September 30, 1986" be inserted, which simply extends the time of the grandfather.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. BRADLEY. Mr. President, reserving my right to object, I just got a copy of the amendment. Does this relate to the 161(b) section?

Mr. JOHNSTON. No, it does not.

Mr. BRADLEY. I have no objection.

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

AMENDMENT NO. 1465, AS MODIFIED

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

The PRESIDING OFFICER. The clerk will report.

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

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

The modified amendment is as follows:

In section 3 of the bill after paragraph (6) add the following and renumber the paragraphs accordingly:

"(7) the term 'domestic uranium' means—

"(A) any uranium that has been mined in the United States, unless such uranium is deemed to be foreign uranium under section 117; and

"(B) any uranium that is deemed to be domestic uranium under section 117.

"Uranium mined in the United States shall include uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in-situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

"(8) the term 'Equivalent Foreign Uranium' means the natural foreign uranium employed to produce the enriched foreign uranium included in a fuel assembly, considering the quantity of enriched uranium and the isotopic enrichment assays and tails assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural foreign uranium included in the assembly;

"(9) the term 'Equivalent Uranium' means the natural uranium employed to produce the enriched uranium included in a fuel assembly (excluding natural uranium employed through overfeeding), considering the quantity of enriched uranium and the isotopic enrichment assays ordered, and applying the Department's Standard Table of Enriching Services, or its replacement formula, plus the natural uranium included in the assembly;

"(10) the term 'foreign uranium' means (A) any uranium that has not been mined in the United States, unless such uranium is deemed to be domestic uranium under section 117; and (B) any uranium that is deemed to be foreign uranium under section 117;".

At the beginning of title I of the bill after the heading add the following and renumber the existing section accordingly:

"SEC. 110. DELETION OF SECTION 161v.

Subsection 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

"SEC. 111. AMENDMENT TO SECTION 170B.

Section 170B of the Atomic Energy Act of 1954, as amended, is further amended by deleting '1983' and substituting '2000', by deleting '1982' and substituting '2000', and by deleting '1992' and substituting '2011' in both places it appears.

"SEC. 112. IN GENERAL.

Any licensee of a civilian nuclear power reactor with fuel assemblies loaded after December 31, 1987, and prior to January 1, 2001, that contained foreign uranium shall be assessed and pay the charges, to be imposed and collected by the Secretary, as provided in section 123, except as provided elsewhere in this title.

"SEC. 113. CALCULATION OF CHARGES.

"(a) The charge to be imposed by the Secretary pursuant to section 112 shall be, subject to section 115, calculated upon the percentage of foreign uranium included in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year as follows:

"$0.00/kg	on the kilograms of foreign uranium which comprise the first 37 and one-half per centum of the total weight of the uranium in new fuel assemblies loaded in such year.
"$200/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 37 and one-half per centum, but less than or equal to 55 per centum.
"$250/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 55 per centum but less than or equal to 60 per centum.
"$350/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 60 per centum but less than or equal to 70 per centum.
"$400/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 70 per centum but less than or equal to 80 per centum.
"$500/kg	on the kilograms of foreign uranium which comprise the percentage of the total weight of the uranium in new fuel assemblies loaded in such year greater than 80 per centum.

"(b)(1) For calendar years after December 31, 1994, no charge shall be imposed on the kilograms of foreign uranium which comprise the first 50 per centum of the total weight of the uranium in new fuel assemblies loaded in such year.

"(2) There shall be no charge imposed on foreign uranium excluded from the charge by section 115. The foreign uranium excluded from the charge by section 115, shall be deemed the first foreign uranium contained in the aggregate of new fuel assemblies loaded into all of the civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year for purposes of calculating the charges to be paid under this section.

"SEC. 114. CORPORATIONS OWNING MORE THAN ONE LICENSEE AND REACTORS WITH MULTIPLE OWNERS.

If a corporation owns more than one licensee, the percentage of foreign uranium which shall be considered included in new fuel assemblies loaded by each licensee owned by such corporation during a calendar year shall be the percentage of foreign uranium included in the aggregate of all new fuel assemblies loaded during such calendar year into all civilian nuclear power reactors owned by such corporation. Where a civilian nuclear power reactor is owned by more than one utility, an owner may, by

mutual agreement with the other owners, elect to aggregate the pro rata share of new fuel assemblies in that plant with the pro rata shares of new fuel assemblies loaded in other civilian nuclear power reactors owned or operated by such owner.

"SEC. 115. EXCLUSION FROM CHARGE.

"(a) In making the calculation of charges required in section 113, a charge shall not be assessed on foreign uranium that is included in new fuel assemblies loaded in all civilian nuclear power reactors owned or operated by any one licensee or the licensees owned by one corporation during any calendar year is such uranium has been obtained under the terms of a contract for the purchase of uranium entered into prior to September 30, 1986, between the licensee or the corporation owning the licensees of such civilian nuclear reactors and the supplier, including:

"(1) such a contract under which the quantity of uranium to be purchased is fixed but with flexibility as to date of delivery; and

"(2) such a contract with a domestic supplier that allows the supplier to select the national origin of the uranium delivered.

"(b) Foreign uranium that is included in new fuel assemblies loaded into a civilian nuclear power reactor owned or operated by a licensee or the licensees owned by one corporation during any calendar year shall be subject to the charges assessed on foreign uranium if such uranium was obtained under the terms of contract executed on or after September 30, 1986, or obtained under an option which was exercised on or after September 30, 1986. The increased quantities of foreign uranium obtained under a contract executed before September 30, 1986, but that is modified or extended after that date to increase the quantity of foreign uranium delivered, shall be subject to the charges imposed by section 113.

"SEC. 116. DETERMINATION OF PERCENTAGE.

The percentage of foreign uranium that shall be deemed to be contained in the new fuel assemblies loaded in a year shall be determined by dividing the weight of Equivalent Foreign Uranium by the total weight of Equivalent Uranium in such fuel assemblies. For the purpose of this calculation, fuel loadings during refueling outages that begin in one calendar year and are completed in the following year may be counted in either year but not both.

"SEC. 117. FLAG SWAPPING.

"(a) For purposes of making the certification required under section 119 and calculating the charges imposed under this title, a characterization of the national origin of a particular lot of uranium shall be recognized as provided in this section.

"(b) If the national origin of a particular lot of uranium has not been changed from the nation in which it was mined, the nation in which such uranium was mined shall be used for purposes of making the certification required under section 119 and calculating the charges imposed under this title.

"(c) Any transaction in which a party tenders uranium having one national origin in return for receipt of uranium having a different national origin shall not be deemed to have involved a change in the national origins of the lots or uranium involved in the transaction if:

"(1) the transaction is accomplished in compliance with all applicable regulatory requirements; and

"(2) the lots of uranium involved in the transaction are held at the same location in the custody of a third party such that, in actuality or by reason of the accounting practices of the third party, the lots of uranium involved in the transaction are commingled.

"(d) If the national origin of a particular lot of uranium has been changed on or before January 1, 1986, from the nation in which it was mined, and such changed origin is shown on a DOE/NRC form 741 applicable to such uranium as of January 1, 1986, or on the first DOE/NRC form 741 executed after that date and applicable to such uranium, then the national origin of such uranium as shown on the first DOE/NRC form 741 reflecting the last change occuring on or before January 1, 1986, shall be recognized for purposes of making the certification required under section 119 and calculating the charges under this title.

"(e) If the national origin of a particular lot of uranium has been changed after January 1, 1986, from the country in which it was mined, from the national origin as shown on a DOE/NRC form 741 applicable to such uranium and recognized under subsection (d), or from a national origin recognized under this subsection prior to the change in question, such change in question shall be recognized for purposes of making the certification required under section 119 and calculating the charges owned under this title if the change was part of an exchange of national origins that:

"(1) to the best knowledge of the owner of the particular lot of uranium, involved equal quantities of uranium, calculated on an equivalent natural uranium basis, with no increase in the quantities of uranium designated as foreign and designated as domestic;

"(2) to the best knowledge of the owner of the particular lot of uranium, involved no uranium that has been loaded into a reactor, irradiated, contained in enrichment tails material or other by-product material of processing (including materials lost or unaccounted for) or materials owned by the United States Government; and

"(3) complied with all applicable regulatory requirements at the time of the exchange, including regulations promulgated under subsection (f).

"(f) The Secretary shall promulgate regulations within six months after the date of the enactment of this title that, to the extent reasonable and practicable, ensure that the purposes of this title are realized in the characterization of the national origin of uranium under this section.

"(g) For purposes of this section, the term 'uranium' shall include natural uranium and natural uranium equivalents.

"SEC. 118. DISPOSITION OF CHARGES.

The charges imposed by this title, and collected by the Secretary, shall be deposited within sixty days after the certification required in section 119 in the general fund of the Treasury of the United States as miscellaneous receipts.

"SEC. 119. CERTIFICATION.

The owner or operator of any civilian nuclear power reactor must certify to the Secretary by March 1 of each year the following information for the previous calendar year—

"(a) the total weight of uranium in new fuel assemblies loaded during such year;

"(b) the total weight of foreign uranium included in new fuel assemblies loaded during such year;

"(c) the total weight of foreign uranium included in new fuel assemblies loaded during such year which is excluded from the charge pursuant to section 115;

"(d) the total weight of domestic uranium included in new fuel assemblies loaded during such year;

"(e) the isotopic enrichment assays and tails assays employed in ordering enriched uranium used in the respective fuel assemblies during such calendar year; and

"(f) the equivalent natural uranium for each quantity of enriched uranium reported.".

In section 310 of the bill, in new section 1401(d) of the Atomic Energy Act, change the reference to "section 110" to "section 120".

Mr. DOMENICI. Mr. President, I reserve the right to object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The amendment already has been modified, and there is no objection called for at the moment.

Mr. McCLURE. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally to both sides on the pending amendment.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. METZENBAUM. Mr. President, I ask the managers of the bill: I have two amendments which I understand are acceptable. Would they object to laying aside for 2 minutes the Domenici amendment in order that I may offer my amendment?

Mr. JOHNSTON. Mr. President, the D&D amendment would be acceptable, and I would like to reserve judgment on the other.

Mr. METZENBAUM. Pardon?

Mr. JOHNSTON. I would have no objection to the so-called decommissioning and decontamination amendment, but I would like to reserve judgment on the other one.

Mr. President, I ask unanimous consent we may temporarily lay aside the pending amendment, in order to consider an amendment by Mr. METZENBAUM on decommissioning and decontamination.

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

AMENDMENT NO. 1912

(Purpose: Decontamination and decommissioning.)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself, Mr. JOHNSTON, and Mr. McCLURE proposes an amendment numbered 1912.

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

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

The amendment is as follows:

On page 55, strike lines 5 through 12, and renumber the remaining subsections accordingly.

On page 59, on line 1, before "To" insert "(a)"; on line 7, after "assets," insert "decontamination and decommissioning,"; and, after line 19, insert a new subsection (b) as follows:

"(b)(1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its current customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning and decontamination of the various property of the Corporation, including property transferred under section 1505(a). Such costs shall be based on the point in time that such decommissioning and decontamination is undertaken and accomplished.

"(2) In order to meet the objective defined in paragraph (1), the Corporation, in consultation with the Secretary, shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) With respect to property that has been used in the production or low-assay separative work,

"(A) the cost of decommissioning and decontamination that shall be recoverable from commercial customers in prices and charges shall be in the same ratio to the total costs of decommissioning and decontaminating the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning and decontaminating such property shall be recovered in prices and charges to the Department.

"(4) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning and decontamination of such property shall be recovered in prices and charges to the Department.".

On page 72, after line 9, insert a new chapter 27, as follows:

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. (a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account, and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(B) The Fund shall consist of—

"(i) amounts paid into it by the Corporation in accordance with section 1702; and

"(ii) any interest earned under subsection (b)(2).

"(b) ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) at the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—(a) When the Corporation determines that particular property should be decommissioned or decontaminated, or both, it shall in consultation with the Secretary; enter into a contract for the performance of such decommissioning and decontamination.

"(b) The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund."

"(c) Upon satisfaction of the terms and conditions of the contract entered into pursuant to subsection (a) and full payment of costs pursuant to subsection (b), the Corporation shall transfer to the Secretary all of its rights, title and interest in the particular property that is the subject of such decommissioning and decontamination contract.

Mr. METZENBAUM. Mr. President, the amendment is sent to the desk on behalf of myself and Senators JOHNSTON and MCCLURE.

This amendment requires the Enrichment Corporation proposed in this bill to set up a reserve fund to pay for the cost of decontaminating and closing down the Portsmouth, OH, and the Paducah, KY, nuclear enrichment plants.

This is an important public health and safety issue. These enrichment plants are over 30 years old. They are approaching the end of their useful lives.

When the time comes to shut them down, the cost to clean up the surrounding environment is going to be a very expensive undertaking.

According to the General Accounting Office, the cost could exceed $1 billion per plant.

As currently drafted, this bill would require the taxpayers to pick up those costs.

The taxpayers would have to shell out as much as $2 billion to clean up and close down these plants—some time within the next 10 to 20 years.

Under current law, the Department of Energy is supposed to include in its prices such amounts as are necessary to pay for the eventual decommissioning and decontamination. But the Department has not been doing so.

Again, according to the General Accounting Office report on the subject, GAO investigators were informed by a DOE official that when DOE decides to decommission the plant, then it will include the costs in its prices.

That is probably not legal.

And it does not make a bit of sense.

The Department is saying that when the decision is made to decommission the plants, it will come to Congress and ask for a taxpayer handout of $2 billion to do the job.

The taxpayers will wind up paying for a job that should have been paid for by the Department's commercial customers.

That is not an appropriate way to do business.

This amendment will require the new Enrichment Corporation to do what every other business does—to set up a reserve fund so that it can meet its liabilities when they become due.

The purpose of this bill is to revitalize the U.S. enrichment industry by permitting it to operate like any other business.

Let us do the job right. Let us make sure this business is prepared to meet its liabilities. I urge my colleagues to support the amendment.

Mr. JOHNSTON. Mr. President, this amendment deals with the problem of decommissioning and decontamination [D&D] in a more comprehensive fashion than the existing provision of S. 2097. The amendment establishes that the costs of decommissioning and decontaminating all property of the U.S. Enrichment Corporation, including the property transferred by S. 2097, are a prospective cost of doing business for the Corporation. The amendment also establishes a fund within the Corporation into which D&D costs, recovered in the Corporation's prices and charges, are to be deposited.

At this point, there is a great deal of uncertainty concerning the ultimate costs of D&D.

Applicable environmental standards are not entirely clear.

The timing of D&D is not certain.

The projected cost of particular decontamination and decommissioning actions can be projected, but not with precision.

Furthermore, the process of recovering D&D costs is not discrete. In the future, the Enrichment Corporation will be making capital investment in new plants. At the appropriate time, the D&D costs associated with these plants will have to be considered along with the D&D costs of property initially transferred to the Corporation.

In short, the process of funding the D&D costs of the Corporation's property will necessarily be an iterative one. The estimate of D&D costs that the Corporation seeks to recover will have to be periodically recalculated as provided in the amendment. At any given point, the estimated unfunded cost of D&D will constitute a prospective cost of doing business to be recovered from customers—including the Department of Energy—in prices.

Nevertheless, certain rules will apply. Section 1508 of S. 2097 provides in effect that prices to commercial customers shall be set at market levels, with the goal of recovering costs, whereas prices to the Department of Energy shall be set strictly on the basis of cost recovery. This distinction is preserved with respect to the recovery of D&D costs in the Corporation's prices.

In addition, the amendment provides that, with respect to property used in the production of low-assay separative work, the Corporation may only recover D&D costs from commercial customers and the Department in proportion to the amount of separative work that has been produced for either during the life of the property. In the case of property used solely in the production of high-assay separative work, D&D costs would only be recovered from the Department. This allocation assigns cost responsibility between the two customer classes according to historical benefits received—measured in terms of work performed.

Finally, the amendment provides for the Corporation to enter into contract for the performance of actual decommissioning and decontamination and for the Corporation to pay the D&D costs for such property out of the fund created for such purpose. After decontamination and decommissioning is performed the Corporation conveys the property to the Secretary.

Mr. President, I think this is an improvement of the bill, and we support it.

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

The amendment (No. 1912) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I thank the managers of the bill.

I ask unanimous consent that the pending amendment be temporarily laid aside, in order that the Senator from Ohio may offer an amendment which I understand will be accepted.

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

AMENDMENT NO. 1913

(Purpose: To prohibit the suspension or modification of the application of antitrust provisions applicable to any licensee of the Perry Nuclear Powerplant, OH)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1913.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PERRY NUCLEAR POWERPLANT ANTITRUST PROTECTIONS.—The Nuclear Regulatory Commission shall not suspend or modify the application of any antitrust provision contained in the Perry operating license No. NPF-58, as such provision applies to any licensee of the Perry Nuclear Powerplant, Unit 1.

Mr. METZENBAUM. Mr. President, I am offering an amendment which prohibits the Nuclear Regulatory Commission from lifting the antitrust conditions imposed on the utilities which are licensed to operate the Perry nuclear powerplant in Ohio.

This amendment will protect the electricity consumers in northern Ohio from unfair rate increases due to the Perry nuclear powerplant.

Under the current terms of the Perry nuclear plant license, the utilities which own Perry are required to carry power for municipal power systems [Munis] located within their service territories.

This allows these local power supply systems to shop around for the cheapest available power, providing competition to the owners of the Perry plant, thus helping to keep rates lower.

This requirement to carry power was one of several antitrust conditions imposed on Perry's owners in 1976. It was part of the deal which Perry's owners agreed in order to obtain their operating license.

These conditions have maintained competition in the sale of electricity, forcing Ohio Edison and the other utilities which own Perry to keep rates low in order to retain municipal power systems as customers.

Ohio Edison, however, has applied to the Nuclear Regulatory Commission to be relieved of these antitrust conditions.

If it were successful, the other Perry owners would presumably follow suit—like Cleveland Electric Illuminating and Toledo Edison.

That's why the city of Cleveland has filed a motion opposing the Ohio Edison application pending before the NRC. Cleveland's municipal power system is all too aware of the potentially disastrous results which would ensue if the NRC accedes to Ohio Edison's request.

Such a decision by the NRC would essentially hold all ratepayers in northern Ohio captive to the rising rates of a few utilities that own the Perry nuclear plant, which has now turned out to be very expensive.

The costs of building and operating the Perry nuclear powerplant have risen far beyond anything its owners ever anticipated. Nuclear power has not turned out to be the low cost alternative that they thought it would be.

Now those owners want to escape the consequences of an unfortunate business decision—a bad investment. They want to transfer their burden from the shareholders to the ratepayers, by getting out from under the original terms of their license.

It is quite simply unfair to deny municipal power systems the option of supplying low cost, alternative power to their customers. And the fact is, they do provide cheaper power.

On average, Ohio's municipal power systems provide power which is substantially less expensive than that sold by investor-owned utilties.

For example, public power customers in Cleveland pay approximately 20 percent less than utility customers—those served by CEI.

And that gap will only grow as more of Perry's costs are incorporated into rates.

In fact, on a statewide basis in Ohio, municipal power systems sell power that is 20 to 30 percent cheaper than power sold by investor-owned utilities.

Twenty-one cities located in Ohio Edison's service territory could face higher rates if the Ohio Edison request is approved, including Amherst, Beach City, Brewster, Columbiana, Custar, Cuyahoga Falls, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroesville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington.

In sum, I believe that the owners of Perry must be held to the original terms of their license, and should not be allowed to force ratepayers to shoulder the costs of their mistakes.

Mr. President, it is my understanding that this amendment is acceptable to the managers of the bill.

Mr. JOHNSTON. Mr. President, we are willing, with some reservations, to accept this amendment. It is one of those amendments where the result is good but the precedent is not particularly good.

Mr. President, this amendment would prohibit NRC from suspending or modifying antitrust provisions contained in the operating license for the Perry nuclear plant. The antitrust provisions require investor-owned li-

censees to wheel for municipal electric systems.

One of the Perry licensees, Ohio Edison Co., has petitioned NRC to waive the wheeling requirement as to itself. The company is currently providing wheeling to its municipal customers. Ohio Edison asserts that the NRC's antitrust concerns were based on the assumption that nuclear power would be "too cheap to meter," a presumption that has not proven true.

Ohio Edison and the affected municipalities are currently in settlement negotiations concerning the case.

This is an ongoing contested, adjudicatory proceeding before a regulatory agency. Congress occasionally directs the result of agency determination in noncontested matters. Only rarely does it legislate the decision in a contested case. Generally, this would only occur as the result of a policy initiative that has had the full benefits of hearings and committee consideration.

Here with this amendment, we would be gratuitiously interfering with agency adjudication. This is a matter committed to the NRC. Without expressing any opinion as to the merits of the controversy, why don't we let the NRC decide as they are suppose to do?

Frankly, we have spoken to the NRC, and they say the result is OK. Where the result is OK and where the Senator from Ohio wants that result, and the NRC does not object, I do not think we should let the precedent of this matter interfere. This should not be a precedent in further cases. Therefore, we will not object.

Mr. McCLURE. Mr. President, I find myself in kind of an awkward position here, because, frankly, I do not like the amendment. I am not certain that I dislike it enough to take the time of the Senate and cause the difficulties that would come if we contested the amendment. We would have to go through the effort of contesting the amendment and taking the time to do so. But I am troubled not just with the precedent.

I have been told that it is quite likely that this amendment may accomplish what NRC probably would have done in the absence of the amendment. But I am concerned about two things.

First, I do not want any implication that I approve the result, because I am not at all certain that this Senator approves the result. This deals with some questions that really ought to be litigated between parties, some of whom have already made an application before the NRC to have their rights protected in the NRC. We are short-circuiting that process, in which the people would have the opportunity, in an open forum, to present their views, present their case, and seek a resolution of it. What we are doing, instead of allowing that process to be done in the open processes before the NRC, is to step in by legislation and mandate the final result.

As I said, this very well might be what NRC would ultimately decide to do; but all the parties would have had their say in court; they would have had their opportunity to present the issue; they would have had their opportunity to debate the issues. They would have had an opportunity to have a reasoned resolution of the issues by the tribunal which we have established by law to handle those kinds of issues. There are some issues involved here.

So, to say that if we accept the amendment offered by the distinguished Senator from Ohio, we can well say this is a precedent—I would certainly wish to say that, but for the Senator from Idaho it is not a precedent. As a matter of fact, I do not like the result, or at least I am not sure I like the result. I certainly do not like the process of trying to mandate a result before the parties have had their opportunity and their day in court.

I think it is bad for us to do that, and I am more than a little bit concerned about the form of the final resolution, because I think there are some questions with respect to whether or not this is the proper resolution.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Kentucky.

Mr. FORD. Mr. President, I state on the RECORD that this Senator will not consider this as a precedent in making his decision as it relates to this subject matter in the future.

I have very, very serious reservations about the procedure here. I agree with my distinguished friend. The distinguished Senator from Louisiana said we are concerned about the precedent. It would be my judgment that this amendment could be laid out there.

If the official result is not as the Senator from Ohio wants under this amendment, then he can come back at some later date and say to his people "This is what I am going to do if the NRC does not rule as we want them to under this particular amendment."

That would be one suggestion I might have, but we are getting into an area here that we have argued a long time and the distinguished Senator from Idaho and I spent sleepless nights here trying to work out something as it related to wheeling. Here now we are saying to NRC we are going to abandon or reduce wheeling or whatever, and it is a problem I wish would not have to be made on this bill.

I yield to my friend and distinguished chairman and ask what he prefers in this particular case because he has a lot of weight with his responsibility and if his decision is approve it, then fine.

But I think we have an opportunity here to not do this subject to NRC's making the kind of judgment with the pressures being applied by the distinguished Senator from Ohio. That pressure is out there. It can be done. If NRC does not do it, then he has a right to come back and say, "They did not protect my people and I want to do something about it."

Now, the procedure is going to be eliminated, and I am worried about the procedure in the future.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I think there is a real desire to accommodate the Senator from Ohio on this committee. He is a good friend, and he is a valued member of the committee

But two of my colleagues now have spoken rather strongly on this, and the NRC has indicated that they have no intention of approving this application.

With this record having been made and with our strong intention stated to help the Senator just in case the action of NRC is not successful, I wonder if the Senator would consider withholding the amendment on this bill with the understanding that the committee will help him later on in case the NRC does not.

Mr. METZENBAUM. Might I make a countersuggestion to my friend who is a chairman of the committee and the ranking member? I would like to ask whether he would be willing to accept the amendment between now and the time the matter gets to the conference committee, and I will assume there will be a conference committee, that I perhaps may be in a position to obtain some confirmation from the NRC as to how they intend to dispose of the pending matter, and if I am concerned, and I am frank to say to the Senator I am concerned, about highly escalating rates in the northern Ohio sector. I am concerned further that there was a commitment made originally by the powerplant, and I am suggesting that he take the amendment and let me see if we cannot get some confirmation from the NRC.

The Senator just indicated that the NRC has stated to him that they do not intend to approve the application.

Mr. JOHNSTON. Not to me, but to staff.

Mr. METZENBAUM. To staff. That is even better, and that being the case, perhaps I can get them to confirm it to a Senator as well, that being me, and under those circumstances I wonder if we cannot work it out.

If the Senator will accept it and see if I can get that confirmation.

Mr. JOHNSTON. Mr. President, I am advised that this has the status of a strong rumor and not an actual statement.

Mr. McCLURE. Mr. President, if the Senator will yield, I guess the major reservation I would have with this suggestion the Senator from Ohio has made is that oftentimes when there is action pending in the Congress, particularly if it is passed in a committee or in one body of the Congress, an administrative agency will suspend any further proceedings with respect to the applications that are before it. I do not think that is what the Senator from Ohio is suggesting either.

Mr. METZENBAUM. No, just the opposite. I am suggesting that they move forward with dispatch.

Mr. McCLURE. I am not certain how we best get that accomplished because if we passed an amendment they may very well stop proceedings rather than speeding up.

Mr. METZENBAUM. I have a hunch that somehow they are monitoring what is going on on the floor here since it is not a private meeting since it is a matter concerning them and certainly the CONGRESSIONAL RECORD will speak to the debate, and I am saying here and now that if we can get confirmation, whether it is a final decision or not, that they do not intend to approve the application, I will join with the managers of the bill in urging that it be deleted in conference.

Mr. JOHNSTON. Mr. President, I think I probably misspoke myself earlier by stating as a fact that we had such confirmation from the NRC.

Staff advises me that it is more in the nature of a judgment and rumors rather than confirmation because indeed in a pending case they simply will not tell you what they are going to do.

They have not told my staff, my staff has now advised me, and they would not tell even us. We can pretty well figure out what they are going to do. I would not want to make the withdrawal of the amendment dependent on getting the NRC to say what they are going to do in a pending case because they will not tell us.

Mr. METZENBAUM. Does the manager of the bill have any idea as to when the NRC will be acting?

Mr. JOHNSTON. The staff does not know.

Mr. METZENBAUM. In a matter of this kind would it be within a week, a month, or a year?

Mr. JOHNSTON. I do not know.

Mr. McCLURE. I wonder if the Senator from Ohio could accommodate us to this extent and that would be to withdraw the amendment with the right to offer it again before we conclude the consideration of this bill on the floor, and that will give us until sometime tomorrow to perhaps run a check.

Mr. METZENBAUM. That is all right.

Under those circumstances, I am certainly pleased to be accommodating. The Senator is trying to accommodate me. I will withdraw the amendment with the understanding that I will be protected to offer the amendment at a later point.

Mr. McCLURE. I thank the Senator.

Mr. METZENBAUM. I thank the Senator.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 1465

Mr. JOHNSTON. Mr. President, the pending amendment, which is amendment 1465, puts back into the bill that portion dealing with charges for the use of foreign uranium which were taken out of the bill in order to satisfy the jurisdictional objections of the Finance Committee.

What it does is it creates a schedule of charges for the use of foreign uranium in domestic reactors not for the importation but for the use of the foreign uranium. Charges are incurred for the use of foreign uranium in excess of 37½ percent. In other words, the first 37½ percent of enriched uranium may be used in reactors without a charge, and above the 37½ percent there is a sliding fee depending upon the percentage of foreign uranium to be used.

Most of the existing contracts for the use of foreign uranium are grandfathered and the 37½-percent exemption is valid until 1994 and it is 50 percent thereafter. The charges expire in 2001. It creates rules for what we call flag-swapping between different lots of uranium and that is where uranium is foreign owned but may not physically move. So it is a complicated system that is dealt with under what we call flag-swapping.

It deletes section 161v of the Atomic Energy Act which limits enrichment of foreign uranium. That is the provision I referred to earlier that requires that we maintain a viable domestic uranium mining industry. And that provision, of course, 161v, is presently in litigation.

So, Mr. President, I think that adequately explains the amendment.

Mr. President, for the benefit of Senators, I think the following is a plan that the Senator from Idaho, Mr. McCLURE, and I would like to follow. Senator McCLURE would like to make a brief speech, maybe 10 minutes, on the pending amendment. Then we would like to put the matter over until tomorrow, subject, of course, to the majority leader's concurrence, and perhaps in the meantime lay down the Bradley-Evans amendment which has a 3-hour time agreement and start that in the morning about 9:30.

If we could do that, that would mean we would have not votes on this bill tonight and would start afresh on the Bradley-Evans amendment tomorrow.

Mr. EVANS. Mr. President, has the Domenici amendment been laid down?

Mr. McCLURE. Amendment No. 1465 has been laid down.

Mr. EVANS. The Senator from Idaho would like to make a brief speech on the opening of that.

We can lay down the amendment tonight if you wish. We were going to wait until some of the debate had occurred on behalf of the Domenici amendment or amendment 1465, but it does not make very much difference as far as we are concerned as to when we lay it down.

Mr. JOHNSTON. If the Senator would yield, I think that, frankly, all of the debate could occur on the Bradley-Evans amendment tomorrow and there are 3 hours provided on that.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. McCLURE. I am trying to ascertain now whether the Senator from New Mexico also wants to make a statement on it tonight.

Mr. EVANS. That would be perfectly all right.

Would the Senator from Louisiana like us to lay down our amendment at this time or wait?

Mr. JOHNSTON. Perhaps if we could ask that you lay it down at the end of such debate as we would have tonight, so we could start afresh on it tomorrow.

Mr. EVANS. Assuming that the debate and action would not be extensive.

Mr. JOHNSTON. Of course, there is a time agreement anyway.

Mr. BRADLEY. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. BRADLEY. So it would be your intention to discuss the Domenici amendment that is now pending, time would expire on that, and the amendment of the Senator from Washington and the Senator from New Jersey would be laid down and debate on that would occur tomorrow?

Mr. JOHNSTON. Yes, that would be our desire.

Mr. BRADLEY. That is fine.

Mr. EVANS. That is fine.

Mr. JOHNSTON. We have sent for the majority leader. If he blesses our agreement, we can tell Senators there will be no further votes tonight.

Mr. McCLURE. But he has not yet done so.

Mr. JOHNSTON. That is right; he has not yet done so.

I yield the floor.

Mr. McCLURE. Mr. President, I want to speak very briefly with respect to the pending amendment and recognize that this is only the opening salvo in the longer debate which will occur when the Evans-Bradley amendment is offered.

We have in this Nation a uranium industry that is down for the final count. Not only has production plummeted by over 75 percent in the last 5 years, but the Secretary of Energy has declared this industry to be "nonviable" for the last 3 years.

But because the Secretary was not responsive in carrying out the statutory requirements of 161(v) of the Atomic Energy Act—dealing with restrictions on the enrichment of foreign uranium—the miners have sought relief in the courts. Their case was upheld in the 10th Circuit Court of Appeals, and is now pending before the Supreme Court. If the miners win in this final round, the Department will be forced to restrict its enrichment of foreign uranium, and this may bring down the entire enrichment enterprise, and the uranium industry along with it.

If, on the other hand, the miners lose in this final round, then they will surely become an extinct industry.

Neither outcome is acceptable to me, nor to the Committee on Energy and Natural Resources, and hence we offer an alternative that is embodied in amendment No. 1465. This amendment would repeal section 161(v), and replace it with a more acceptable and effective mechanism for sustaining a viable domestic uranium industry. It does so by discouraging the use of foreign uranium in domestic nuclear power plants via the imposition of a sliding scale of fees on excess amounts of foreign uranium. The restrictions do not place an undue hardship on our foreign customers, simply because the level of restrictions reflects current import levels. Furthermore, current contracts are grandfathered, and the restrictions are lowered in 1995 and totally phased out by the year 2000. It is assumed that by that time the domestic industry will have had adequate opportunity to recover the ground it has lost so badly and unfairly over the last 5 to 10 years.

Now, there are some critics of this amendment that will argue that we ought to let the free market decide the fate of this industry. To those people I would reply that the so-called free market does not, in fact, exist, especially with respect to some of our so-called friendly foreign suppliers whose industry is cleverly and indirectly supported by their governments.

Second, I would remind my colleagues that if, in fact, we lose our uranium industry through natural attrition, we should not assume that our energy security, let alone our national security, would remain secure in the hands of friendly trading partners. These friendly partners would not, as a matter of policy, supply our military needs with respect to uranium. And those friendly partners would not, as a matter of policy, fulfill our commercial market needs if such exports severely stressed their ability to meet their own domestic requirements.

So there are some very real, very necessary reasons to sustain a viable domestic uranium industry in this country, and I would hope my colleagues would support amendment No. 1465.

Before I leave this matter, I feel compelled to reconcile the approach of this amendment to the provisions of the upcoming, proposed United States/Canada Free Trade Agreement.

There are some who would say at the onset that the United States/Canada Free Trade Agreement is generally unfavorable to United States interests, especially in our energy and natural resources sectors. Even the Canadian's own chief trade negotiator, Simon Reisman, is quoted as saying "The trade covered by the items we eventually agreed to are close to three-to-one in favor of Canada. Our people were way ahead of them in terms of the analysis, the investigation, the facts, the methods, the procedures, the whole business. You would think that the United States was an underdeveloped country alongside us in terms of the way this negotiation went." But more importantly, our own National Governors' Association, as well as other knowledgeable, concerned parties, has recognized the clear fact that this agreement treats our uranium industry unfairly.

Rather than reject the uranium provisions of the agreement out of hand, we propose a compromise that is consistent with other provisions of the agreement, wherein a phaseout of restrictions is allowed over a period of time. We see this approach taken with respect to many commodities and practices covered under the agreement, including wine, customs duties, investment limitations, automobile embargoes, log export restraints, architects' professional qualifications, and certain tariffs. All we are asking is that this phased approach be extended to uranium. At the same time, our approach does repeal section 161(v) of the Atomic Energy Act, as the United States/Canadian Free Trade Agreement would require. So we are not very far off the track with our approach, and we are anxious to speak to this issue now, before the implementing language of the Free Trade Agreement comes forward, by which time it will be too late to speak out on this particular issue.

In conclusion, I would ask my colleagues to view our uranium usage requirements under amendment 1465 as being compatible with the intent of the United States/Canada Free Trade Agreement and vital to our energy and national security interests.

Mr. President, this is not the time to address the effects of the proposed Evans-Bradley amendment, but I do want to urge those Senators who will be cooperating in providing that amendment, do not try to create a win-win situation, in which 161(v) is repealed while getting the study that they envision. I would suggest to you that it is a perversion of what is intended here and I would hope that when we get around to debating that amendment, we will not have to debate also the question of repeal of 161(v).

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement, there are 2 hours provided for amendment 1465 and I think that that would have to be yielded back before the laying down of the Evans-Bradley amendment is in order.

I do not have any requests to speak on this side of the aisle on the amendment, myself. Of course, there would be ample time tomorrow on the Evans-Bradley amendments.

Does Senator DOMENICI wish to speak?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time did the Republican manager yield to the Senator from New Mexico, 10 minutes? That is all I want.

Mr. McCLURE. I yield 10 minutes.

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

Mr. DOMENICI. Mr. President, I am hoping that Senators who are concerned with some of America's trade policies in some of the areas where the U.S. Government has not protected some of the industries in this country, that those Senators who have looked at that will listen tonight and tomorrow to the debate on the amendment that is pending, the amendment called 1465 offered by the distinguished chairman of the committee and manager of the bill and Senator McCLURE of Idaho, and I joined them.

Essentially this is an amendment that we have been working on in the committee for more than 2 years now. I would like to give a little history of why this amendment is necessary and what has happened to the uranium industry of the United States over the past 6 or 7 years.

Let me start by saying I am going to leave out all of the early history of the Atomic Energy Commission, the monopoly that the U.S. Government quite properly had in all of these areas. I am going to jump forward to a point in time when we decided that we were going to move part of this industry into the private sector and pull the Government out as rapidly as we could.

What we did, we looked out there at the world and we said: You know, uranium is a pretty important commodity. As a matter of fact, we said, it is absolutely essential for our national security. As we look around now we could

add, today, an absolute essential to our energy independence.

But because it was not just any ordinary mining commodity or other commodity that we deal with foreign countries in an open market about and with regard to, we put a provision in the law that is very, very simple. It is the subject matter of this debate; a provision of the Atomic Energy Act that in essence said the following: The U.S. Government shall maintain a viable uranium industry.

We were really the world's producers of uranium. Early on, there was no concern about viability. As a matter of fact, it was truly the States of New Mexico, Wyoming, and a few others that produced uranium for America's early atomic history, American's early involvement in nuclear and atomic weapons and then the transition into atomic-powered plants and nuclear plants on the civilian side.

We had this statutory language simple and easy to understand: America shall maintain a viable uranium industry.

We began asking the Department of Energy about 6 years ago what is happening to the uranium industry in the United States? We have the Australians, the greatest off-again on-again producers of uranium in the world. They decide that they are going to be big players. Then they decide that they have policy issues with that, they are not so sure they want to supply uranium if it is going to be used for military purposes.

So they decide they are not quite sure that they want to be that big a player, but here they come beginning to sell their uranium here in the United States.

So we see kind of a lag in the nuclear industry in the United States and the American uranium industry is beginning to falter. We keep asking the Secretary of Energy year after year what about this provision: a viable American uranium industry? And just being honest with the U.S. Senate they decide that they do not care. They will not study it. They will not report on it. And we are watching hundreds and hundreds of employees being laid off, mines being closed; we are watching huge uranium investments that are there in order to supply uranium to the United States—we see them rendered for naught. They are there ready to mine and there is no uranium business to be had.

So we put a little amendment in that nobody objected to and it said: You cannot ignore this viability any longer. You have got to be honest and tell the Congress whether it is viable or not.

Lo and behold, once that is on the statute books we get a new Secretary of Energy. He is before our committee, the distinguished ranking member remembers it. We ask him only, as we confirm him, "Will you tell the truth about the uranium industry," and as he is confirmed or as we recommend his confirmation, he says "yes."

About 6 months later we get the first recognition by the Government of the United States that there is a statute around that says it is in our national interest to have a viable industry. They write a report and it says: "We have got to admit, as much as we would like to fudge, as much as we would like to not say what viability is, we really do not have a viable industry."

We got the report. It said: "America's uranium industry is dying."

Tomorrow, when we have a little more time, I will talk about our fine partners to the north, Canada, and what they are doing while all this is occurring because we are going to be hearing today: free trade, from those who would wipe out this amendment with their substitute tomorrow. We want the Senate to know what the Canadians are doing during that period of time as they begin to move into our market. But for now let us finish this very strange odyssey of a statute that says we are supposed to have an industry and an American Government that ignores it and does not care.

So, the report is forthcoming. We knew there was no viable industry. How did I know it? Five years ago we had 7,500 miners mining uranium. Today I think the number is less than 150. So the mining companies go to court and, lo and behold, the Department of Energy says: Why they will never win. After all, the Federal judges are not going to do anything about that. We have thumbed our noses at this industry and we are right, says the Department of Energy, we do not need an industry.

Even though our Government does not want to enforce the laws, we had that other third branch of Government, the courts, saying: It is as clear as the nose on your face that the statute says you have got to have an industry. So they say: "Stop importing uranium."

I want to say to the Senators that is not Senator DOMENICI's position. That is not the amendment that is before us, to stop importing uranium. But that is what the courts said because they saw no alternative.

The Department of Energy took it to the circuit court and said, "You just cannot tell us what to do." The circuit court said, "I am sorry. You are enjoined. You cannot import any more uranium because we do not have an American industry."

So they appealed to the U.S. Supreme Court.

If that is not enough insult, let me tell you what happened in the meantime. In the meantime I will tell you only the last part of the history of America and Canada and uranium.

Now, we begin negotiations on the so-called Canadian Free Trade Agreement. It is obvious to the Senator from New Mexico in all deference to our Trade Ambassador and our very good friend the Secretary of the Treasury, Jim Baker, it is obvious that they are negotiating with the Canadians and the Canadians are saying to our representatives, "Treat uranium like any other commodity in this agreement and wipe out that statute that says you are going to have a viable industry."

What do they do? They agree. They agree, even though they provided transition authority for other kinds of products.

I guess hindsight would tell me I should have expected it. The administration was reporting regularly that they were trying, desperately, to come up with a fair deal on uranium, but, frankly, since they did not care for all those months. The Canadians said, "We will always supply you with uranium. We do not only want your market; we want you to wipe out, in the Canadian Free Trade Agreement, this statute that protects your industry."

Yes, as my friend Senator MCCLURE has just said, they did that. Even while the case is pending in the United States Supreme Court, they did that in the Canadian Free Trade Agreement.

Now, Mr. President, I appreciate the support of the chairman of the committee and Senator MCCLURE, who have no production from uranium in their States. I appreciate his understanding and his support because I think it is predicated upon very good common sense and the wisdom of looking at what has happened to the United States when we grow dependent in areas of energy, and if you add the concern about national security you have the very profound remarks of the former chairman of the Energy Committee. As he said, we ought to provide some time for the American uranium industry to come back to life, to see if it can survive. That is what we do in our amendment.

We have a 12-year transition period when we say to the Canadians, "You can continue to export to our country. You just cannot own the whole market."

To the Australians who have part of our market, "You can continue and you can sell more."

But we have set some reasonable limits on how much they can send into our country unless they want to pay a penalty. This will permit, during this transition period, the American uranium industry to come back to life from an absolute moribund condition caused by two things. Not what the administration tells us, not what the Canadians tell us, but two things: an ab-

solute arbitrary neglect of the law by our own Government and, second, a Canadian uranium industry that has built itself up with subsidies and protections so as to reach a point in time now when they can put us all out of business. They would sit here and say it is because they have such a superior product.

We would say to them, "Of course, while we refuse to do anything, you have built the base of your industry with subsidies and protection."

As a matter of fact, they have not even answered the question about how they have a full community surviving on the site of a uranium mine that has lower-yield uranium than those low-yield mines in America. These are mines that the Canadians laugh at us about and say they ought to be closed. They will not even tell us why theirs are still open.

We think we know why: Because they have built a protective mechanism under theirs by requiring long-term contracts for their own power industry, and when they do that they build a base of support and they will stay in business. Then they can export the excess.

Mr. President, all we are asking here is that you not wipe out that little bit of protection requiring viability and that you give us 12 years of transition in the uranium business so that we at the turn of the century can stand side by side with the Canadians. If they can beat us then and if we do not need our industry, we will say OK. But for now it seems to me what we are asking for is fair. We will explain it in more detail tomorrow as we proceed with this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, is the Senator from Idaho ready to yield back the remainder of his time?

Mr. McCLURE. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. The Senator from Idaho has 45 minutes, and the Senator from Louisiana has 27 minutes.

Mr. McCLURE. Mr. President, I know of no other Senators seeking an opportunity to speak on the pending amendment. Therefore, I am prepared to yield back the remainder of my time on this amendment.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The Senator from Washington.

AMENDMENT NO. 1914

(Purpose: To replace the domestic usage requirements in amendment No. 1465 (to S. 2097) with an investigation by the Secretary of Commerce on the impact of imports of uranium on national security under section 232 of the Trade Expansion Act of 1962)

Mr. EVANS. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BRADLEY, and Mr. PACKWOOD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself, Mr. BRADLEY, and Mr. PACKWOOD, proposes an amendment numbered 1914.

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

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

The amendment is as follows:

Strike sections 111 through 119 in the amendment (from page 3, line 6 through page 10, line 10), and insert in lieu thereof the following:

Section 111: (a) Congress finds that—

(1) there is a possibility that the national security interest of the United States is being impaired by the current level of imports of source material from major uranium producing countries;

(2) section 170(B)(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(B)(e)) requires the Secretary of Energy to request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, if imports of source material exceed 37.5 percent of actual or projected domestic uranium requirements for any two-year period; and

(3) the most recent data from the Energy Information Administration indicate that imports of source material as a percentage of domestic utility requirements for calendar years 1985 and 1986 were 34.4 percent and 43.8 percent, respectively, and are projected to be 29.8 percent in 1987.

(b) It is the sense of the Congress that the Secretary of Energy should request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962 with respect to source material as expeditiously as possible.

(c) In addition to the factors described in section 232(c) of the Trade Expansion Act of 1962, as amended, the Secretary of Commerce should give equal consideration in the investigation described in subsection (b) to—

(1) the current and projected levels of inventories maintained within the jurisdiction of the United States;

(2) the surge production capability of U.S. uranium producers in the event of a national emergency;

(3) the security treaties and other defense-related agreements between the United States and each major producing country; and

(4) the economic security interests of the United States in the maintenance of an open trading system, including any free trade agreement negotiated pursuant to section 102 of the Trade Act of 1974, as amended;

(d) By no later than May 1, 1988, the Secretary of Commerce should submit to the President under section 232(b) of the Trade Expansion Act of 1962 the report and recommendations of the Secretary of Commerce regarding the investigation described in subsection (b).

(e) By no later than May 15, 1988, the President shall submit such report and its recommendations, and his determination to take (or not to take) any action to adjust the level of imports based on such recommendations, to the Committees on Finance and Energy and Natural Resources in the Senate, and Committees on Interior and Insular Affairs, Energy and Commerce, and Ways and Means in the House of Representatives.

(f) For purposes of this section, the term "source material" has the meaning given to such term by section 11(2) of the Atomic Energy Act of 1954.

The PRESIDING OFFICER. Under the unanimous-consent agreement, there is a time limitation of 3 hours to be equally divided on this amendment.

Mr. EVANS. Mr. President, it is my understanding that the managers of the bill wish this amendment to be the first order of business in the morning. We will be prepared to go immediately to debate on this amendment with the opening of business in the morning, if that is the wish of the managers of the bill.

Mr. JOHNSTON. Mr. President, that is our wish.

We are sending a message to the majority leader right now to get his concurrence. If Senators do not desire to speak at this time, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, I say to the majority leader that the status of the bill now is that there is one second-degree amendment pending on which there is a 3-hour time limit, and the disposition of Senators to come in at 9:30 on that unless the majority leader would like another time.

There is one other possibility of a very quick Metzenbaum amendment, and then we would go right to third reading. So that is the present status.

Mr. BYRD. Mr. President, as I understand the distinguished manager of the bill, Mr. JOHNSTON, the pending amendment before the Senate is the Evans-Bradley second-degree amendment.

Mr. JOHNSTON. The Senator is correct.

Mr. BYRD. To the pending Johnston amendment.

Mr. JOHNSTON. The Senator is correct.

Mr. BYRD. It is the proposition by the distinguished manager that the Senate go out tonight and start on the pending question at 9:30 tomorrow morning?

Mr. JOHNSTON. That is correct.

Mr. BYRD. Very well. I thank both managers. I think they have done a good piece of work today.

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.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

Mr. SIMPSON. Mr. President, I rise today to lend my strong support to the bill currently before the Senate, the "Uranium Revitalization, Tailings Reclamation, and Enrichment Act." And before I go further, Mr. President, I should like to pay a special note of appreciation at the outset to my good friend, PETE DOMENICI. His efforts on behalf of this legislation over the many years he has labored have been untiring. He has fought the battle in the trenches with perseverance and commitment, when at times the odds have been overwhelming—and I truly admire his efforts. Indeed, I am most pleased, Mr. President, to have been an original cosponsor of this legislation when it was first introduced in the 99th Congress, as well as when it was reintroduced early in this Congress, and to be able to support this legislation without reservation or hesitation today.

I also should like to express my gratitude to WENDELL FORD, JIM MCCLURE, and BENNETT JOHNSTON for their efforts in bringing this comprehensive legislative proposal through the Energy Committee and before the full Senate today. They have all done yeoman's work, at a time when their agendas have been filled with other legislative initiatives—and I appreciate their commitment to addressing the myriad issues facing our uranium industry and the nuclear fuel cycle today. Their support of this legislation reflects the truly bipartisan commitment to addressing this most critical issue.

This bill represents the culmination of 6 years of legislative effort to fashion a sound, sensible, and well-balanced program to address the challenges that we face today in the uranium industry and the nuclear fuel cycle, and to ensure that we have a healthy, competitive uranium mining and enrichment industry. This effort began in the Senate exactly 6 years ago this March 30—when we passed a provision that addressed the worsening situation in the uranium industry and that led to a statutory requirement that the administration report annually on the health of the domestic uranium industry, a provision included in the 1982-83 Nuclear Regulatory Commission authorization.

That statutory requirement led to a series of annual reports from the administration, culminating in consecutive reports for the past 3 years that have concluded that our domestic uranium industry is not viable. Indeed, Mr. President, I witnessed that situation in the most immediate and painful way—my home State, the State of Wyoming, which has been either first or second in the production of yellow cake, was wracked by the closing of mines and mills and the decline of employment from nearly 5,500 to less than 500 today, as subsidized foreign competition and skyrocketing domestic regulatory requirements dealt a "one-two" punch to an industry that is of critical importance to this country.

Following the nonviability findings, as the statute requires, the focus shifted to consideration of the remedies necessary and appropriate to implement the statutory requirement of section 161(v) of the Atomic Energy Act that we maintain a viable domestic uranium industry in this country.

Unfortunately, Mr. President, no response was forthcoming. None at all. Notwithstanding the critical importance of the uranium industry to our national security and energy security, as well as the clear and unambiguous statutory requirement that we maintain a healthy industry, the statutory requirement was simply violated with impunity and our domestic industry ignored. Because of that failure to respond, Mr. President, the uranium producers, after lengthy and time-consuming efforts to persuade the Department of Energy to take the statutorily required action, were forced as a last resort to seek relief through the courts.

And the courts have now found that the statute requires the maintenance of a healthy domestic industry, with the Federal district court and the court of appeals both ruling that the language of the statute is clear and unequivocal—in well-reasoned decisions that the Government, in one last gasp, is now seeking to overturn in the Supreme Court.

It is most unfortunate, Mr. President, that we did not all join together 3 or 4 years ago to address the undeniable problems facing the nuclear fuel cycle and the uranium industry and to provide the kind of relief that the statute requires.

We have a unique opportunity today, though, Mr. President to address at one time and in a comprehensive manner the issues that have festered for years—and that have now grown to immense proportions and pose immediate problems.

The legislation before us represents a carefully crafted, well balanced program to address these issues—to put our enrichment and uranium industries on a steady and certain path to recovery and, most importantly, to solve the entire range of problems once and for all, so that we need not legislate on this issue on an ad hoc, annual basis as we have done in the past.

The provisions in this bill have been described in thorough detail already by the floor managers, and I will not go into the specifics at this point. Before I conclude, though, Mr. President, I would like to comment on one issue in particular that the Senate will be asked to address as we proceed with the consideration of this legislation: at some point, an amendment will be offered by the leadership of the Energy Committee to restore the title 1 provisions of this bill that were reported from the Energy Committee but deleted as a result of jurisdictional objections. This amendment, which will address the issue of uranium imports and provide for a phase out of the statutory authority in section 161(v) of the Atomic Energy Act, is an essential part of this legislation—and I intend to support it wholeheartedly, and will urge my colleagues to do likewise. I will speak more at that time, Mr. President, about this issue. I thank the floor managers for yielding to me, Mr. President, and I yield the floor.

Mr. WALLOP. Mr. President, since 1973, the United States has been a country in search of an energy policy. As the world's largest producer, consumer and importer of energy, we were in desperate need of a coherent energy program. It was the OPEC challenge which finally triggered the search for a policy. However, this search has often been comical and confusing. It reached the height of folly with the passage of the National Energy Act in 1978. The purpose of this legislation was designed to protect American energy consumers from the OPEC energy cartel by discouraging American energy producers from expanding domestic production. In other words, the Congress was as effective in designing an energy policy as it now is in designing our foreign policy.

Despite the Federal laws and regulations, the American energy producers survived. In fact, we were able to find new energy reserves which presented a severe challenge to OPEC. The response has been to artificially reduce the price of oil, and crush our domestic oil producing capacity. Today, the oil industry is barely hanging on. That is one reason why I recently sponsored the Oil and Natural Gas Incentive

Equalization Act with Senator DOMENICI. That legislation would reinstate various tax incentives for energy exploration and development.

The legislation we are debating today is another aspect of our search for an energy policy. The Uranium Revitalization Act would affirm, once again, that the United States must have an uranium industry. This issue should have been settled by the Atomic Energy Act which recognized the uranium production industry as vital to our Nation's security. That act also led to the development of nuclear reactors as an energy source for powerplants. During the sixties and seventies the prediction was that nuclear energy was the resource of the future for generating electricity. After OPEC escalated the price of oil, the nuclear power industry was viewed as a major source of our future energy needs. Some argued that we would have 1,000 nuclear powerplants by the 1990's. The future of nuclear power was bright indeed.

The 1980's has been a bracing awakening for the nuclear power industry. For a variety of factors, the development of nuclear power has stalled. New plant orders have been canceled. And, what is worse for the future of the industry, mining and milling operations have virtually ceased. The problems of the industry are easily explained, but difficult to remedy.

Industry has been victimized by its own optimism. As the demand for electric energy appeared to expand on its ascending curve of 7-percent annual growth, the exploration and development of uranium stock also continued. The price for uranium exploded in the late seventies. At the same time, actual electrical power generating needs were beginning to grow in an erratic fashion. Our energy needs for the rest of this country were clearly lower than the predictions of the 1970's.

Another blow to the industry was Three Mile Island. The hysterical antinuclear campaign that erupted after the accident has virtually eliminated any rational discussion of the pros and cons of building a nuclear powerplant. And, building a powerplant has become a never-ending project. A 12-year time span for building a plant would be the norm today because of regulatory requirements. Any other type of powerplant could be built in one-third to one-half that timeframe.

The industry has been plagued by misfortune, misinformation, and miscalculation. The question arises as to whether it matters. Do we need a uranium industry? Are nuclear powerplants important to our future? For anyone concerned about our energy future, the answer to both questions is an unequivocal "Yes."

These questions were actually answered decades ago when we passed the Atomic Energy Act. That legislation includes the requirement that the uranium industry shall be maintained as a viable industry. The Congress has mandated that this industry must survive. The process is simple. The Department of Energy is required to determine annually whether the uranium mining industry is viable. If the determination is that the industry is nonviable, the solution is clear. No foreign uranium may be enriched by U.S. facilities for use in domestic powerplants. This is the so-called section 161(v) remedy.

This is a very straightforward remedy. By 1985, it was clear that the uranium industry was on a nonviable course. The collapse of commodity prices in the early eighties included a plunge in the price of uranium. At the same time, subsidized foreign production was flowing into the U.S. market. The Department of Energy dragged its feet on following the statutory requirements. Finally, legal action by the uranium producers forced the Department to make a viability determination. Not surprisingly, every determination in the past few years has been that the industry is nonviable.

Despite the rulings, no further action has been taken by the Department to ensure viability. The uranium producers sued in Federal court to force the Department to administer the law. The industry has won at every step in the process. Though several Senators, including myself, urged the Department not to continue to appeal, the case is now before the Supreme Court. Arguments may occur next month, and a decision is possible this summer. It is likely that the Supreme Court will uphold the lower courts, and require the Department to implement section 161(v).

This remedy at one time would have been an absolute solution. The U.S. Government did have a complete monopoly on uranium enrichment services. However, several European companies now provide enrichment services. About 10 percent of the United States domestic nuclear power enrichment requirements are provided by the Europeans. Thus, while 161(v) requires a 100-percent ban on enrichment of foreign ore, a small amount of foreign ore could still be used by domestic powerplants. However, the ban would be effective, since 90 percent of the ore used in powerplants would have to come from domestic production.

Those of us in the Senate who represent uranium mining States know that there is a more sensible approach to ensuring the viability of our uranium industry than this draconian fiat. Our solution is the Uranium Revitalization Act.

My colleagues who have cosponsored this bill have ably described the three major provisions of the bill. It is a coherent package that will preserve the nuclear option for our future energy needs. For instance, title III restructures and strengthens the U.S. enrichment industry. We need to modernize the facilities, and get the operation out of the bureaucratic Department of Energy. The program would become a free-standing government corporation off-budget. This title also resolves the key issue of debt owed for past enrichment services. This is a very complicated issue which has been obscured by erroneous accusations about the debt. My colleague from New Mexico, PETE DOMENICI, has done an incredible job of correctly analyzing the debt issue. The conclusion is that the owed debt is $364 million; and, it appears that the administration finally is convinced by the logic of our argument, and will accept our solution.

I just wish the administration would be as sensible on title I. This title is the heart of the matter. It would replace the 161(v) sanction. In its place, a fee charge would be applied to domestic utilities which use foreign ore in excess of a fixed percent of their total ore use. Rather than banning at the minimum 90 percent of foreign ore use, the utilities could rely on 37½ percent of foreign ore for their total ore needs. A sliding scale of charges would apply to foreign ore in excess of that amount. After 1994, utilities could use up to 50 percent foreign uranium before a fee is imposed. And, the fee would terminate after the year 2000. At the same time, the section 161(v) language would be repealed.

It is a simple, fair, and effective concept. It does not ban the use of foreign uranium, nor does the charge apply to all foreign ore. It is a much better deal for the utilities and foreign producers than exists under current law. And, our producers are confident that this phased-out program would enable them to stay on their feet and actively compete in the world market.

There is one last obstacle we face. It is the United States-Canadian Free Trade Agreement. This agreement is not law, and its approval is not assured. However, the administration and the Canadians argue that our phased-out fee program would violate the letter and the spirit of the agreement. This argument ignores the fact that the agreement does nothing about the subsidies which the Canadian Government has provided to its Government-owned uranium producers. It ignores the provisions in the agreement which provide a phase-out of other trade requirements over the same time period as the life of the title I fees. And, their arguments ignore the recent action by the Canadians to provide protection to their textile industry which is a blatant action in violation of the letter and spirit of the agreement.

This matter will not be resolved until we act on both the Uranium Revitalization Act and the Free Trade Agreement. Now is the time to proceed. I would urge the Senate to approve this legislation with the title I language.

Mr. SASSER. Mr. President, I would like to clarify, if I may, one point concerning S. 2097 with the floor manager, the Senator from Louisiana. I am concerned about the interpretation of section 1505(a)(1). I want to clarify that merely because the "facilities, real estate, improvements, and equipment related to the Oak Ridge K-25 plant in Oak Ridge, TN" are not being transferred to the new enrichment corporation, but are being retained in the ownership of the Department of Energy, that this in no way prejudices Oak Ridge in its competition for the AVLIS [atomic vapor isotope separation] technology, when and if it becomes available.

Mr. JOHNSTON. That is correct. Nothing in S. 2097 in any way prejudices Oak Ridge in its efforts to secure the AVLIS technology, when and if it is deployed.

SENATE JOINT RESOLUTION 282—PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. BYRD. Mr. President, I send to the desk a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

The joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections.

Mr. BYRD. Mr. President, I ask that the joint resolution be read the second time.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Is there objection? There is an objection. The resolution will be laid over 1 legislative day and will be read the second time.

ADJOURNMENT FOR 1 SECOND

Mr. BYRD. Mr. President. I ask unanimous consent that the Senate stand in adjournment for 1 second.

The PRESIDING OFFICER. Is there objection?

There being no objection, at 6:47 p.m., on Tuesday, March 29, 1988, the Senate adjourned until 6:47 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, MARCH 29, 1988

The Senate met at 6:47 p.m., pursuant to adjournment, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

THE JOURNAL

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

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

TIME OF LEADERSHIP VITIATED

Mr. BYRD. Mr. President, I ask unanimous consent that the time for the two leaders under the standing order be vitiated.

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

NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE

Mr. BYRD. Mr. President, I ask unanimous consent that no motions or resolutions over under the rule come over.

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

CALL OF CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that the call of the calendar be waived.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be 1 minute for morning business.

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

BILL HELD AT DESK—H.R. 2819

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 2819, a bill for the relief of Tracey McFarlane, be held at the desk until the close of business on Thursday, March 31.

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

BILL PLACED ON CALENDAR—H.R. 3971

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3971, a bill to implement the Convention on the Civil Aspects of International Child Abduction be placed on the calendar.

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

INJUNCTION OF SECRECY

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the treaty with Belgium on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 100-16), transmitted to the Senate today by the President; that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 28, 1988. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter more effectively criminal activities. The Treaty should be an effective tool to prosecute a wide variety of modern criminals including members of drug cartels, "white-collar criminals," and terrorists. The Treaty is self-executing and utilizes existing statutory authority.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures; (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing, and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *March 29, 1988.*

SENATE JOINT RESOLUTION 282—PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

Mr. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Senate Joint Resolution 282 will be read a second time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional, and Presidential elections.

Mr. SIMPSON. Mr. President, I object to any further proceedings on that measure.

The PRESIDING OFFICER. Objection is heard. The joint resolution will go on the calendar pursuant to rule XIV.

BICENTENNIAL MINUTE

MARCH 12, 1959: PAINTINGS OF THE FIVE GREATEST SENATORS

Mr. DOLE. Mr. President, just 29 years ago this month, on March 12, 1959, the Senate dedicated the five porthole paintings of our "greatest" senators, that adorn the Reception Room outside this Chamber.

In part we have a 19th century painter, Constantino Brumidi, to thank for this more recent addition to the Capitol's artwork. Brumidi painted many of our rooms, particularly in the Rotunda and in the Senate wing, but because he did not want to monopolize the history portrayed in the Capitol, he left spaces to be filled in later. For instance, in the Brumidi Corridor that runs below this Chamber are recent medallion portraits of the landing of the first Americans on the moon, and a tribute to the crew of the *Challenger.*

When senators meet their visitors in the Senate Reception Room, they can view one of Brumidi's more elaborate efforts in decorating the walls and ceiling. In that room, Brumidi left 12 vacant "portholes," oval size areas, for future additions. In 1957, the Senate appointed a committee chaired by Senator John F. Kennedy, who had recently won a Pulitzer Prize for his book, "Profile in Courage," about courageous senators in our history. Kennedy's committee was assigned to choose the five greatest United States senators, to fill the lower five portholes.

Kennedy's committee had little trouble selecting the first three senators. Both the senators and their historical advisory committee unanimously chose the "great triumverate," Henry Clay, Daniel Webster, and John C. Calhoun. They had far greater trouble selecting the final three. The historians they polled selected George Norris, a Nebraska Republican, but Norris was still too controversial a figure to satisfy everyone on the committee. After much deliberation the committee chose Robert M. La Follette, Sr. and Robert A. Taft, Sr. (both Republicans) for the remaining paintings.

HOSTILE TAKEOVERS FORCE A SHORT-TERM FOCUS

Mr. SANFORD. Mr. President, I rise to speak on an issue that has been of concern to many of us for some time, but that was only recently brought into focus by a recent article in the New York Times. It involves the short-term focus that companies are forced to take when they incur huge debt as a result of hostile takeovers.

The Times tells how Pacific Lumber, a successful California logging company with a reputation for generous policies toward its employees and the environment, was the target of a hostile takeover bid. The raiders, in this case the Maxxam Group, were successful.

In the course of taking over the company, the raiders took on a huge debt. To pay off that debt, they are now selling off the company's assets, and hundreds of acres of centuries-old virgin redwood forest are being clear-cut.

"They're just chewing up the environment," one former Pacific Lumber employee told the Times. "They're just leveling everything," said another. "They're destroying the future, leaving nothing for the next generation."

Some use harsher words and phrases. Some say the raiders are "* * * raping the land and dismembering the company," and that the resulting environmental damage may create "another Appalachia."

But the raiders aren't limiting their damage to the environment; they've struck at Pacific Lumber's pension plan as well. The Times tells us that plan had $90 million in assets when it was terminated after the takeover, and that Maxxam kept more than $50 million while using $37 million to buy annuities for the plan participants.

A lawyer representing some of Pacific Lumber's former employees says his clients feel "hopeless and helpless." Who can blame them?

Not all is gloom and doom in the old Pacific Lumber Co. towns of northern California. The Times mentions new pickup trucks and fat paychecks. So there is some new prosperity.

But we must wonder about the cost of that prosperity. The redwoods have lasted hundreds of years. By carefully managing the growth and harvest of those redwoods, the old Pacific Lumber Co. gave thousands of people good, steady jobs with good benefits.

Now that the redwoods are being clear-cut, and the pension plan has been raided, how long will the new pickups be around? How long will the fat paychecks continue? Are these raiders selling the family jewels for a night on the town?

The Pacific Lumber situation is one example of how Wall Street shenanigans can affect small town America, but it reminds me of another—Burlington Industries, the Nation's largest textile firm and widely regarded as a leader in the industry.

Mr. President, my colleagues have heard plenty from me about Burlington, and the attempt to take it over last spring. They probably know that attempt failed, but I want them to know that the Burlington employees and the communities they live in are still paying for that unsuccessful attempt.

Last summer Burlington had to lay off 525 people, and close its research and development wing. Other layoffs have followed. Those people and their families had their lives uprooted. Burlington, already battered by textiles and apparels imports, must now try to survive and compete without the research and development support it once had. That can hardly help American competitiveness.

Both Pacific Lumber and Burlington Industries are examples of why we need discipline on Wall Street. We need to remind corporate raiders that true profit lies in producing goods, not in playing high-risk, high-finance games that affect other people's lives and communities.

The time will come for the Senate to consider legislation to reform the Nation's corporate takeover laws. And when that time comes, I will ask my colleagues to remember the redwoods and the loggers and the logging communities of northern California, and the textile mills and textile workers and textile towns of North Carolina.

Mr. President, I ask unanimous consent that this New York Times story 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, Mar. 2, 1988]

THEY CUT REDWOODS FASTER TO CUT THE DEBT FASTER

(By Robert Lindsey)

SCOTIA, CALIF.—Thousands of redwood trees are being felled along California's wild northern coast in an environmental drama that is arousing high emotions and demonstrating how decisions on Wall Street can affect people, communities and natural resources far away.

The emotions have been stirred by the decision of a Houston financier, Charles E. Hurwitz, to double the rate of tree-cutting in the nation's largest privately owned virgin redwood forests. Mr. Hurwitz says the production increase is necessary to repay $795 million that his company, the Maxxam Group, borrowed in 1985 to buy the Pacific Lumber Company here.

Pacific Lumber, a venerable old California logging company that a 1951 Saturday Evening Post profile called "Paradise With a Waiting List," had a reputation for paternalistic policies toward employees and for harvesting timber at a pace slow enough to preserve its oldest stands of redwoods well into the 21st century.

Now, many residents here contend that trees are being cut so fast that both the region's environmental quality and its economy are in jeopardy. "To pay off this big debt, they're just chewing up the environment," said John Maurer, a former employee who quit to protest the new policies. "And they're taking out the cream, so there won't be anything left for the future."

COMPANY DEFENDS PRACTICES

But spokesmen for the company say the accelerated cutting is in line with common

industry practice and is not environmentally unsound. They say production can be sustained indefinitely under current plans.

The Pacific Lumber takeover is one of many financed by selling high-yield, high-risk corporate notes, through Drexel Burnham Lambert, specialists in what some people call "junk bonds."

And, as in many such takeovers, Maxxam sought to pay back what it borrowed by selling or otherwise making use of the purchased company's assets.

Maxxam, through its Pacific Lumber subsidiary, now owns 300 square miles of forest in one of the nation's most undeveloped regions, including vast stands of towering redwoods never before logged. The company is doubling its production by logging for the first time in this "old growth," which yield premium-priced lumber with few knots and more beautiful grains. And instead of cutting some trees, the company is felling all the trees in selected tracts.

Maxxam's harvesting of these trees, many over 1,000 years old, to satisfy debts incurred in a corporate takeover has been under increasing attack from environmentalists and local, state and Federal officials for more than a year. In recent weeks these critics have scored several victories.

LOGGERS SEE ANOTHER SIDE

Perhaps most notable is that many company loggers and sawmill workers, who once scorned environmentalists as "tree huggers," have joined protests against the increased harvest. "They're just leveling everything," said Greg Garibay, a 34-year-old Pacific Lumber power plant worker. "They're destroying the future, leaving nothing for the next generation."

Environmental groups won court decisions blocking harvests in several parcels. Two bills were introduced in the California Legislature to prohibit large logging companies from cutting more timber than they grow each year.

Meanwhile, the harvest uproar has focused new attention on the takeover of Pacific Lumber.

Lawyers for the Federal Trade Commission say they are reviewing evidence presented by two United States Representatives who said it showed that Maxxam and Mr. Hurwitz might have violated Federal antitrust law in the acquisition. Congressional investigators also say they have evidence of "irregularities" in Maxxam's termination of Pacific Lumber's pension plan.

Spokesmen for Mr. Hurwitz deny any illegalities or improprieties in the acquisition or in the pension plan's termination.

BIG PAYCHECKS, BIG WORRIES

They also deny that the harvesting practices are detrimental to the environment or to the future of the local economy. John A Campbell, a Pacific Lumber executive for several years who is now vice president and operations director here, says consultants have determined that if the company maintains its current policies for 20 years, its timberlands "will still support a substantial timber inventory of old-growth redwoods and Douglas fir." If production is then reduced, he says, there will be enough timber growth to sustain production indefinitely.

Here in Scotia and nearby logging communities, loggers and sawmill crew members are driving new pickup trucks and enjoying the biggest paychecks of their lives, with many working a 60-hour week to meet the new production schedules.

But many also worry the trees are being cut so rapidly that the region's natural resources will be depleted to form what several called "another Appalachia."

"Many people who have worked for Pacific Lumber for years feel hopeless and helpless," said William Bertain, a lawyer here who represents former Pacific Lumber shareholders fighting the increased harvest and the terms of the takeover. "They feel Maxxam is raping the land and dismembering the company."

CLEARING OF LARGE TRACKS

One worker, who said he did not want his name published because he feared company reprisal, said cathedral-like groves of old redwoods towering more than 300 feet high were being "mutilated." While Pacific Lumber's practice had been to harvest logs by selectively removing some trees and leaving others for re-seeding and later harvest, the practice is now to clear all trees from areas ranging from 40 acres to more than 500 acres.

"Clear-cutting is bad for the land," the worker said. "We get monsoons here eight months of the year; soil is drained off the land; but people are afraid to speak up how they feel. They're stuck here. They can't afford to move out."

But Mr. Campbell, the company executive, defends clear-cutting as a responsible, common forestry practice.

"Removing the old-growth redwood, which now grow little if at all," he told a recent legislative hearing, "will allow the land on which they stand to regenerate forests of faster-growing new trees; in addition, there will be massive replanting."

Despite such assurances, opponents of corporate takeovers financed through high-yield bonds are using the cutting of centuries-old redwoods as further ammunition.

"This is a very important example of the takeover and dismemberment of a good corporate citizen," said Representative John D. Dingell, Democrat of Michigan, chairman of the Energy and Commerce Subcommittee on Investigations and Oversight. "It is bad for employees and the economic health of the area."

OTHER LEGAL QUESTIONS

Mr. Dingell, a Michigan Democrat, is attacking the Pacific Lumber deal on another front. In a Jan. 28 letter to the Federal Trade Commission, he and the ranking Republican on the subcommittee, Thomas J. Bliley Jr. of Virginia, said Mr. Hurwitz may have violated a 1976 Federal antitrust law in the acquisition of Pacific Lumber.

They contend that Maxxam, along with an affiliated company, acquired more than $27 million in stock in Pacific Lumber before notifying the Federal Trade Commission that it was interested in the company as a takeover target; the 1976 law, according to spokesmen for the subcommittee, requires a company to notify the F.T.C. whenever it has acquired more than $15 million worth of another company's stock.

On another issue, subcommittee staff members said Friday that questions had been raised about Pacific Lumber's pension plan, which had $90 million in assets when it was terminated after the takeover.

Maxxam kept more than $50 million and used $37 million to buy annuities for the 2,861 plan participants.

HIGH-RISK ASSETS

Those policies were purchased from the Executive Life Insurance Company of Los Angeles, which has provided annuities to employees at several companies taken over with Drexel Burnham financing. According to investigators, that insurance company was chosen for the annuities contract despite missing a bidding deadline. And four Pacific Lumber Executives objected to Executive Life because a large proportion of its assets are in high-risk securities, among them a significant share of the bonds issued for Maxxam's takeover of Pacific Lumber.

Efforts were made to reach Mr. Hurwitz for his repsonse to these allegations, but a spokesman said he was not available. In a telephone interview, Howard Bressler, general counsel to Maxxam, said the company had complied "meticulously" with all applicable laws in the merger. He said there was nothing improper about the handling of the pension plan and that the beneficiaries are well protected.

But Mr. Dingell objected that no one represented the employees' interests in the annuity purchase. With the $50 million the company took out of the pension plan, he said, "the employees are being asked to finance the takeover and get none of the benefits of ownership—and unfortunately, this is not an isolated case."

AMERICA'S GUARD OF HONOR

Mr. SANFORD. Mr. President, yesterday the 1,500 men from the first and second battalions in the 504th Parachute Infantry Regiment of the 82d Airborne Division began returning home to Fort Bragg, NC. These men answered the call of the President to conduct military exercises in Honduras.

The 82d is "America's Guard of Honor." Gen. George S. Patton used those words to describe the division during its occupation duty in Berlin during World War II. While the merits of last week's exercises caused a great deal of debate here in the Congress, there can be no debate about the support these men have from every Member of Congress and every American. All of our service men and women are sworn to protect and defend the United States from hostile forces both domestic and foreign, but it is America's "Guard of Honor," the 82d Airborne Division, that is most often called the first to fight.

Mr. President, the personnel of Fort Bragg and Pope Air Force Base, NC, always do their utmost to perform in a professional and diligent manner but do not often enough hear words of thanks and appreciation. Let us also not forget the families of these men who are returning from their military duties. The families are a vital part of our national defense because no one gives more direct support to our troops than they.

The two distinctive A's on the unit crest of the 82d stand for "All American." I offer them all, the troops and their families, my thanks and congratulations for another job well done. They are all truly "All American."

TRIBUTE TO CONGRESSMAN JAMES J. HOWARD

Mr. STAFFORD. Mr. President, I want to join my colleagues in paying tribute to Congressman James J. Howard, and in extending my sympathy to his wife, Marlene, and his daughters, Lenore, Marie and Kathy.

It has been my privilege to serve with Congressman Howard since he came to the Congress in 1964. We served together in the House of Representatives for a number of years. We worked together very closely during the past 8 years as he carried out his responsibilities as chairman of the House Public Works and Transportation Committee and I as chairman and ranking member of the Senate Environment and Public Works Committee.

Chairman Howard was involved with many landmark pieces of legislation in the areas of water resources, transit, highways, aviation, environmental pollution, and safety. I will long remember his impassioned defense of the 55-mile-per-hour speed limit and of the lives this law has saved. We agreed on this issue and while the 55-mile-per-hour speed limit was not retained, it was not for lack of Jim Howard's untiring efforts.

And this is how Chairman Howard approached all of his responsibilities. He was totally committed to the issues he cared about and to his constituents in New Jersey. He expended a tremendous amount of energy in carrying out his duties, and his influence and legacy will live on in many different ways and in many places all over the country.

IN HONOR AND MEMORY OF DR. GEORGE COPELAND ALBRIGHT, LONGTIME ORAL SURGEON

Mr. THURMOND. Mr. President, the State of South Carolina suffered a great loss with the death of Dr. George Copeland Albright, a longtime oral surgeon who died on Monday, March 21, 1988, at the age of 86.

Dr. Albright was one of the most highly respected and capable surgeons in the State. He was the first oral surgeon in the State to be certified by the American Oral Surgery Board and also served as chief of staff of oral surgery at St. Francis and Greenville General Hospitals. For many years Dr. Albright was a consultant in oral surgery at Shriners' Hospital for Crippled Children.

In addition to his duties as a surgeon, Dr. Albright was very involved in community service and was a devoted member and elder of the First Presbyterian Church of Greenville. His volunteer work showed the depth of his concern for others and the extent of his fine character. His life will serve as an example for future generations of South Carolinians.

We are deeply saddened by the death of Dr. Albright. Mrs. Thurmond joins me in extending our deepest sympathy to his lovely wife, Rebecca, and his daughters, Louise Quinn and Caroline Ryan.

Mr. President, I would like to ask unanimous consent that an article from the Greenville News on Dr. George Copeland Albright be printed in the RECORD.

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

[From the Greenville News, Mar. 22, 1988]

DR. ALBRIGHT, LONGTIME ORAL SURGEON, DIES AT 86

Dr. George Copeland Albright, the first oral surgeon in the state to be certified by the American Oral Surgery Board, died Monday.

Albright, 86, of 223 Camille Ave. was a longtime Greenville oral surgeon who practiced until about 18 years ago.

One of his daughters, Caroline Ryan, said his health had been failing for the past couple of years and he died at St. Francis Hospital, "where he mainly had his heart and his love."

He served as chief of staff of oral surgery at St. Francis and Greenville General Hospital from 1930 to 1959 and was a consultant in oral surgergy at Shriners' Hospital for Crippled Children for many years.

In the early 1950's, he had a practice at Calhoun Towers on North Main Street, but then he moved his practice to Vardry Street, near old General Hopsital, according to his associate for 11 years, Dr. Henry T. Little.

"He was just one of those people you meet and like," Little said. "We were great, great friends."

Little said Albright was thought of very highly in the dentistry profession. "He probably had one of the best reputations in the profession as anyone I've ever known," Little said.

Dr. J.R. "Knotty" Owings Sr., a Greenville periodontist who has known Albright since 1936, said he was "very likeable and friendly" and he was known in many Southern states as "an outstanding oral suregon."

Born Nov. 21, 1901, in Laurens, Albright was a son of the late Dr. George Copeland and Nancy Deborah Vance Albright.

He studied at Laurens public schools and attended Clemson University from 1920 to 1922. In 1926, he received his D.D.S. degree from Atlanta-Southern Dental College, now Emory University School of Dentistry.

He engaged in general dentistry in Laurens from 1926 to 1927 and in Greenville from 1927 to 1932.

Since that time, he had specialized in oral surgery in Greenville.

Albright was a member of the South Carolina Board of Dental Examiners from 1947 to 1951; a member of the American, South Carolina, Piedmont District and Greenville County dental societies; a member of the American Society of Oral Suregons; a member and past president of the Southeastern Society of Oral Surgeons; and a diplomate of the American Board of Oral Surgery.

He was a member and elder of the First Presbyterian Church of Greenville.

He was a member of the Poinsett Club; Psi Omega dental fraternity and the Omicron Kappa Upsilon honorary scholastic dental fraternity.

He was formerly a member of the Greenville Country Club, Green Valley Country Club and the Greenville Rotary Club.

Surviving are his wife, Rebecca Moore Adams Albright; his daughters, Mrs. Kirby J. (Louise) Quinn Jr. and Mrs. Joseph Murphy (Caroline) Ryan Jr., both of Greenville; a brother, Clarence Holland Albright of Rock Hill; four grandchildren and five great-grandchildren.

Graveside services will be Tuesday at 4 p.m. in Springwood Cemetery. The Mackey Mortuary is in charge of arrangements.

The family is at the home.

In lieu of flowers, memorials can be made to Thornwell Home for Children, P.O. Box 60, Clinton, S.C. 29325 or to the charity of one's choice.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT—PM 126

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 5(h) of the International Health Research Act of 1960 (Public Law 86-610; 22 U.S.C. 2103(h)), I transmit herewith the Twenty-first Annual Report of the U.S.-Japan Cooperative Medical Science Program for the period of July 1986 to July 1987.

RONALD REAGAN.

THE WHITE HOUSE, *March 29, 1988.*

MESSAGES FROM THE HOUSE

At 3:21 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1975. An act to protect caves resources on Federal lands, and for other purposes; and

H.R. 3971. An act to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4263. An act to designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway"; and

H.J. Res. 470. Joint resolution to designate March 29, 1988, as "Education Day, U.S.A.".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1975. An act to protect caves resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3971. An act to establish procedures to implement the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

MEASURES HELD AT THE DESK

The following bill, previously received from the House of Representatives for concurrence, was ordered held at the desk until the close of business on March 31, 1988, by unanimous consent:

H.R. 2819. An act for the relief of Tracey McFarlane.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. REID) reported that on today, March 29, 1988, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House of Representatives:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 29, 1988, he had presented to the President of the United States the following enrolled bill:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

S. 2223. An original bill to promote and protect taxpayer rights, and for other purposes. (Rept. No. 100-309).

TAXPAYER RIGHTS

● Mr. BENTSEN. Mr. President, from the Committee on Finance I report S. 2223, a bill to promote and protect taxpayer rights, and for other purposes. I ask unanimous consent that the text of the reported bill be printed in the RECORD.

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

S. 2223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS; AMENDMENT OF THE 1986 CODE.

(a) TABLE OF CONTENTS.—

Sec. 1. Table of contents; amendment of the 1986 Code.

TITLE I—TAXPAYER BILL OF RIGHTS

Sec. 100. Short title.

Subtitle A—Taxpayer Rights

Sec. 101. Disclosure of rights of taxpayers.
Sec. 102. Procedures involving taxpayer interviews.
Sec. 103. Taxpayers may rely on written advice of Internal Revenue Service.
Sec. 104. Taxpayer assistance orders.
Sec. 105. Office of Inspector General.
Sec. 106. Basis for evaluation of Internal Revenue Service employees.
Sec. 107. Procedures relating to Internal Revenue Service regulations.
Sec. 108. Content of tax due and deficiency notices.
Sec. 109. Installment payment of tax liability.
Sec. 110. Assistant Commissioner for Taxpayer Services.

Subtitle B—Levy and Lien Provisions

Sec. 111. Levy and distraint.
Sec. 112. Review of jeopardy levy and assessment procedures.
Sec. 113. Administrative appeal of liens.

Subtitle C—Proceedings by Taxpayers

Sec. 121. Awarding of costs and certain fees in administrative and court proceedings.
Sec. 122. Civil cause of action for damages sustained due to failure to release lien.
Sec. 123. Civil cause of action for damages sustained due to unreasonable actions by Internal Revenue Service.

Subtitle D—Tax Court Jurisdiction

Sec. 131. Jurisdiction to restrain certain premature assessments.
Sec. 132. Jurisdiction to enforce overpayment determinations.
Sec. 133. Jurisdiction to review certain sales of seized property.
Sec. 134. Jurisdiction to redetermine interest on deficiencies.
Sec. 135. Jurisdiction to modify decisions in certain estate tax cases.
Sec. 136. Refund jurisdiction for the United States Tax Court.

TITLE II—EXCISE TAX PROVISIONS

Sec. 201. Tax-free purchases of certain fuels.
Sec. 202. Expedited refund or income tax credit allowed for retail sales of certain fuels used in nontaxable uses.
Sec. 203. Marine retailers treated as producers.
Sec. 204. Exception from distilled spirits tax credit for wine content and flavors content.
Sec. 205. Small producers exempt from occupational tax on distilled spirits plants.
Sec. 206. Increase in gas guzzler tax.

TITLE III—MISCELLANEOUS PROVISION

Sec. 301. 1-Year extension of provisions relating to collection of nontax debts owed to Federal agencies.

(b) AMENDMENT.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—TAXPAYER BILL OF RIGHTS

SEC. 100. SHORT TITLE.

This title may be cited as the "Omnibus Taxpayer Bill of Rights".

Subtitle A—Taxpayer Rights

SEC. 101. DISCLOSURE OF RIGHTS OF TAXPAYERS.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a statement which sets forth in simple and nontechnical terms—

(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days after the date it was transmitted to such committees.

(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by

providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.

SEC. 102. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) RECORDING OF INTERVIEWS.—

"(1) RECORDING BY TAXPAYER.—Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

"(2) RECORDING BY IRS OFFICER OR EMPLOYEE.—An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

"(A) informs the taxpayer of such recording prior to the interview, and

"(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

"(b) SAFEGUARDS.—

"(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

"(A) in the case of an audit interview, an explanation of the audit process and the taxpayer's rights under such process, or

"(B) in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under such process.

Such officer or employee shall notify the taxpayer at such interview if the case has been referred to the Criminal Investigation Division of the Internal Revenue Service.

"(2) RIGHT OF CONSULTATION.—If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

"(c) REPRESENTATIVES HOLDING POWER OF ATTORNEY.—Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

"(d) SECTION NOT TO APPLY TO CERTAIN INVESTIGATIONS.—This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service."

(b) REGULATIONS WITH RESPECT TO TIME AND PLACE OF EXAMINATION.—The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the Internal Revenue Code of 1986 (relating to time and place of examination) within 1 year after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7520. Procedures involving taxpayer interviews."

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to interviews conducted on or after the date which is 30 days after the date of the enactment of this Act.

SEC. 103. TAXPAYERS MAY RELY ON WRITTEN ADVICE OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

"(2) LIMITATIONS.—Paragraph (1) shall apply only if—

"(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

"(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to advice requested on or after the date of the enactment of this Act.

SEC. 104. TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) TERMS OF A TAXPAYER ASSISTANCE ORDER.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, or superiors of such director.

"(d) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

"(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the Ombudsman's decision with respect to such application, and

"(2) any period specified by the Ombudsman in a Taxpayer Assistance Order.

"(e) INDEPENDENT ACTION OF OMBUDSMAN.—Nothing in this section shall prevent the Ombudsman from taking any action in the absence of an application under subsection (a).

"(f) OMBUDSMAN.—For purposes of this section, the term 'Ombudsman' includes any designee of the Ombudsman."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders."

(c) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the Internal Revenue Code of 1986 (as added by this section) and to ensure taxpayers uniform access to administrative procedures.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 105. OFFICE OF INSPECTOR GENERAL.

(a) IN GENERAL.—Paragraph (1) of section 2 of the Inspector General Act of 1978 (5 U.S.C. App. 3) (relating to the purpose and establishment of offices of inspector general and the departments and agencies involved) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) ADDITION OF DEPARTMENT OF THE TREASURY TO LIST OF COVERED ESTABLISHMENTS.—Section 11 of such Act (relating to definitions) is amended—

(1) by striking out "or Transportation" in paragraphs (1) and (2) and inserting in lieu thereof "Transportation, or the Treasury",

(2) by inserting "or the Commissioner of Internal Revenue" before "as the case may be", and

(3) by inserting "Internal Revenue Service" before "as the case may be".

(c) TRANSFER OF EXISTING AUDIT AND INVESTIGATION UNITS.—Paragraph (1) of sec-

tion 9(a) of such Act (relating to transfer of functions) is amended—

(1) by redesignating subparagraphs (I), (J), (K), (L), (M), and (N) as subparagraphs (K), (L), (M), (N), (O), and (P), respectively, and

(2) by inserting after subparagraph (H) the following new subparagraphs:

"(I) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United States Secret Service' which is engaged in internal audit activities;

"(J) of the Department of the Treasury, in the Internal Revenue Service of such department, the office of that service referred to as the 'Office of Assistant Commissioner (Inspection), Internal Revenue Service';".

(d) SPECIAL PROVISIONS RELATING TO DEPARTMENT OF THE TREASURY.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new section:

"SPECIAL PROVISIONS REGARDING THE DEPARTMENT OF THE TREASURY

"SEC. 8B. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service. The head of each such office shall report to the Inspector General the significant investigative activities being carried out by such office.

"(b) Notwithstanding subsection (a), the Inspector General of the Department of the Treasury may conduct an investigation of any officer or employee of such Department (other than the Internal Revenue Service) if—

"(1) the Secretary of the Treasury or the Deputy Secretary of the Treasury requests the Inspector General to conduct an investigation;

"(2) the investigation concerns senior officers or employees of the Department of the Treasury, including officers appointed by the President, members of the Senior Executive Service, and individuals in positions classified at grade GS-15 of the General Schedule or above or classified at a grade equivalent to such grade or above such equivalent grade; or

"(3) the investigation involves alleged notorious conduct or any other matter which, in the opinion of the Inspector General, is especially sensitive or of departmental significance.

"(c) If the Inspector General of the Department of the Treasury initiates an investigation under subsection (b), and the officer or employee of the Department of the Treasury subject to investigation is employed by or attached to a bureau or service referred to in subsection (a), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (a) with written notice that the Inspector General has initiated such an investigation. If the Inspector General issues a notice under the preceding sentence, no other investigation shall be initiated into the matter under investigation by the Inspector General and any other investigation of such matter shall cease.

"(d)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General of the Department of the Treasury and the Inspector General of the Internal Revenue Service shall be under the authority, direction, and control of the Secretary of the Treasury and the Commissioner of Internal Revenue, respectively, with respect to audits or investigations, or the issuance of subpenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) sensitive undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 8, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described in paragraph (1), the Secretary of the Treasury or the Commissioner of Internal Revenue may prohibit the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service, respectively, from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary or the Commissioner determines that such prohibition is necessary to preserve the confidentiality of or prevent the disclosure of any information described in paragraph (1).

"(3)(A) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General of the Department of the Treasury in writing of such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Department of the Treasury shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Joint Committee on Taxation, together with any comments the Inspector General deems appropriate.

"(B) If the Commissioner of Internal Revenue exercises any power under paragraph (1) or (2), the Commissioner shall notify the Inspector General of the Internal Revenue Service in writing of such exercise. Within 30 days after receipt of such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs and the Committee on Finance of the Senate and to the Committee on Government Operations and the Committee on Ways and Means of the House of Representatives.

"(e) In addition to the standards prescribed by the first sentence of section 3(a), the Inspector General of the Internal Revenue Service shall at the time of appointment be in a career reserved position in the Senior Executive Service in the Internal Revenue Service as defined under section 3132(a)(8) of title 5, United States Code, with demonstrated ability in investigative techniques or internal audit functions with respect to the programs and operations of the Internal Revenue Service.

"(f)(1) In addition to the duties and responsibilities specified in this Act, the Inspector General of the Internal Revenue Service shall perform such duties and exercise such powers as may be prescribed by the Commissioner of Internal Revenue, to the extent such duties and powers are not inconsistent with the purposes of this Act.

"(2) No audit or investigation conducted by the Inspector General of the Department of the Treasury or the Inspector General of the Internal Revenue Service shall affect a final decision of the Secretary of the Treasury or his designee made pursuant to section 6201 of the Internal Revenue Code of 1986 or described in section 6406 of such Code."

(e) DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent provided in section 6103(f) of the Internal Revenue Code of 1986, nothing".

(f) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code (relating to positions of level IV) is amended by adding at the end thereof the following new items:

"Inspector General, Department of the Treasury.

"Inspector General, Internal Revenue Service."

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 106. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate enforcement officers, appeals officers, or reviewers, or

(2) to impose or suggest production quotas or goals.

(b) APPLICATION OF IRS POLICY STATEMENT.—The Internal Revenue Service shall not be treated as failing to meet the requirements of subsection (a) if the Service follows the policy statement of the Service regarding employee evaluation (as in effect on the date of the enactment of this Act) in a manner which does not violate subsection (a).

(c) CERTIFICATION.—Each district director shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to evaluations conducted on or after the date of the enactment of this Act.

SEC. 107. PROCEDURES RELATING TO INTERNAL REVENUE SERVICE REGULATIONS.

(a) IN GENERAL.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsections:

"(e) TEMPORARY REGULATIONS.—

"(1) ISSUANCE.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

"(2) 2-YEAR DURATION.—Any temporary regulation shall expire within 2 years after the date of issuance of such regulation.

"(f) IMPACT OF REGULATIONS ON SMALL BUSINESS REVIEWED.—After the publication of any proposed regulation or before the promulgation of any final regulation by the Secretary, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to any regulation issued after the date of the enactment of this Act.

SEC. 108. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 102, is further amended by adding at the end thereof the following new section:

"SEC. 7521. CONTENT OF TAX DUE AND DEFICIENCY NOTICES.

"Any tax due notice or deficiency notice, including notices described in sections 6155, 6212, and 6303, shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by section 102, is further amended by adding at the end thereof the following new item:

"Sec. 7521. Content of tax due and deficiency notices."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mailings made after the date which is 180 days after the date of enactment of this Act.

SEC. 109. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) IN GENERAL.—Subchapter A of chapter 62 (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) EXTENT TO WHICH AGREEMENTS REMAIN IN EFFECT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

"(2) INADEQUATE INFORMATION OR JEOPARDY.—The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

"(A) information which the taxpayer provided (upon request of the Secretary) to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

"(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—

"(A) IN GENERAL.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

"(B) NOTICE.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

"(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION.—The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

"(A) to pay any installment at the time such installment payment is due under such agreement,

"(B) to pay any other tax liability at the time such liability is due, or

"(C) to provide a financial condition update as requested by the Secretary."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6601(b) (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 110. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) ASSISTANT COMMISSIONER (TAXPAYER SERVICES).—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayers Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. The Assistant Commissioner shall be responsible for telephone, walk-in, and educational services, and the design and production of tax and informational forms."

(b) ANNUAL REPORTS TO CONGRESS.—The Assistant Commissioner (Taxpayer Services) and the Taxpayer Ombudsman for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle B—Levy and Lien Provisions

SEC. 111. LEVY AND DISTRAINT.

(a) NOTICE.—Section 6331(d) (relating to levy and distraint) is amended—

(1) by striking out "10 days" in paragraph (2) and inserting in lieu thereof "30 days",

(2) by striking out "10-DAY REQUIREMENT" in the heading of paragraph (2) and inserting in lieu thereof "30-DAY REQUIREMENT", and

(3) by adding at the end thereof the following new paragraph:

"(4) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1)—

"(A) shall cite the sections of this title which relate to levy on property, sale of property, release of lien on property, and redemption of property, and

"(B) shall include a description of—

"(i) the provisions of this title relating to levy and sale of property,

"(ii) the procedures applicable to the levy and sale of property under this title,

"(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(iv) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

"(v) the provisions of this title relating to redemption of property and release of liens on property, and

"(vi) the procedures applicable to the redemption of property and the release of a lien on property under this title."

(b) EFFECT OF LEVY ON SALARY AND WAGES.—

(1) IN GENERAL.—Subsection (e) of section 6331 (relating to levy and distraint) is amended to read as follows:

"(e) CONTINUING LEVY ON SALARY AND WAGES.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343."

(2) CROSS REFERENCE.—Section 6331(f) (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For release and notice of release of levy, see section 6343."

(c) PROPERTY EXEMPT FROM LEVY.—

(1) FUEL, PROVISIONS, FURNITURE, PERSONAL EFFECTS, BOOKS, TOOLS, AND MACHINERY.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(e) ADJUSTMENTS FOR INFLATION FOR CERTAIN PROPERTY.—In the case of calendar years 1989 and 1990, each dollar amount contained in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(1) such dollar amounts, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year.

In the case of any calendar year after 1990, such dollar amounts shall be such dollar amounts in effect in 1990."

(2) WAGES, SALARY, AND OTHER INCOME.—

(A) INCREASE IN AMOUNT EXEMPT.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended to read as follows:

"(1) INDIVIDUALS ON WEEKLY BASIS.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount."

(B) EXEMPT AMOUNT DEFINED.—Subsection (d) of section 6334 (relating to property exempt from levy) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT AMOUNT.—For purposes of paragraph (1), the term 'exempt amount' means an amount equal to—

"(A) the sum of—

"(i) the standard deduction, and

"(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

"(B) 52."

(3) PROPERTY EXEMPT IN ABSENCE OF APPROVAL OR JEOPARDY.—

(A) IN GENERAL.—Subsection (a) of section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(12) PROPERTY EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—Except to the extent provided in subsection (f)—

"(A) the principal residence of the taxpayer (within the meaning of section 1034), and

"(B) any tangible personal property essential in carrying on the trade or business of the taxpayer, but only if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business."

(B) LEVY PERMITTED IN CASE OF JEOPARDY OR APPROVAL BY CERTAIN OFFICIALS.—Section 6334, as amended by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) LEVY ALLOWED ON CERTAIN PROPERTY IN CASE OF JEOPARDY OR CERTAIN APPROVAL.—Property described in subsection (a)(12) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

(d) UNECONOMICAL LEVY; LEVY ON APPEARANCE DATE OF SUMMONS.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) UNECONOMICAL LEVY.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

"(g) LEVY ON APPEARANCE DATE OF SUMMONS.—

"(1) IN GENERAL.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

"(2) NO APPLICATION IN CASE OF JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy."

(e) SURRENDER OF BANK ACCOUNTS SUBJECT TO LEVY ONLY AFTER 21 DAYS.—

(1) IN GENERAL.—Section 6332 (relating to surrender of property subject to levy) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR BANKS.—Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6332 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"

(B) Subsection (e) of section 6332, as redesignated by subsection (a), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)"

(f) RELEASE OF LEVY.—Subsection (a) of section 6343 (relating to release of levy) is amended to read as follows:

"(a) RELEASE OF LEVY AND NOTICE OF RELEASE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

"(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

"(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

"(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

"(2) SUBSEQUENT LEVY.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued 90 days after the date of the enactment of this Act.

SEC. 112. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) IN GENERAL.—Subsection (a)(1) of section 7429 (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) ADMINISTRATIVE DETERMINATIONS.—Paragraph (3) of section 7429(a) (relating to redetermination by the Secretary) is amended to read as follows:

"(3) REDETERMINATION BY SECRETARY.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances."

(c) TAX COURT REVIEW JURISDICTION.—Subsection (b) of section 7429 is amended to read as follows:

"(b) JUDICIAL REVIEW.—

"(1) PROCEEDINGS PERMITTED.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

"(2) JURISDICTION FOR DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(B) TAX COURT.—If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

"(3) DETERMINATION BY COURT.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(4) ORDER OF COURT.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate."

(d) VENUE.—Section 7429(e) (relating to venue) is amended to read as follows:

"(e) VENUE.—

"(1) DISTRICT COURT.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

"(2) TRANSFER OF ACTIONS.—If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(e) CONFORMING AMENDMENTS.—

(1) Section 7429(c) (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "TERMINATION" in the heading of paragraph (1) and inserting in lieu thereof "LEVY, TERMINATION,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 is amended by inserting "LEVY OR" after "JEOPARDY".

(4) The table of sections for subchapter B of chapter 76 is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to jeopardy levies issued and assessments made after the date of the enactment of this Act.

SEC. 113. ADMINISTRATIVE APPEAL OF LIENS.

(a) ESTABLISHMENT OF ADMINISTRATIVE APPEAL FOR DISPUTED LIENS.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"(a) IN GENERAL.—In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien."

"(b) CERTIFICATE OF RELEASE.—If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall immediately issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous."

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 64 is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.

"Sec. 6327. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Proceedings by Taxpayers

SEC. 121. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

(a) IN GENERAL.—Section 7430 is amended to read as follows:

"SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

"(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

"(2) reasonable litigation costs incurred in connection with such court proceeding.

"(b) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(2) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

"(3) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(C)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(4) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REASONABLE LITIGATION COSTS.—The term 'reasonable litigation costs' includes—

"(A) reasonable court costs, and

"(B) based upon prevailing market rates for the kind or quality of services furnished—

"(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate.

"(2) REASONABLE ADMINISTRATIVE COSTS.—The term 'reasonable administrative costs' means—

"(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

"(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(B) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after the earlier of (i) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.

"(3) ATTORNEY'S FEES.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(4) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

"(i) with respect to which the United States fails to establish that the position of the United States was substantially justified,

"(ii) which—

"(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

"(iii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made by agreement of the parties or—

"(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

"(ii) in the case where such final determination is made by a court, the court.

"(5) ADMINISTRATIVE PROCEEDINGS.—The term 'administrative proceeding' means any procedure or other action before the Internal Revenue Service.

"(6) COURT PROCEEDINGS.—The term 'court proceeding' means any civil action brought in a court of the United States (including the Tax Court and the United States Claims Court).

"(7) POSITION OF UNITED STATES.—The term 'position of the United States' means the position taken by the United States in the proceeding to which subsection (a) applies as of the later of—

"(A) the date of the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals (or if earlier, the date of the notice of deficiency), or

"(B) the date by which the taxpayer has presented the relevant evidence within the control of the taxpayer and legal arguments with respect to such proceeding to examination or service center personnel of the Internal Revenue Service.

"(d) SPECIAL RULES FOR PAYMENT OF COSTS.—

"(1) REASONABLE ADMINISTRATIVE COSTS.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(2) REASONABLE LITIGATION COSTS.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

"(e) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

"(f) RIGHT OF APPEAL.—

"(1) COURT PROCEEDINGS.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, shall be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

"(2) ADMINISTRATIVE PROCEEDINGS.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute)."

(b) CONFORMING AMENDMENT.—Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking out "court" in the item relating to section 7430.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 122. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) IN GENERAL.—If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, or

"(B) $100 per day for each day occurring after the date which is 10 days after the taxpayer has notified the Secretary in writing (in such form and manner as the Secretary may provide) of such failure after the end of the period described in section 6325, and

"(2) the costs of the action.

"(c) TAX COURT JURISDICTION.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) SETTLEMENT AND PAYMENT AUTHORITY.—The Secretary may settle any claims that could have been filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) MITIGATION OF DAMAGES.—The amount of damages awarded under subsection (b)(1)(A) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) LIMITATION ON PER DIEM DAMAGES.—No award for damages described in subsection (b)(1)(B) shall exceed $1,000.

"(4) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the failure to release a lien under section 6325 by the defendant."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of such Code is amended by striking out the item relating to section 7432 and inserting in lieu thereof the following new items:

"Sec. 7432. Civil damages for failure to release lien.

"Sec. 7433. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices provided by the taxpayer under section 7432(b)(1)(B) of the Internal Revenue Code of 1986, as added by this section, and damages arising after the date of the enactment of this Act.

SEC. 123. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO UNREASONABLE ACTIONS BY INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1986 (relating to proceedings by taxpayers and third parties), as amended by section 122, is further amended by redesignating section 7433 as section 7434 and by inserting after section 7432 the following new section:

"SEC. 7433. CIVIL DAMAGES FOR UNREASONABLE ACTIONS.

"(a) IN GENERAL.—If, in connection with any determination or collection of Federal tax, any officer or employee of the Internal Revenue Service carelessly, recklessly, or intentionally disregards any provision of Federal law, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the determination or collection actions of the defendant, and

"(2) the costs of the action.

"(c) TAX COURT JURISDICTION.—The Tax Court shall have jurisdiction of any action brought under subsection (a) in the same manner as a claim for refund.

"(d) SETTLEMENT AND PAYMENT AUTHORITY.—The Secretary may settle any claims that could be filed under this section. Such claims shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(e) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) DAMAGES DENIED WHERE PLAINTIFF IS CONTRIBUTORILY NEGLIGENT.—No award for damages may be made under subsection (b) if the plaintiff is found to have been contributorily negligent.

"(3) MITIGATION OF DAMAGES.—The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(4) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the actions."

(b) DAMAGES FOR FRIVOLOUS OR GROUNDLESS CLAIMS.—

(1) IN GENERAL.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by inserting "(a) IN GENERAL.—" before "Whenever" and by adding at the end thereof the following new subsection:

"(b) CLAIMS UNDER SECTION 7433.—Whenever it appears to the court that the taxpayer's position in proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, damages in an amount not in excess of $10,000 shall be awarded to the United States by the court in the court's decision. Damages so awarded shall be assessed at the same time as the deficiency, if any, and shall be paid upon notice and demand from the Secretary and shall be collected as a part of the tax."

(2) CLERICAL AMENDMENT.—The heading for section 6673 is amended by striking out "tax".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as

amended by section 122, is further amended by striking out the item relating to section 7433 and inserting in lieu thereof the following new items:

"Sec. 7433. Civil damages for unreasonable actions.

"Sec. 7434. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

Subtitle D—Tax Court Jurisdiction

SEC. 131. JURISDICTION TO RESTRAIN CERTAIN PREMATURE ASSESSMENTS.

(a) IN GENERAL.—Section 6213(a) (relating to time for filing petition and restriction on assessment) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

(b) APPEAL OF ORDER RESTRAINING ASSESSMENT, ETC.—Section 7482(a) (relating to jurisdiction on appeal) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN ORDERS ENTERED UNDER SECTION 6213(a).—An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to orders entered after the date of the enactment of this Act.

SEC. 132. JURISDICTION TO ENFORCE OVERPAYMENT DETERMINATIONS.

(a) IN GENERAL.—Section 6512(b) (relating to overpayment determined by the Tax Court) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)" in paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph after paragraph (1):

"(2) JURISDICTION TO ENFORCE.—

"(A) IN GENERAL.—If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest.

"(B) SANCTIONS IF FAILURE TO REFUND NOT SUBSTANTIALLY JUSTIFIED.—

"(i) BURDEN OF PROOF.—In any proceeding under this paragraph, the burden of proof shall be on the Secretary to establish that the Secretary's failure to credit, offset, or refund the overpayment and interest to the taxpayer was substantially justified. The Secretary's failure to refund the overpayment and interest shall be conclusively presumed to be substantially justified to the extent of any credit or offset made pursuant to section 6402.

"(ii) NO JURISDICTION OVER CREDITS AND OFFSETS.—In deciding whether the Secretary's failure to refund an overpayment and interest was substantially justified, and for that purpose only, the Tax Court shall have no jurisdiction over the validity or merits of any credits or offsets that the Secretary is authorized to make under section 6402 and that the Secretary claims as credits or offsets to the overpayment and interest.

"(iii) SANCTIONS.—If the Secretary does not establish that the Secretary's failure to refund the overpayment and interest was substantially justified, then the taxpayer shall be entitled to interest at a rate of 120 percent of the overpayment rate provided by section 6621(a)(1), such interest to begin on the later of—

"(I) the date the Tax Court determines under this paragraph that the Secretary's failure to refund the overpayment was not substantially justified, or

"(II) the 121st day after the decision of the Tax Court determining the overpayment under paragraph (1) becomes final.

"(iv) REVIEWABILITY.—Any order of the Tax Court disposing of a motion by the taxpayer under this paragraph shall be subject to review, but only with respect to the matters determined in such order."

(b) AMENDMENTS ADDING CROSS REFERENCES.—

(1) Section 6214(e) is amended by striking out "REFERENCE.—" and inserting in lieu thereof "REFERENCES.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(2) Section 6512(c) is amended by striking out "REFERENCE.—" and inserting in lieu thereof "REFERENCES.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act.

SEC. 133. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) JURISDICTION TO REVIEW CERTAIN SALES OF PROPERTY.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) REVIEW BY TAX COURT.—If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 134. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) IN GENERAL.—Section 7481 (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) JURISDICTION OVER INTEREST DETERMINATIONS.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) CONFORMING AMENDMENTS.—

(1) Section 6512(a) (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)" the following: "(or 7481(c) with respect to a determination of statutory interest)".

(2) Subsection (a) of section 7481 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act.

SEC. 135. JURISDICTION TO MODIFY DECISIONS IN CERTAIN ESTATE TAX CASES.

(a) IN GENERAL.—Section 7481 (relating to date when Tax Court decision becomes final), as amended by section 134, is further amended by adding at the end thereof the following new subsection:

"(d) DECISIONS RELATING TO ESTATE TAX EXTENDED UNDER SECTION 6166.—If with respect to a decedent's estate subject to a decision of the Tax Court—

"(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

"(2) there is treated as an administrative expense under section 2053 either—

"(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

"(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax

Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) CONFORMING AMENDMENTS.—

(1) Section 6512(a) (relating to effect of petition to Tax Court), as amended by section 134, is further amended by striking out "interest)" and inserting in lieu thereof "interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)".

(2) Subsection (a) of section 7481, as amended by section 134, is further amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act.

SEC. 136. REFUND JURISDICTION FOR THE UNITED STATES TAX COURT.

(a) IN GENERAL.—Section 7442 (relating to jurisdiction of the Tax Court) is amended to read as follows:

"SEC. 7442. JURISDICTION.

"(a) GENERAL RULE.—The Tax Court and its divisions shall have such jurisdiction as is conferred on them by this title, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926 (44 Stat. 10-87), or by laws enacted subsequent to February 26, 1926.

"(b) REFUND JURISDICTION.—The Tax Court and its divisions shall have original jurisdiction of any civil action against the Secretary for the recovery of any tax, addition to the tax, additional amount, or penalty (including interest thereon) which would be subject to the deficiency procedures of subchapter B of chapter 63 if the Secretary determined a deficiency therein. The jurisdiction shall include any counterclaim, setoff, or equitable recoupment against (or for) the taxpayer."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 6212.—Paragraph (1) of section 6212(c) (relating to further deficiency letters restricted) is amended by inserting "or if the taxpayer has commenced a proceeding under section 7442(b)," after "section 6213(a),".

(2) AMENDMENT OF SECTION 6214.—Subsection (a) of section 6214 (relating to determinations by Tax Court) is amended to read as follows:

"(a) JURISDICTION AS TO INCREASE OF DEFICIENCY, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—

"(1) JURISDICTION TO DETERMINE.—Except as provided by paragraph (2) and by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or any addition to the tax should be assessed, if claim therefor is asserted by the Secretary at or before the hearing or a rehearing.

"(2) LIMIT ON DETERMINATION.—In the case of any proceeding under section 7442(b), no deficiency shall be determined unless the Tax Court determines as part of the Court's decision that such deficiency was asserted by the Secretary in an appropriate pleading filed with the Tax Court within the period of limitations provided in section 6501."

(3) AMENDMENT OF SECTION 6228.—Paragraphs (1)(B) and (2)(A)(i) of section 6228(b) (relating to certain requests for administrative adjustment) are each amended by inserting "or 7442(b)" after "section 7422".

(4) AMENDMENT OF SECTION 6512.—Paragraph (1) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by inserting "if the Secretary has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and certain excise taxes), if the taxpayer files a petition with the Tax Court within the time prescribed by section 6213(a), and" after "section 7463,".

(5) AMENDMENTS OF SECTION 7422.—

(A) The first sentence of paragraph (1) of section 7422(f) (relating to limitation on right of action for refund) is amended by striking out "A suit" and inserting in lieu thereof "Except as provided in section 7442(b), a suit"

(B) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULE IN CASE OF NOTICE OF DEFICIENCY.—If the Secretary has sent a notice of deficiency with respect to income tax for a taxable year, gift tax for a calendar year or calendar quarter, estate tax in respect to the taxable estate of a decedent, tax imposed by chapters 41, 42, 43, or 44 with respect to an act (or failure to act), or tax imposed by chapter 45 for a taxable period, no proceeding under section 7442(b) may be commenced in the Tax Court with respect to any such tax for so long as the taxpayer is permitted to file a petition with the Tax Court for a redetermination of such deficiency."

(6) AMENDMENTS OF SECTION 7423.—

(A) Section 7423 (relating to repayments to officers or employees) is amended to read as follows:

"SEC. 7423. RECOVERIES AGAINST OFFICERS OR EMPLOYEES.

"(a) REPAYMENTS TO OFFICERS OR EMPLOYEES.—The Secretary, subject to regulations prescribed by the Secretary, is authorized to repay—

"(1) COLLECTIONS RECOVERED.—To any officer or employee of the United States the full amount of such sums of money as may be recovered against such officer or employee in any court, for any internal revenue taxes collected by such officer or employee, with the cost and expense of suit.

"(2) DAMAGES AND COSTS.—All damages and costs recovered against any officer or employee of the United States in any suit brought against such officer or employee by reason of anything done in the due performance of such officer's or employee's official duty under this title.

"(b) NO EXECUTION AGAINST SECRETARY.—Execution shall not issue against the Secretary for a refund on a final decision of the Tax Court in a proceeding under section 7442(b), but any amount payable as a result of such decision shall be payable in the same manner as such an award by a district court."

(B) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7423 and inserting in lieu thereof the following new item:

"Sec. 7423. Recoveries against officers or employees."

(7) AMENDMENTS OF SECTION 7451.—

(A) Section 7451 (relating to fee for filing petition) is amended by striking out "petition" and inserting in lieu thereof "initial pleading", and by inserting "or for the recovery of any amount under section 7442(b)" after "section 6228(a)".

(B) The heading of section 7451 is amended by striking out "PETITION" and inserting in lieu thereof "INITIAL PLEADING".

(C) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "petition" in the item relating to section 7451 and inserting in lieu thereof "initial pleading".

(8) AMENDMENT OF SECTION 7459.—The first sentence of subsection (c) of section 7459 (relating to reports and decisions) is amended by inserting "or overpayment" after "amount of the deficiency".

(9) AMENDMENT OF SECTION 7463.—The first sentence of subsection (a) of section 7463 (relating to disputes involving $10,000 or less) is amended by striking out "petition" and inserting in lieu thereof "pleading", and by inserting "or for a refund," after "of a deficiency".

(10) AMENDMENTS OF SECTION 7482.—

(A) Subparagraph (A) of section 7482(b)(1) (relating to venue) is amended by inserting "or a refund" after "tax liability".

(B) Subparagraph (B) of section 7482(b)(1) is amended by inserting "or a refund" after "tax liability", and by inserting "or refund" after "the liability".

(C) The last sentence of section 7482(b)(1) is amended by striking out "petition" the first time it appears and inserting in lieu thereof "initial pleading", and by inserting "or a refund" after "tax liability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to proceedings commenced in the United States Tax Court on or after the date which is 6 months after the date of the enactment of this Act.

TITLE II—EXCISE TAX PROVISIONS

SEC. 201. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(i) fuel used in a diesel-powered train, and

"(ii) fuel used in any aircraft.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) (defining information return) is amended by striking "or" at the end of clause (ix), by striking the period at the end of clause (x) and inserting ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) (defining payee statement) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1988.

(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on September 30, 1988, and

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l) of the Internal Revenue Code of 1986),

the Secretary shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of such Code (to the extent not attributable to amounts described in section 6427(l)(3) of such Code) if claim therefor is filed not later than December 31, 1988. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of such Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of such Code.

(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of such Code except that—

(i) the date of the overpayment with respect to fuel purchased during any month shall be treated as being the last day of such month, and

(ii) the rate of such interest shall be the underpayment rate determined under section 6621(a)(2).

(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED BEFORE EFFECTIVE DATE.—Not later than October 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of such Code (as added by this section).

SEC. 202. EXPEDITED REFUND OR INCOME TAX CREDIT ALLOWED FOR RETAIL SALES OF CERTAIN FUELS USED IN NONTAXABLE USES.

(a) EXPEDITED REFUND.—Section 6427(i) (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(A) IN GENERAL.—A claim may be filed under subsection (l) by any person with respect to fuel used for any period for which $750 or more is payable under such subsection (l) (disregarding any amount for which a claim has been previously filed under this subsection).

"(B) TIME FOR FILING CLAIM.—A claim may be filed under this paragraph on or after the last day of the quarter during which a period described in subparagraph (A) occurs."

(b) CLAIM PAID WITH INTEREST.—

(1) IN GENERAL.—Section 6427(l) (relating to refunds for nontaxable uses of diesel fuel and aviation fuel taxed under section 4091) is amended by adding at the end thereof the following new paragraph:

"(4) INTEREST.—The amount of interest payable under paragraph (1) shall be determined under section 6611 of such Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the last day of such month.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 6427(l) is amended by striking out "(without interest)" and inserting in lieu thereof "(with interest)".

(c) ALLOWANCE OF INCOME TAX CREDIT.—Paragraph (2) of section 6427(k) (relating to income tax credit in lieu of payment) is amended by striking out "subsection (i)(2) or (h)(3)" and inserting in lieu thereof "subsection (i)(2), (i)(3), or (i)(4)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6427(i) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) is amended by striking out "(l),".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel purchased for use in a nontaxable use (as defined in section 6427(l)(2) of the Internal Revenue Code of 1986) after September 30, 1988.

SEC. 203. MARINE RETAILERS TREATED AS PRODUCERS.

(a) IN GENERAL.—Subparagraph (B) of section 4092(b)(1) (relating to certain persons treated as producers) is amended by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or" and by adding at the end thereof the following new clause:

"(iii) a retailer selling any taxable fuel exclusively to purchasers as supplies for commercial and noncommercial vessels."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 1988.

SEC. 204. EXCEPTION FROM DISTILLED SPIRITS TAX CREDIT FOR WINE CONTENT AND FLAVORS CONTENT.

(a) WINE CONTENT.—Section 5010(c)(1) (defining wine content) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION.—In the case of a distilled spirits product, the term 'wine content' does not include alcohol derived from wine to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product."

(b) FLAVORS CONTENT.—Subparagraph (B) of section 5010(c)(2) (defining flavors content) is amended by striking out the "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) alcohol derived from flavors distilled at a distilled spirits plant, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act.

SEC. 205. SMALL PRODUCERS EXEMPT FROM OCCUPATIONAL TAX ON DISTILLED SPIRITS PLANTS.

(a) IN GENERAL.—Section 5081 (relating to imposition and rate of occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FOR SMALL PRODUCERS.—Subsection (a) shall not apply with respect to any taxpayer who is a proprietor of an eligible distilled spirits plant (as defined in section 5181(c)(4))."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 5081(b) (relating to reduced rates for small proprietors) is amended by inserting "not described in subsection (c)" after "taxpayer".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 10512 of the Revenue Act of 1987.

SEC. 206. INCREASE IN GAS GUZZLER TAX.

(a) IN GENERAL.—Section 4064(a) (relating to gas guzzlers tax) is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any automobile sold by a manufacturer after September 30, 1988:

"If the fuel economy of the model type in which the automobile falls is:

	The rate is:
At least 22.5	$ 0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles sold by a manufacturer after September 30, 1988.

TITLE III—MISCELLANEOUS PROVISION

SEC. 301. 1-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "July 1, 1988" and inserting in lieu thereof "July 1, 1989".

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment:

H.R. 3097. A bill to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, and for other purposes (Rept. No. 100-310).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Frank DeGeorge, of Maryland, to be inspector general, Department of Commerce; pursuant to previous order, further referred to the Committee on Governmental Affairs;

Joseph Trippe Nall, of North Carolina, to be a member of the National Transportation Safety Board for the term expiring December 31, 1992;

Marc G. Stanley, of Maryland, to be an Assistant Secretary of Commerce;

William Evans, of California, to be Under Secretary of Commerce for Oceans and Atmosphere;

Robert H. Brumley II, of Virginia, to be general counsel of the Department of Commerce;

Barbara McConnell Barrett, of Arizona, to be Deputy Administrator of the Federal Aviation Administration;

Robert L. Pettit, of the District of Columbia, to be Associate Deputy Secretary of Transportation;

Edward R. Hamberger, of Maryland, to be an Assistant Secretary of Transportation;

Rear Adm. Clyde E. Robbins as Commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving; and

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Thomas T. Matteson
Richard I. Rybacki
Martin H. Daniell, Jr.
Robert T. Nelson
Marshall E. Gilbert

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

Ronald M. Polant
William P. Leahy, Jr.
Joel D. Sipes
Richard A. Appelbaum
Arthur E. Henn

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the National Oceanic and Atmospheric Administration and Coast Guard which were printed in their entirety in the CONGRESSIONAL RECORDS of February 2 and March 14, 1988, and, to save the expense of reprinting them on the Executive Calendar, I ask that these nominations lie at the Secretary's desk for the information of Senators.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. INOUYE, and Mr. PACKWOOD):

S. 2221. A bill to expand our national telecommunications system for the benefit of the hearing impaired, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2222. A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN, from the Committee on Finance:

S. 2223. An original bill to promote and protect taxpayer rights, and for other purposes; placed on the calendar.

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 2224. A bill to transfer the Colonial Court House in York, PA, to the control of the National Park Service; to the Committee on Energy and Natural Resources.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 2225. A bill to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Franklin County, WA, road system within the Federal Columbia Basin reclamation project; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2226. A bill to provide financial assistance for innovative programs to address the educational needs of children at risk of experiencing low academic achievement, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 2227. A bill to authorize competitive leasing of quartz mineral deposits in the Ouachita National Forest; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 2228. To designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building"; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. PELL, and Mr. SIMON):

S. 2229. A bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such act, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 2230. A bill to establish the Office of Enforcement and Border Affairs within the Department of the Treasury; to the Committees on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. CRANSTON, and Mr. DODD):

S.J. Res. 282. Joint Resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, and Presidential elections; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. INOUYE, and Mr. PACKWOOD):

S. 2221. A bill to expand our national telecommunications system for the benefit of the hearing-impaired, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELECOMMUNICATIONS SERVICES FOR THE HEARING-IMPAIRED

Mr. McCAIN. Mr. President, today we enjoy a telecommunications system that surpasses those of all other countries in both technology and efficiency and which provides superior service to a large percentage of the population at reasonable cost.

Unfortunately, there is a segment of our population whose communications needs have been overlooked—the Nation's 24 million hearing-impaired citizens. These Americans, by virtue of their disability, haven't had the access to our telephone system that's so readily available to the rest of the Nation.

Initially, the restriction was a simple matter of technology. Over the years, however, technological advances have removed this impediment. Communications devices have been designed for use by the hearing-impaired that interface with standard telephones. TDD's—telecommunications devices for the deaf—are equipped with key-

boards and digital display screens that permit messages to be typed and transmitted over standard telephone wires to other TDD's.

As a practical matter, however, the impediment remains as long as accessibility to TDD's is limited. A hearing-impaired person with a TDD can communicate only with those who also have TDD's. And those who have TDD's are family and friends of the hearing-impaired and service industries and agencies that cater to the needs of the hearing-impaired.

The vast majority of governmental agencies and businesses in this country do not. The needs of all disabled people have been addressed through extensive legislation, much of which has been successful. Equal access has become a catch phrase to address the removal of barriers, physical and attitudinal, experienced by the handicapped. But the problem of inability to communicate goes beyond the issues addressed in the context of equal access for the handicapped.

Many of the 24 million hearing-impaired people in this country are young people who are just beginning to move into the business world. As we have recently seen at Gallaudet University, these people are bright, articulate, and ready to participate and contribute if society is willing to accommodate their special needs.

Today I'm introducing a bill that will require the Federal Government to make such an accommodation. This is not largess. The purpose is to fulfill a mandate that existed long before the technology that could make it a reality: a rapid, efficient, nationwide telecommunications system available to all the people of the United States. This bill establishes a five-part program to accomplish this.

First, the bill requires the Federal Communications Commission to consult and coordinate with the Architectural and Transportation Barriers Compliance Board to establish and implement a telecommunications system for the hearing-impaired with and within the Federal Government.

The existing Federal relay system is inadequate to meet the needs of the hearing-impaired population. It is a pilot program, funded by the Compliance Board and housed by the Treasury Department and is scheduled to expire in August of this year. There is only one operator whose responsibility is to receive messages and inquiries on the TDD during normal business hours, relay to the appropriate departments and agencies and then respond to the party inquiring on the TDD.

When my staff attempted to make contact with this relay system, the calls either went unanswered or were answered with a message to leave a number and await a return call, which never came. In addition to being inadequate to meet the need, its existence is a well kept secret despite efforts to publish listings in appropriate directories. This legislation provides for the expansion and publication of the system to meet minimum service requirements as established by the Commission and the Board.

Second, in addition to an expanded relay system, this bill requires all Federal departments and agencies to be equipped with an accessible TDD and, depending on agency population, a station equipped to accommodate portable TDD's.

Third, the legislation also provides for the expansion and upgrading of the facilities as usage requires and for the installation of TDD pay phone stations where economically feasible. These stations will be placed at visible locations in or near the lobbies of Federal facilities and will accommodate users of portable TDS's.

Fourth, just as logos currently identify everything from handicapped parking places to restrooms, a logo identifying the location of a TDD or a TDD station is a vital accessory to the equipment itself. This legislation mandates the design and distribution of such a standardized logo.

Fifth, the legislation will place the Commission and the Compliance Board at the forefront of technological developments in this field. In addition to supporting the development of cost reducing telecommunications methods, the legislation mandates an active role by assigning to the Commission and the Board the responsibility of planning for the evolution of a hardware-based alternative to a Federal relay system.

Earlier I referred to recent events at Gallaudet University. You may recall that some people have been quoted as saying that the deaf are not prepared to function in the hearing world. I would argue that the deaf may be more prepared than the hearing world. We have neglected the needs of this segment of our population. We can no longer afford to do that.

The ability of the hearing-impaired to communicate with the Federal Government and for the Government to communicate with all its citizens is a necessary element for the efficient and representative management of this society in all its aspects. The Communications Act of 1934 was passed in order to provide the country with efficient, affordable, and accessible telephone service. The means to reach this segment of the population have been available for some time. It is the responsibility of the Federal Government to lead the way in seeing that the technology is utilized to the fullest extent possible.

The bill I am introducing today is an important step toward fulfilling that responsibility. The removal of impediments to meaningful communications will be an important step toward full participation of the hearing-impaired in the business of the Nation. I hope my colleagues join me in this effort to make our Government and our national telecommunications network more open and accessible to the 24 million Americans whose hearing deficiency can be overcome by the simple investment in a little available technology.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2222. A bill to amend the Public Health Service Act to reauthorize programs relating to the National Research Institutes established under title IV of such Act, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL RESEARCH INSTITUTES REAUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, I rise to introduce a measure to reauthorize the National Institutes of Health. It is a particular pleasure to do so in the year following the centennial year of that great agency. In 100 years of sustained excellence, the NIH has grown from a one room attic laboratory in 1887 to the premier and largest medical research institution in the world today. It is altogether fitting that we now provide the NIH with the authority that will foster the even greater medical advances that we can expect to emerge from NIH-supported research as it enters its second hundred years.

In the past century, 88 eminent scientists who have had their research supported in whole or in part by the NIH have received the Nobel prize. Four distinguished NIH intramural scientists have also received the prize. Yet, the real glory of the NIH derives not from the great scientists it has supported, but from the truly impressive list of life-saving and life-enhancing medical breakthroughs this research has produced. Funding for NIH has not been money spent, but money invested, and every American has profited.

One only need look at the benefits that have accrued to children. NIH research has produced a drug cure for childhood leukemia, reduced mortality from neonatal respiratory distress syndrome, provided vaccines for life-threatening diseases such as rubella, developed early detection tests and treatments for congenital disorders that have saved thousands of children from mental retardation, made liver transplantations possible, demonstrated the cancer-causing role of asbestos in school construction, and begun the eradication of childhood maladies such as tooth decay which has recently shown a significant decline.

Or one only need look at the benefits that have accrued to the aged. NIH research has resulted in the development of corneal transplants and

laser retinal therapy that has saved the eyesight of many, as well as improved therapies for cancer, heart disease and diabetes. But perhaps NIH's finest achievement for the elderly has been studies that have distinguished the normal biological processes of aging from simple deficiencies of life style and serious illness. This has allowed many of the myths of aging to be exploded and serious illnesses to be exposed, greatly altering and improving physicians' attitudes toward older patients.

These examples only scratch the surface of NIH's medical achievements and do not begin to disclose the staggering number of NIH's scientific achievements. Yet, it is important to recognize that the basic research of yesterday has yielded discoveries that will underpin tomorrow's advances in treatment. Never have we needed NIH's breakthroughs as we do today. We are still far from the cures we seek for many dread diseases. And we are confronted with a new and deadly epidemic, AIDS.

Yet even as we need NIH more than ever, its progress is threatened. It's outstanding record of achievement has only been possible as a result of the Federal Government's willingness to share the cost of facility construction and maintenance at research institutions. This support was severely cutback after 1969, and financially constrained research institutions have been forced to defer needed construction and maintenance in order to keep up research productivity. The insidious nature of this situation has increasingly led research institutions to call on pork barrel politics for help, a process that addresses a critical need in a haphazard and inefficient manner. The NIH and the medical research community it supports should not be forced to enter its second century in the inadequate and run-down facilities of its first century. No resource can prosper unless it is properly cared for and given room to grow.

There are four programs that require specific reauthorizations through this legislation. These include the program of the National Cancer Institute [NCI], the National Heart, Lung, Blood Institute [NHLBI], the National Library of Medicine, and the NIH training programs. The authorizations for NCI and NHBLI have been increased to 16 percent above current appropriations levels for 1989, and left open on a "such sums" basis for 1990 and 1991. This represents a small increase of 3 percent in real terms for each of these important Institutes. Due to the high rate of inflation in the health sector, an increase of 13 percent is required just to maintain the current programs of these outstanding research institutes. (Please examine the accompanying table for reauthorization amounts.)

The highlights of this legislation I am submitting are summarized briefly in the following remarks.

I propose to institute a construction and revitalization grant program at NIH that will rebuild and expand our biomedical research infrastructure. I further propose that this be a matching funds grant program to challenge the States and private donors to be part of a national effort to guarantee progress in medical research. The authorization for this facilities construction program is small—$150 million. Since each institution will be asked to match the Federal dollars it receives, this sum will have double the impact. And lastly, I propose award criteria to ensure that emerging centers of excellence, which may lag behind in their institutional development or which have faced significant barriers to their development, will be able to share in this opportunity.

An increasing cause for alarm for the NIH campus itself is the strain being endured by the intramural program. This program is a national resource, revered around the world, which must be protected. Government salary caps are causing severe recruitment and retention problems; NIH senior scientists and Institute Directors are beckoned away by medical schools which offer to pay twice their maximum salary. I propose incorporation of an HHS proposal to create a Senior Biomedical Scientist Service which, for a modest cost, will benefit senior scientists at NIH, FDA and CDC. We must do at least this much to maintain the world class stature of scientists at these institutions. I will also ask the Institute of Medicine to investigate the impact of establishing a publicly chartered National Institutes of Health foundation that might be a source of additional funds to augment the NIH budget.

Another area in critical need of attention is medical rehabilitation research. This field has brought much progress in the understanding and treatment of disabilities; yet it has not contributed to the extent it might for lack of an administrative focal point dedicated to its needs. Medical rehabilitation research cuts across many organ systems and scientific disciplines. Its more basic aspects are covered in separate efforts within the various institutes of NIH. Its more social and vocational, and to some extent medical, aspects are covered by programs of the National Institute of Disability and Rehabilitation Research in the Department of Education. But nowhere is there an entity devoted to the priorities and needs of medical rehabilitation research. The creation of such an entity is essential if this important area of medicine is to flourish.

I propose that a Center for Medical Rehabilitation Research be created at the NIH. Research advances will be made on a basic level and on the level of reintegrating the disabled into society, and new breakthroughs will be promoted in the clinical treatment of the disabled. The most important elements of this Center will be the development of an overall research plan for medical rehabilitation research, the augmentation of and coordination with existing NIH programs, and an emphasis on research training. This field is ripe for rapid progress, and the proposed Center, located in the rich biomedical environment of NIH, will greatly facilitate its achievements.

The astounding pace of medical advances is now often providing us not only with great opportunities, but also with difficult choices, as we gain more and more power to control our medical destiny. Advanced biomedical knowledge sometimes trespasses on the rights of society and the individual; there is also the risk that such concerns can lead to unnecessary obstacles in the path of new life-saving treatments.

For example, 10 years ago, concern over abuses caused a virtual elimination of Federal support for fetal research. Despite this prohibition, a good deal of research on fetal therapies has been conducted using other sources of funding. Important advances have been made that have allowed thousands of fetuses to survive. This work has gone forward without the rigorous scientific and ethical review that Federal regulations would have provided. It is time to reexamine this issue to determine whether there is a new consensus that will fully protect moral precepts without interfering with the potential of federally funded research to save babies.

I propose the creation of a Centers for Biomedical Ethics program to be administered by the NIH. Through cooperative agreements or grants, five such centers would be established extramurally. These Centers will provide guidance from ethicists and other experts as we confront the difficult choices that biomedical research is making possible and as we seek to make the best use of our opportunities and resources.

The national nursing shortage is receiving increasing attention around the country, and the traditional role of the nurse is under close examination. I am proposing that authority be given to the National Center for Nursing Research to set up innovative nursing demonstrations to restructure the role of the hospital nurse. The Center would be empowered to issue research and demonstration grants to extramural institutions to improve the quality of the nursing role with respect to patient care.

These are also exciting times for research on aging. I propose to capitalize on this momentum by authorizing the

National Institute on Aging to establish centers in geriatric research and research training. The primary emphasis of the centers will be the training of physicians to provide instruction in geriatrics to other physicians and to students of health professions. This will greatly facilitate the incorporation of research findings in geriatrics into improved patient care.

Another area of promise and need for emphasis is research on deafness and other communication disorders. This area is receiving increased public and congressional attention. Many are calling for the creation of a new institute at NIH to address this need. The question is how best to enhance research in this area. In view of the fact that the funding rate for proposals in this area is currently higher than the overall funding rate for NIH proposals, I believe that the greatest emphasis should be placed on attracting and training additional researchers to this field.

I propose the funding of eight centers for research and training in deafness and other communication disorders by the National Institute of Neurological and Communicative Disorders and Stroke. The centers will begin to immediately address the need for additional trained researchers in this area in an efficient and effective manner. This approach will get quickly to the heart of the problems and will avoid spending millions of dollars for administrative costs that would be required for the start up of a new NIH institute, money that might be better spent on research itself.

As one of the authors of the National Cancer Act of 1971, I am pleased to be able to say that the programs carried out by the National Cancer Institute since the adoption of that act have shown outstanding results and provide great hope for the future.

Nearly 50 percent of the patients are now curable, compared to 38 percent in the 1960's. Genetic and environmental risk factors have been clarified, increasing our ability to prevent and control cancer. Important systems have been devised to speed treatment advances to the patient and to make state-of-the-art case management information readily available.

Major discoveries have been made in cancer biology and immunology, including the discovery of reverse transcriptase, an important enzyme in AIDS etiology. Advances have also been made in our understanding of the role on oncogenes, the genes that cause cancer. A supercomputer system is now being developed that will provide researchers with an unprecedented ability to analyze and integrate data into meaningful patterns. An improved antitumor drug screening program will allow much more sophisticated search and evaluation of compounds for antitumor effects.

Despite impressive progress, 870,000 new cases of cancer are reported each year, and 450,000 deaths occur. We must provide greater encouragement to researchers to keep up and expand the fight. I propose a 16 percent increase in the authorization level for NCI. Discounting the 13 percent needed to maintain current services, this proposal allows about 3 percent real growth in 1989.

I am recommending a similar increase for the National Heart, Lung and Blood Institute. Research advances have helped lower the death rate for coronary heart disease by 43 percent since 1972. This progress has been made possible by the improved understanding and advances in treatment and prevention resulting from federally supported research. With a renewed and strongly supported effort, continued progress in the control of coronary heart disease, sickle cell anemia, and high blood pressure will be achieved.

I am also recommending that the 1988 authorization level for the medical libraries grant program of the National Library of Medicine be maintained for 1989. This level is still substantially greater than the 1988 appropriation. I also propose to remove the artificial restriction on the size of these grants, which threatens to impede this program. To assist the NLM in obtaining members for its Board of Regents, I am proposing that the members be appointed by the President. These changes will assist the NLM in maintaining its position as the premier medical library in the world.

Training is an area of increasing concern. I propose to reaffirm our commitment to research training by increasing the authorization level of the National Research Service Awards by 25 percent. This will allow for growth as well as allow for meeting increased costs by raising stipends, which is essential if we are to attract the brightest minds into health research. There has been essentially no growth in the number of trainees in the last 10 years, while the size of the biomedical enterprise has grown substantially. Perhaps of greatest importance, this increase will allow for a substantial growth in the number of research trainees in the important areas of drug and alcohol abuse and mental health research. These disciplines are substantially below the projected need as estimated by the National Academy of Sciences in its last report. The recent statements of the Chair of the President's Commission on AIDS underscores the overarching importance of improving our research endeavors in the area of drug abuse.

In the last century a partnership has developed in biomedical research between government, academia and industry. The Federal support of NIH has made it preeminent in the world and we have been a steady and reliable partner. The reauthorization bill I have proposed will enhance the NIH's ability to play its role and will challenge our partners to match our commitment. I have made improving the health care and quality of life of the American people a major goal of my professional life and passage of this bill will ensure continued progress of that goal. I urge my colleagues in the Senate to become cosponsors of this legislation so that we may move it quickly to final passage.

Mr. President, I ask unanimous consent that the text of the bill and a table of the proposed authorization levels be printed in the RECORD.

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

S.2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Research Institutes Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

Sec. 101. Biomedical and behavioral research facilities.

TITLE II—BIOMEDICAL ETHICS

Sec. 201. Centers for biomedical ethics.
Sec. 202. Fetal therapy and research.

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Sec. 302. Centers for the Study of Deafness and Other Communicative Disorders.

TITLE IV—NATIONAL INSTITUTE ON AGING

Sec. 401. Centers of geriatric research and training.

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

Sec. 501. National Center for Medical Rehabilitation Research.

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

Sec. 601. National Center for Nursing Research.

TITLE VII—NATIONAL CANCER INSTITUTE

Sec. 701. Purpose.
Sec. 702. Special authorities of the Director.
Sec. 703. National cancer research and demonstration centers.

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 801. Information and education.
Sec. 802. Resources program.
Sec. 803. National research and demonstration centers.
Sec. 804. Interagency technical committee.

TITLE IX—NATIONAL INSTITUTES OF HEALTH
Sec. 901. Appointment and authority of the Director.
TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES
Sec. 1001. Appointment and authority of the directors.
Sec. 1002. Advisory councils.
Sec. 1003. Authorization of appropriations.
TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES
Sec. 1101. Advisory boards.
TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES
Sec. 1201. National arthritis and musculoskeletal disease programs.
Sec. 1202. Multipurpose disease centers.
TITLE XIII—NATIONAL LIBRARY OF MEDICINE
Sec. 1301. Board of regents.
Sec. 1302. Authorization of appropriations.
Sec. 1303. Grants for the development of new educational technologies.
Sec. 1304. Grants for basic resources of medical libraries.
Sec. 1305. Grants for establishment of regional medical libraries.
TITLE XIV—AWARDS AND TRAINING
Sec. 1401. National research service awards.
TITLE XV—GENERAL PROVISIONS
Sec. 1501. Peer review requirements.
TITLE XVI—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE
Sec. 1601. Biomedical research.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

SEC. 101. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Title IV (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new part:

"PART H—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 499A. GRANTS FOR CONSTRUCTION.

"The Director of the National Institutes of Health, through the Director of Research Resources (hereinafter in this part referred to as the 'Director'), is authorized to award grants to public and nonprofit private institutions to expand, remodel, renovate, or alter existing research facilities or construct new research facilities pursuant to this part. Applications for grants shall be evaluated on the basis of merit as provided in section 499H.

"SEC. 499B. TECHNICAL REVIEW BOARD ON BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the Division of Research Resources of the National Institutes of Health a Technical Review Board on Biomedical and Behavioral Research Facilities (hereinafter referred to in this part as the 'Board') to advise the Director and the Advisory Council established pursuant to section 480 (hereinafter in this part referred to as the 'Advisory Council') on matters concerning the construction of facilities, and to conduct the peer review of applications received for this part.

"(2) MEMBERSHIP.—The Board shall be appointed by the Director, and consist of not fewer than—

"(A) 12 members appointed without regard to the civil service laws; and

"(B) an official of the National Science Foundation designated by the National Science Board.

"(3) FACTORS FOR APPOINTMENTS.—In selecting persons for appointment to the Board under paragraph (2), the Director shall consider factors such as—

"(A) experience in the planning, construction, financing, and administration of institutions engaged in the conduct of research in the biomedical or behavioral sciences;

"(B) familiarity with the need for biomedical or behavioral research facilities;

"(C) familiarity with the need for dentistry, nursing, pharmacy, and allied health professions research facilities; and

"(D) experience with emerging centers of excellence as defined in section 499C(d)(2).

"(b) DUTIES.—The Board shall—

"(1) advise and assist the Director and the Advisory Council in the preparation of general regulations and with respect to policy matters arising in the administration of this part;

"(2) make recommendations to the Director and the Advisory Council concerning—

"(A) merit review of applications for grants; and

"(B) the amount that should be granted to each applicant whose application, in its opinion, should be approved; and

"(3) prepare an annual report for the Advisory Council, which shall be available to the public, that—

"(A) describes the activities of the Board in the fiscal year for which the report is made;

"(B) describes and evaluates the progress made in such fiscal year in meeting the facilities needs for the biomedical research community;

"(C) summarizes and analyzes expenditures made by the Federal government for such activities;

"(D) reviews the approved but unfounded applications for grants; and

"(E) contains the recommendations of the Board for any changes in the implementation of this part.

"(c) TERMS.—

"(1) TERMS.—Each appointed member of the Board shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) STAGGERED TERMS.—Of the initial members appointed to the Board—

"(A) three shall hold office for a term of 3 years;

"(B) three shall hold office for a term of 2 years; and

"(C) three shall hold office for a term of 1 year;

as designated by the Director at the time of appointment.

"(3) REAPPOINTMENT.—No member shall be eligible for reappointment until a year has elapsed since the end of such member's preceding term.

"(d) COMPENSATION.—Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this title.

"(e) USE OF MEMBERS.—The Director is authorized to use the services of any member or members of the Board, and where appropriate, any member or members of any other national advisory council established pursuant to this title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as the Director may determine. The Director shall make appropriate provision for consultation between and coordination of the work of the Board and the Advisory Council, with respect to matters bearing on the purposes and administration of this part.

"(f) ADMINISTRATION.—The administration of the Board's functions shall be the responsibility of the Director and shall be carried out in the same manner as the administration of the functions of the Advisory Council.

"(g) BOARD ACTIVITIES.—

"(1) IN GENERAL.—In carrying out its functions under this part, the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(2) SUBCOMMITTEES.—Subcommittees formed under paragraph (1) may be composed of Board members and nonmember consultants with expertise in the particular area to be addressed by the subcommittees. The subcommittee may hold meetings as determined necessary to enable the subcommittee to carry out its activities.

"SEC. 499C. APPLICATION AND SELECTION FOR GRANTS.

"(a) SUBMISSION.—Applications for grants under this part shall be submitted no less frequently than annually to the Director by public and nonprofit private institutions.

"(b) AWARDING OF GRANTS.—A grant under this part may be awarded by the Director if—

"(1) the applicant institution is determined by the Director to be competent to engage in the type of research for which the proposed facility is to be constructed;

"(2) the applicant institution meets the eligibility conditions established by the Director;

"(3) the application contains or is supported by the reasonable assurances that—

"(A) for not less than 20 years after completion of construction, the facility will be used for the purposes of research for which it is to be constructed;

"(B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility; and

"(C) sufficient funds will be available, when construction is completed, for effective use of the facility for the research for which it is being constructed; and

"(4) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research. A grant under this part may be made only if the application therefor is recommended for approval by the Advisory Council.

"(c) ELIGIBILITY CONDITIONS.—Within such aggregate monetary limit as the Director may prescribe, applications that, solely by reason of the inability of the applicants to give the assurance required by subsection (b)(2), fail to meet the requirements for ap-

plication set forth in this section, may be approved on condition that the applicants give the assurance required by such paragraph within a reasonable time and on such other reasonable terms and conditions as the Director may determine.

"(d) AWARDING GRANTS.—

"(1) IN GENERAL.—In acting on applications for grants under this part, the Director shall take into consideration—

"(A) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding capacity for biomedical or behavioral research and in improving the quality of such research;

"(B) the quality of research or training, or both, to be carried out in the facilities involved;

"(C) the need of the institution for such facilities in order to maintain or expand the institutions research and training mission;

"(D) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(E) the age and condition of existing research facilities and equipment.

"(2) INSTITUTIONS OF EMERGING EXCELLENCE.—

"(A) IN GENERAL.—In addition to paragraph (1), the Director shall consider other criteria for the awarding of grants for the construction of research facilities to eligible institutions that demonstrate emerging excellence in biomedical or behavioral research.

"(B) ELIGIBILITY.—To be eligible for a grant under this paragraph, an institution shall—

"(i) have a plan for research or training advancement and the ability to carry out the plan; and

"(ii)(I) carry out research and research training programs that have a special relevance to a problem, concern, or unmet need of the United States;

"(II) have already demonstrated a commitment to enhancing and expanding their research productivity; or

"(III) have been productive in research or research development and training in settings where significant barriers to institutional development have been created by—

"(aa) the underrepresentation of minorities in health science careers;

"(bb) the health status deficit of a large segment of the population; or

"(cc) a regional deficit in health care technology, services, or research resources that can adversely affect health status in the future.

"SEC. 499D. AMOUNT OF GRANT; PAYMENTS.

"(a) AMOUNT.—The amount of any grant awarded under this part shall be determined by the Director, except that such amount may not exceed—

"(1) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(2) in the case of a multipurpose facility, 50 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(b) RESERVATION OF AMOUNTS.—On approval of any application for a grant under this part, the Director shall reserve, from any appropriation available therefor, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Director may determine. The Director's reservation of any amount under this subsection may be amended by the Director, either on approval of an amendment of the application or on revision of the estimated cost of construction of the facility.

"(c) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by grant authorized under this part; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) WAIVER OF LIMITATIONS.—The limitations imposed by subsection (a) may be waived at the discretion of the Director for institutions described in section 499C(d)(2).

"SEC. 499E. RECAPTURE OF PAYMENTS.

"If, within 20 years after the completion of construction for which a grant has been awarded under this part—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private institution; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by agreement of the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"SEC. 499F. NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS.

"Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research conducted by, and the personnel or administration of, any institution.

"SEC. 499G. REGULATIONS.

"Within 6 months after the date of enactment of this part, the Director, after consultations with the Advisory Council, shall prescribe regulations regarding the eligibility of institutions for grants awarded under this part, and the terms and conditions of approving applications for such grants. The Director may prescribe such other regulations as the Director finds necessary to carry out this part.

"SEC. 499H. PEER REVIEW OF APPLICATIONS.

"(a) IN GENERAL.—The Director shall require appropriate peer review of applications for grants under this part in accordance with section 492.

"(b) MANNER OR REVIEW.—Review of grant applications shall be conducted in a manner consistent with the system of scientific peer review conducted by scholars with regard to applications for grants under this Act for biomedical and behavioral research.

"(c) MEMBERSHIP.—Members of the peer review group established by the Director under section 499B shall be individuals who by the virtue of their training or experience are eminently qualified to perform review functions, except that not more than one-fourth of the members of any peer review group shall be officers or employees of the United States.

"SEC. 499I. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to award grants and carry out this part $150,000,000 for fiscal year 1989 and such sums as necessary for each of the fiscal years 1990 and 1991. Sums appropriated pursuant to this section shall remain available until expended.

"SEC. 499J. DEFINITIONS.

"As used in this part:

"(1) CONSTRUCTION AND COST OF CONSTRUCTION.—The terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or offsite improvements.

"(2) PUBLIC OR NONPROFIT PRIVATE INSTITUTION.—The term 'public or nonprofit private institution' means an institution that conducts biomedical or behavioral research, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.".

TITLE II—BIOMEDICAL ETHICS

SEC. 201. CENTERS FOR BIOMEDICAL ETHICS.

(a) IN GENERAL.—Subpart 1 of part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 479A. CENTERS FOR BIOMEDICAL ETHICS.

"(a) IN GENERAL.—The Director of the Division of Research and Resources shall enter into cooperative agreements and make grants to public and private nonprofit entities for the development or expansion of no less than five centers of excellence in biomedical and behavioral research ethics.

"(b) DUTIES.—Each center shall examine, analyze, issue reports and recommendations, gather, store, and disseminate information regarding the ethical issues and principles resulting from—

"(1) the conduct of biomedical and behavioral research;

"(2) the delivery of health care services and experimental therapy and procedures; and

"(3) the use of new technologies in the provision of health care.".

(b) REPEAL.—Section 381 (42 U.S.C. 275) is repealed.

SEC. 202. FETAL THERAPY AND RESEARCH.

Section 498(c) (42 U.S.C. 298g) is amended to read as follows:

"(c)(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall appoint an Ethics Advisory Board that shall advise the Secretary and biomedical researchers regarding research on fetal therapy and on research involving human fetuses.

"(2) The Board shall consist of 15 members to be appointed as follows:

"(A) Seven members shall be appointed by the Secretary who shall be distinguished in biomedical or behavioral research. Of such members, four shall have had experience with research involving human fetuses, and three shall have had experience in research involving children.

"(B) Three members shall be appointed by the Secretary who shall be distinguished in the practice of medicine, or otherwise distinguished in the provision of health care. Of such members, one shall have expertise

in obstetrics, and one shall have expertise in neonatology.

"(C) Four members shall be appointed by the Secretary who shall be distinguished in the fields of ethics, theology, and law.

"(D) One member shall be appointed by the Secretary who shall be representative of citizens with an interest in biomedical ethics but who shall possess no specific expertise in such.

"(3) The term of office of each member of the Board shall be 3 years, except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which such members predecessor was appointed shall be appointed for the remainder of such term. The terms of the members of the Board shall be staggered by the Secretary so as to establish a rotating membership.

"(4)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue a contract proposal, to which the National Academy of Sciences shall be invited to apply, for a grant or contract to examine the scientific, ethical, and funding issues surrounding the conduct of research on fetal therapy and involving human fetuses.

"(B) As part of an examination conducted under subparagraph (A), the recipient shall review the regulations contained in section 46.208 of title 45, Code of Federal Regulations, and prepare and submit to the Secretary an analysis of the biomedical and ethical implications of exercising a waiver of the risk standard as contained in section 46.102(g) of title 45, Code of Federal Regulations. Not later than 18 months after the date of enactment of this subsection, the Secretary shall deliver a copy of such report to the Ethic Advisory Board, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate.

"(4) During the 2-year period beginning on the date of enactment of this subsection, the Secretary may not grant (under section 46.211 of title 45, Code of Federal Regulations or any successor to such section) a modification or waiver for fetal research.".

TITLE III—NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

SEC. 301. CENTERS FOR THE STUDY OF DEAFNESS AND OTHER COMMUNICATIVE DISORDERS.

Subpart 10 of part C of title IV (42 U.S.C. 285j) is amended by adding at the end thereof the following new section:

"SEC. 457A. CENTERS FOR THE STUDY OF DEAFNESS AND OTHER COMMUNICATIVE DISORDERS.

"(a) GRANTS.—

"(1) IN GENERAL.—The Director of the Institute may enter into cooperative agreements with, and make grants to, public or private nonprofit entities to pay all or part of the cost of planning, establishing, strengthening, or providing basic operating support for eight new or existing centers for disorders of hearing and communication diseases.

"(2) POLICIES.—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of the National Institutes of Health after consultation with the advisory council of the Institute.

"(b) USE OF FUNDS.—Each center provided with funds, or otherwise assisted under this section, shall conduct—

"(1) basic and clinical research into the cause diagnosis, early detection, prevention, control and treatment of, and rehabilitation from, disorders of hearing and other communication processes and complications resulting from such disorders;

"(2) training programs for physicians, scientists, and other health and allied health professionals;

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

"(4) programs for the dissemination to the general public of information on the importance of prevention and early detection of disorders of hearing and other communication processes.

"(c) STIPENDS.—A center provided with funds or otherwise assisted subsection (a), may used funds provided under such subsection to provide stipends for health professionals enrolled in training programs described in subsection (b)(2).

"(d) DEMONSTRATION PROGRAMS.—Each center provided with funds or otherwise assisted subsection (a), may conduct demonstration programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

"(e) DISTRIBUTION OF CENTERS.—The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children affected by disorders of hearing or other communication processes.

TITLE IV—NATIONAL INSTITUTE ON AGING

SEC. 401. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.) is amended by adding at the end thereof the following new section:

"SEC. 445A. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

"(a) GRANTS.—The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of centers of excellence in geriatric research and training.

"(b) DUTIES OF CENTERS.—Each center developed or expanded under this section shall—

"(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

"(2) conduct—

"(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging;

"(B) advanced training programs in current methods of diagnosis and treatment of such diseases, disorders, and complications;

"(C) programs to develop individuals capable of conducting research concerning aging and concerning such diseases, disorders, and complications; and

"(D) educational and training activities for students of the health professions to enhance the knowledge of such students in geriatrics.

"(c) LIMITATIONS.—In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall provide that such centers are—

"(1) geographically distributed throughout the United States; and

"(2) located at entities with proven research capabilities and emerging centers of excellence.".

TITLE V—NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

SEC. 501. NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 4—National Center for Medical Rehabilitation Research

"SEC. 486A. PURPOSE OF THE CENTER.

"The general purpose of the National Center for Medical Rehabilitation Research (hereafter in this subpart referred to as the 'Center') is the conduct and support of biomedical and related research and research training, the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, or other physiologic systems (hereafter in this subpart referred to as 'medical rehabilitation').

"SEC. 486B. APPOINTMENT OF THE DIRECTOR.

"The Director of the Center shall be appointed by the Secretary and shall report directly to the Director of the National Institutes of Health.

"SEC. 486C. SPECIFIC AUTHORITIES.

"In carrying out the purpose described in section 486A, the Director of the Center may—

"(1) make grants and enter into cooperative agreements and contracts;

"(2) provide for clinical trials with respect to medical rehabilitation;

"(3) provide for research with respect to model systems of medical rehabilitation;

"(4) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

"(5) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

"(6) with the approval of the Director of the National Institutes of Health and the advisory council established under section 465F, appoint technical and scientific peer review groups in addition to any such groups appointed under section 402(b)(6); and

"(7) support medical rehabilitation research and training centers.

"SEC. 486D. RESEARCH PLAN.

"(a) DEVELOPMENT.—After consultation with the Director of the Center, the advisory council established under section 486F, and the coordinating committee established under section 486E, the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of medical rehabilitation research.

"(b) CONTENTS.—The plan shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

"(c) REVISION.— The Director of National Institutes of Health shall (after consultation with the Director of the Center and with such advisory council and such coordinating committee) revise the plan as appropriate.

"SEC. 486E. COORDINATING COMMITTEE.

"(a) ESTABLISHMENT.—The Director of the National Institutes of Health shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this subpart referred to as the 'Coordinating Committee').

"(b) COMPOSITION.—The Coordinating Committee shall be composed of the directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute of Child Health and Human Development, the National Institute of Neurological and Communicative Disorders and Stroke, and of such other national research institutes as the Director of the National Institutes of Health determines to be appropriate.

"(c) DUTIES.—The Coordinating Committee shall make recommendations to the Director of National Institutes of Health and the Director of the Center with respect to the content of the plan required in section 486D and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health.

"SEC. 486FG. ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Director of the National Institutes of Health shall establish a council to be known as the Medical Rehabilitation Advisory Council (hereafter in this section referred to as the 'Advisory Council').

"(b) DUTIES.—The Advisory Council shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health and the Director of the Center on matters relating to the activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in section 486D.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Director of the National Institutes of Health shall appoint to the Advisory Council 18 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

"(2) EX OFFICIO MEMBERS.—The following officials shall serve as ex officio members of the Advisory Council:

"(A) The Director of the National Institutes of Health.

"(B) The Director of the Center.

"(C) The Director of the National Institute on Aging.

"(D) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(E) The Director of the National Institute of Child Health and Human Development.

"(F) The Director of the National Institute of Neurological and Communicative Disorders and Stroke.

"(G) The Assistant Secretary for Special Education and Rehabilitative Services.

"(H) The Assistant Secretary of Defense (Health Affairs).

"(I) The Chief Medical Director of the Veterans' Administration.

"(d) CHAIRPERSON.—The Director of the National Institutes of Health shall designate a chairperson from among the members of the Advisory Council.

"(e) CONSTRUCTION.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 406 shall apply to the advisory council established under this section in the same manner as such provisions apply to any advisory council established under section 406.".

TITLE VI—NATIONAL CENTER FOR NURSING RESEARCH

SEC. 601. NATIONAL CENTER FOR NURSING RESEARCH.

Section 484 (42 U.S.C. 287c-1) is amended to read as follows:

"SEC. 484. SPECIFIC AUTHORITIES.

"To carry out section 483, the Director of the Center may—

"(1) provide research training and instruction and establish, in the Center and other nonprofit institutions, research traineeships and fellowships in the study and investigation of the prevention of disease, health promotion, and the nursing care of individuals with and the families of individuals with acute and chronic illnesses;

"(2) provide individuals receiving such training and instruction under paragraph (1) or such traineeships or fellowships with such stipends and allowances (including amounts for travel and subsistence and dependency allowances) as the Director determines necessary;

"(3) make grants to nonprofit institutions to provide training and instruction and traineeships and fellowships under paragraph (1);

"(4) enter into cooperative agreements with, and make grants to, public and private nonprofit entities to fund all or part of research and demonstration projects that may include projects for research concerning—

"(A) innovative models of nursing care;

"(B) problems relating to the national nursing shortage; and

"(C) the quality of the nursing role with regard to patient care; and

"(5) in consultation with the Advisory Council established under section 485, make grants for the acquisition, construction, or renovation of facilities.".

TITLE VII—NATIONAL CANCER INSTITUTE

SEC. 701. PURPOSE.

Section 410 (42 U.S.C. 285) is amended by inserting "and rehabilitation from" after "treatment of".

SEC. 702. SPECIAL AUTHORITIES OF THE DIRECTOR.

Section 413(b) (42 U.S.C. 285a-2(b)) is amended—

(1) in paragraph (5), by striking out "with the approval of" and inserting in lieu thereof "in consultation with";

(2) in paragraph (7), by inserting "and to conduct the technical and scientific peer review required by section 492(b)" before the semicolon;

(3) in paragraph (9), by striking out "; and" and inserting in lieu thereof a semicolon;

(4) by redesignating paragraph (10) as paragraph (11);

(5) by inserting after paragraph (9) the following new paragraph:

"(10) may publish or arrange for the publication of information regarding cancer research, prevention, biology and diagnosis, control, and treatment to cancer patients and their families, physicians, and other health professionals, oncologic investigators, and the general public without regard to section 501 of title 44, United States Code; and"; and

(6) in paragraph (11) (as redesignated in paragraph (4)), by striking out "may" and inserting in lieu thereof "shall".

SEC. 703. NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS.

Section 414(a)(1) (42 U.S.C. 285a-3(a)(1)) is amended by inserting "control," after "prevention,".

TITLE VIII—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 801. INFORMATION AND EDUCATION.

Paragraphs (1) and (2) of the second sentence of section 420 (42 U.S.C. 285b-2) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following: "the utilization of collaborative efforts with both the public and private sectors to—

"(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

"(2) develop and disseminate to health professionals, patients and patient families, and the public of information designed to encourage adults and children to adopt healthful habits concerning the prevention of such diseases.".

SEC. 802. RESOURCES PROGRAM.

Section 421 (42 U.S.C. 285b-3) is amended—

(1) in subsection (a)(1)(D), by inserting "and rehabilitation from" after "treatment of"; and

(2) in subsection (b)—

(A) by striking out "; and" in paragraph (3) and inserting in lieu thereof a semicolon;

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, support appropriate programs for education and training (including continuing education and laboratory and clinical research training).".

SEC. 803. NATIONAL RESEARCH AND DEMONSTRATION CENTERS.

Section 422(a)(1) (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (A), by inserting "and rehabilitation" after "treatment"; and

(2) in subparagraph (B), by inserting "and rehabilitation" after "treatment".

SEC. 804. INTERAGENCY TECHNICAL COMMITTEE.

Section 423 (42 U.S.C. 285b-5) is repealed.

TITLE IX—NATIONAL INSTITUTES OF HEALTH

SEC. 901. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

Section 402(b)(6) (42 U.S.C. 282(b)(6)) is amended by inserting "and scientific program advisory committees" after "scientific peer review groups".

TITLE X—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 1001. APPOINTMENT AND AUTHORITY OF THE DIRECTORS.

(a) POWERS AND DUTIES OF DIRECTORS.—Section 405(b) (42 U.S.C. 284(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by striking out "the human diseases" and inserting in lieu thereof "human diseases";

(B) by striking out "for which the national research institutes were established"; and

(C) by inserting "and agency of the National Institutes of Health" after "each national research institute";

(2) by adding at the end of paragraph (1) the following new sentence: "For purposes of Federal income, estate, and gift taxes, any gift accepted under subparagraph (H) shall be considered to be a gift or transfer to the United States."; and

(3) in the matter preceding subparagraph (A) of paragraph (2), by inserting "and agency of the National Institutes of Health" after "research institute".

(b) CARRYING OUT DUTIES.—Section 405(c) is amended—

(1) in the matter preceding paragraph (1), by inserting "and agency of the National Institutes of Health" after "national research institute";

(2) in paragraph (1), by inserting "or agency" after "institute";

(3) in paragraph (2)—

(A) by inserting "and agencies" after "institutes"; and

(B) by inserting "or agency" after "institute"; and

(4) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) may—

"(A) with the approval of the advisory council for the institute or agency and the Director of the National Institutes of Health, establish technical and scientific peer review groups in addition to those established under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A).".

SEC. 1002. ADVISORY COUNCILS.

(a) APPOINTMENT OF MEMBERS.—Section 406(b)(3)(A) (42 U.S.C. 284a(b)(3)(A)) is amended by striking out "public health and the" and inserting in lieu thereof "two individuals who are leaders in the fields of".

(b) TERMINATION OF MEMBERSHIPS.—Section 406(h)(2)(A)(v) (42 U.S.C. 284a(h)(2)(A)(v)) is amended—

(1) by inserting "shall be nonvoting members and" after "the Board"; and

(2) by striking out "and the Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 408(a) (42 U.S.C. 284c(a)) is amended to read as follows:

"(1)(A) For the National Cancer Institute (other than its programs under section 412), there are authorized to be appropriated $1,587,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(B) For the programs under section 412, there are authorized to be appropriated $84,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its programs under section 419), there are authorized to be appropriated $1,001,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991. Of the amount appropriated under this subsection for such fiscal year, not less than 15 percent of such amount shall be reserved for programs respecting diseases of the lung and not less than 15 percent of such amount shall be reserved for programs respecting blood diseases and blood resources.

"(B) For the programs under section 419, there are authorized to be appropriated $101,000,000 for fiscal year 1989 and such sums as are necessary in each of the fiscal years 1990 and 1991.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE XI—NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 1101. ADVISORY BOARDS.

Section 430 (42 U.S.C. 285c-4) is amended—

(1) by striking out subsection (k); and

(2) by redesignating subsection (l) as subsection (k).

TITLE XII—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 1201. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

Section 436 (42 U.S.C. 285d-1) is amended to read as follows:

"SEC. 436. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

"(a) PLAN.—The Director of the Institute, with the advice of the Institute's advisory council, shall prepare and transmit to the Director of the National Institutes of Health a plan for a national arthritis, musculoskeletal and skin diseases program to expand, intensify, and coordinate the activities of the Institute respecting arthritis, musculoskeletal and skin diseases. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise such plan and shall transmit any revisions of such plan to the Director of the National Institutes of Health.

"(b) ACTIVITIES.—Activities under the national arthritis, musculoskeletal and skin diseases program shall be coordinated with the other national research institutes to the extent that such institutes have responsibilities respecting arthritis, musculoskeletal and skin diseases, and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis, musculoskeletal and skin diseases, including sports-related disorders, primarily through the support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of arthritis, musculoskeletal and skin diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, including medical rehabilitation, and prevention of arthritis, musculoskeletal and skin diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) the establishment of mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

"(c) ADMINISTRATION.—The Director of the Institute shall carry out the national arthritis, musculoskeletal and skin diseases program in accordance with the plan prepared under subsection (a) and any revisions of such plan made under such subsection.".

SEC. 1202. MULTIPURPOSE DISEASE CENTERS.

Section 441(b)(2)(A) (42 U.S.C. 285d-6(b)(2)(A)) is amended by inserting "and rehabilitation from" after "treatment of".

TITLE XIII—NATIONAL LIBRARY OF MEDICINE

SEC. 1301. BOARD OF REGENTS.

Section 466(a)(1)(A) (42 U.S.C. 286a(a)(1)(A)) is amended by striking out "ten members appointed by the Secretary" and inserting in lieu thereof "13 members appointed by the President".

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS.

Section 469 (42 U.S.C. 286b) is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "For the purpose of grants and contracts under sections 472 through 476, there are authorized to be appropriated $14,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

SEC. 1303. GRANTS FOR THE DEVELOPMENT OF NEW EDUCATIONAL TECHNOLOGIES.

Section 473 (42 U.S.C. 286b-4) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall make grants to appropriate public or private nonprofit institutions for the purpose of carrying out projects in the research, development, and demonstration of new educational technologies. Such projects shall assist in the training of health professions students, and enhance and improve the research and teaching capabilities of health professionals. Funding may support projects including those concerning computer-assisted teaching at health professions and research institutions, the effective transfer of new information from research laboratories to appropriate clinical applications, the expansion of the laboratory and clinical uses of computer-stored research databases, and the testing of new technologies for training health care professionals in non-traditional settings.".

SEC. 1304. GRANTS FOR BASIC RESOURCES OF MEDICAL LIBRARIES.

(a) LIBRARY CONSTRUCTION AUTHORITY.—Section 474(a) (42 U.S.C. 286b-5(a)) is amended—

(1) in paragraph (3), by striking out "and" after the semicolon;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the acquisition, construction, or renovation of facilities.".

(b) REMOVAL OF GRANT CAP.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out ", except that in no" and all that follows through "$500,000".

SEC. 1305. GRANTS FOR ESTABLISHMENT OF REGIONAL MEDICAL LIBRARIES.

Section 475(b) (42 U.S.C. 286b-6(b)) is amended—

(1) in paragraph (4), by striking out "and" after the semicolon;

(2) in paragraph (5), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the acquisition, construction, or renovation of facilities.".

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TITLE XIV—AWARDS AND TRAINING

SEC. 1401. NATIONAL RESEARCH SERVICE AWARDS.

(a) MULTIDISCIPLINARY RESEARCH.—Section 487(a) (42 U.S.C. 288(a)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary, acting through the Director of the National Institutes of Health, shall assure that support is provided for multidisciplinary research training in disciplines not readily identified with existing categorical institutes.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 487(d) (42 U.S.C. 288(d)) to read as follows: "There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $350,000,000 for fiscal year 1989 and such sums as are necessary for each of the fiscal years 1990 and 1991.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1988.

TITLE XV—GENERAL PROVISIONS

SEC. 1501. PEER REVIEW REQUIREMENTS.

Section 492 (42 U.S.C. 289a) is amended—

(1) in subsection (a)(2)(A), by inserting "and congruent with changing review need," after "to the extent practical,"; and

(2) in subsection (b), by inserting ", except as provided in section 413(b)(7)" before the period at the end thereof.

TITLE XVI—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

SEC. 1601. BIOMEDICAL RESEARCH.

Part A of title III is amended by inserting after section 301 (42 U.S.C. 241) the following new section:

"SEC. 301A. BIOMEDICAL SCIENTIFIC SERVICE.

"(a) ESTABLISHMENT.—The Secretary is authorized to establish a Senior Biomedical Scientific Service (hereinafter in this section referred to as the 'Service').

"(b) MEMBERSHIP.—

"(1) CIVIL SERVICE.—Individuals chosen to serve in the Service shall not be a part of the competitive service established under chapter 33 of subpart B of part I of title 5, United States Code.

"(2) APPOINTMENT.—A person may be appointed to the Service by the Secretary based solely on that person's distinction and achievement in the fields of biomedical research or clinical research evaluation.

"(c) DUTIES.—Members of the Service shall be assigned to duties that require expertise in biomedical research, behavioral research, or clinical research evaluation, and may also be assigned to supervise other scientists in carrying out the activities described in this subsection.

"(d) COMPENSATION.—Individuals selected to serve on the Service staff by the Secretary under subsection (b), shall be compensated at a rate not in excess of 110 percent of the annual rate of pay in effect for level I of the Executive Salary Schedule established in section 5512 of title 5, United States Code.

"(e) RETIREMENT.—For purposes of section 211, the continuous service in the Service of any person who commences such service on termination of service as a commissioned officer in the Public Health Service Corps may be treated as service as a commissioned officer in the Public Health Service Corps and shall not be considered as service that is subject to any other retirement system for officers and employees of the Federal government.".

PROPOSED AUTHORIZATION LEVELS

[In millions of dollars]

Institute/program	Authorizations		Fiscal year 1988 appropriations
	Current 1988	Proposed 1989	1988
National Cancer Institute	1,424	1,671	1,438
National Heart, Lung and Blood	1,025	1,102	926
National Research Service Awards	275	350	263
National Library of Medicine Grants	14	14	9

● Mr. WEICKER. Mr. President, I rise in support of legislation to reauthorize the National Institutes of Health, the medical research arm of the Federal Government. In 1987, NIH celebrated its centennial year but the fact is that daily we celebrate its contributions to the health of our citizens and that of people throughout the world.

NIH supports biomedical and behavioral research in facilities in this country and abroad, conducts research in its own laboratories and trains promising young researchers for future work in the field. Because it constantly gives us new insights into the processes underlying health, disease, and disability, NIH is the best weapon humanity has in the battle against the major killers and cripplers of our time.

In recent years, Congress has stood firm in the face of funding cuts and other proposals that would have disarmed and even dismantled this vital contributor to our national security. Now it has an important opportunity to strengthen NIH's ability to perform its mission by giving it new authority to deal with some of the more serious realities facing medical research today.

For example, this legislation would enable the Division of Research Resources to address the worsening problem of aging and obsolete facilities and instrumentation in NIH-supported institutions. We have known about this situation for years but done little about it. A survey of cancer research laboratories conducted by the National Academy of Sciences a full decade ago found that more than one-third of those facilities needed remodeling and almost one-half needed more space. The AIDS crisis and the Federal Government's attempts to mobilize against it have further underscored the need to upgrade our research laboratories and equipment.

Last year the Appropriations Committee called for a panel of experts to recommend the design of a pilot research facilities construction program at NIH. That panel met earlier this year, and while its formal report has not yet been officially forwarded, it is my understanding that most of its recommendations are dealt with in this legislation.

Under the proposed new construction authority, public and nonprofit research institutions would be able to apply directly to NIH for construction money. A peer review system would determine the distribution of grants, with special attention given to applicants of emerging excellence, including smaller institutions which have not benefited to any great degree from NIH funds before, minority universities among them.

This legislation also addresses other factors affecting the Nation's medical manpower—including the growing ranks of the elderly in America, the nursing shortage, and the loss of research personnel to other private sector pursuits. New authority would enable the National Institute on Aging to establish and expand centers of excellence in geriatric research and training. It would also give the National Center for Nursing Research the ability to establish demonstration programs geared toward improving nursing recruitment and retention.

Authorization levels for the National Research Service Awards would be increased 28 percent in order to make larger stipends to more trainees. Disciplines not typically identified with a specific institute—such as physiatrists and surgeons—would be included. The Secretary of HHS is further authorized to establish an enhanced compensation system for civil service and commissioned corps scientists to make Government pay scales more competitive.

A free-standing National Center for Medical Rehabilitation Research would be established within NIH to help meet the need for more research in the field of medical rehabilitation.

Improvements in emergency medical systems, trauma centers, and in the care of the injured enroute to hospitals have made it possible for more people to survive injuries to the nervous and musculoskeletal systems, but with severely disabling effects. For example, it has been estimated that there are 1 million trauma-induced head and spinal cord injuriy victims in our country, the cost of whose care has been put at $4 billion per year. Researchers in this field are on the threshhold of an ability to repair and replace damaged tissue in the brain and spinal cord.

Medical rehabilitation is also opening many doors for children who are born with cerebral palsy and other developmental neurological conditions. The medical advances in this field have given these children a new lease on life. By creating this new center, Congress can strengthen its commitment to much needed breakthroughs of this kind.

The need for greater attention to hearing and communicative disorders is addressed through new authority to support eight centers within the National Institute of Neurological and Communicative Disorders and Stroke.

In sum, Mr. President, this is good legislation that recognizes the trouble points in medical research today and the new opportunities for tomorrow. I urge my colleagues to support this reauthorization bill.●

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 2224. A bill to transfer the Colonial Court House in York, PA, to the control of the National Park Service; to the Committee on Energy and Natural Resources.

TRANSFER OF COLONIAL COURT HOUSE, YORK, PA

Mr. SPECTER. Mr. President, today I join my colleague, Senator HEINZ, in introducing legislation which would bring long overdue recognition to one of our Nation's premier historic sites, the Colonial Court House in York, PA.

The court house is the birthplace of the first national constitution governing the 13 former British colonies. In 1776, the Continental Congress adopted a resolution providing for the drafting of a permanent confederation of the Thirteen Colonies. As the Second Continental Congress met in Philadelphia to begin this process, news reached the assembled representatives of the impending attack on the city by a large British force under the command of General Howe. The Congress hastened westward to safer territory, and convened in York, PA, on September 30, 1777. It was in the York County Colonial Court House that these delegates engaged in extensive debate over the Articles of Confederation and eventually adopted the document on November 15, 1777.

The York County Colonial Court House is a testament to the spirit that united the original colonies and led to the drafting and passage of the U.S. Constitution in Philadelphia in 1787. Although the original court house was destroyed in 1841, an identical replica was constructed on the original site. This replica now contains authentic artifacts, memorabilia, and much of the original spirit which filled the court house in 1777.

The legislation we introduce today would transfer the York Colonial Court House to the control of the U.S. Park Service, which would operate and maintain the court house in a manner befitting its historical significance.

I recently visited the York County Colonial Court House and personally can attest that it is a significant site in the historical development of our Nation. Accordingly, I urge our colleagues to join us in support of this legislation.

Mr. President, 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. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. TO TRANSFER THE COLONIAL COURT HOUSE IN YORK, PENNSYLVANIA, TO THE CONTROL OF THE NATIONAL PARK SERVICE.

The Secretary of the Interior is authorized to accept for the United States the transfer of title of the Colonial Court House of York, Pennsylvania, a National Historic Site, from the York County Bicentennial Commission.

SEC. 2. OPERATION AND MAINTENANCE.

After the transfer authorized by section 1, the Colonial Court House of York, Pennsylvania, shall be operated and maintained by the National Park Service in a manner which encourages recognition of the great national and historic significance of the courthouse.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 2225. A bill to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Franklin County, WA, road system within the Federal Columbia Basin reclamation project; to the Committee on Energy and Natural Resources.

FRANKLIN COUNTY ROAD SYSTEM

●Mr. ADAMS. Mr. President, I am pleased to introduce today, along with my senior colleague from Washington State, Senator EVANS, legislation designed to address serious problems caused by landslides in areas served by the Columbia Basin irrigation project in Franklin County in south-central Washington. This bill is intended as companion legislation to H.R. 2558, introduced last year by Congressman MORRISON in the House.

This region of my State is exceptionally dry, and has been that way for millions of years. One result has been the development of unique geological formations such as the Ringold formation in Franklin County. The Ringold formation is a sedimentary foundation made up of slightly undulating layers of clay, silts, and sands. When saturated, it becomes very unstable, and the steeper hills are prone to landslides.

The possible effects of intensive irrigation on this geological formation were recognized when the Columbia Basin irrigation project was designed in the late 1930's, but the Bureau did not at that time have the ability to predict where problems would occur. The result, therefore, of years of irrigation, and a significant increase in the amount of ground water in the formation, has been a number of massive landslides that have caused significant damage to Franklin County's road system.

This bill is designed to help the Bureau get started on developing a solution to this problem. It directs the Bureau to investigate the situation, and to make recommendations for corrective action. Up to $500,000 is authorized to be appropriated for this study, and the Bureau is to make a report detailing their recommendations to the President and Congress within 2 years of availability of funds for this study.●

● Mr. EVANS. Mr. President, I am pleased to join my colleagues from Washington, Senator ADAMS, in sponsoring legislation that will address a problem in the southeastern portion of our State, Franklin County, WA. Due to a combination of unusual geology and the scope of irrigation in the Columbian Basin, a road instability problem has developed in Franklin County. Much of the county is underlain by the Ringold formation, which is impervious to water. When water hits this layer, it moves laterally until it finds an opening to move downhill. This action has resulted in large landslides, particularly along roadsides. These landslides cause extensive damage to the road system in Franklin County, in addition to creating safety hazards.

This bill would authorize the Bureau of Reclamation to undertake a $500,000 study to investigate the problems the county has experienced with the landslides, focusing in particular on the impact on the road system. The Secretary would also be required to prepare recommendations for corrective action. This report would examine physical problems and solutions as well as operational solutions to the problem. For instance, the Secretary would be authorized to examine irrigation practices to determine if any modifications to those practices would result in reduced amounts of water which would reduce the risk of landslides.●

By Mr. DOMENICI:

S. 2226. A bill to provide financial assistance for innovative programs to address the educational needs of children at risk of experiencing low academic achievements, and for other purposes; to the Committee on Labor and Human Resources.

EDUCATIONAL BLOCK GRANT FOR CHILDREN AT RISK ACT

Mr. DOMENICI. Mr. President, I rise today to introduce an initiative for educationally and economically disadvantaged children. This bill amends the Education Consolidation and Improvement Act of 1981 [ECIA of 1981] by adding a new chapter, the "Educational Block Grant for Children at Risk."

Mr. President, this bill will provide financial assistance to States for children at risk of failing in our educational system and our future economy.

It authorizes a discretionary block grant for 5 years for developing inno-

vative programs to address the needs of children identified at the State and local level as being "at risk" of low academic achievement, future unemployment, and welfare dependency.

The bill authorizes nearly $500 million for the first year and such sums as are necessary for the following 4 years. While I am tempted to put a specific authorization level for the program for all years, I am hopeful that, as the program gets started, we will have a better idea of what is needed. Funds will be distributed to States based on the counts of school-aged children, with additional weight given for children living in poverty.

Mr. President, even though this bill has the name "education" in it, is not just about education. It is about our future work force and our future economy. It is about our future as a competitive nation.

If we look at our economy in the year 2000, the demographics of our future work force, and our current educational system, we will see some alarming trends

Research shows us that certain categories of children—those in persistent poverty, minorities, those who have limited proficiency in English, and those from single-parent families for example—are more likely to experience poor educational achievement. These children are also more likely to remain in poverty, to drop out of school, and to experience future unemployment.

These children are in our educational system today. They are also America's future work force:

Approximately 27 percent of total public elementary and secondary school enrollment is minority. By the year 2000, this will rise to 33 percent.

Minorities are more likely to live in poverty. Nearly 50 percent of all black children and 33 percent of all Hispanic children live in poverty. For each year that a child lives in poverty, the likelihood of falling behind a grade level increases by 2 percentage points.

By the year 2000, non-whites will make up 29 percent of new entrants into the labor force, twice their current share. Minority workers are less likely to have satisfactory schooling and on the job training.

Increasingly, new jobs in the economy will favor the most educated. The fastest growing jobs will be in professional, technical, and sales fields requiring post-secondary education and advanced skill levels. By the year 2000, people with less than a high school education will be able to fill only 14 percent of all jobs, compared with 18 percent today.

Mr. President, I could go on with these facts but the bottom line, quite simply, is that the future economy will demand a better educated work force. The economy will no longer find work for a work force that is illiterate.

Mr. President, I do not pretend to know all the answers. And I have only started to survey the problem. But we are clearly at a cross road. We can either continue on the path that we are on and address the needs of children at risk on a piecemeal basis or we can make a challenging and comprehensive investment in our future. In my mind, the answer is clear. It is time to invest in our future. The bill I am introducing today begins that investment.

Mr. President, State and local governments have already acknowledged that this investment is needed. Innovative programs to address the needs of these children are being initiated at the State and local levels.

In my State of New Mexico, the Albuquerque Hispano Chamber of Commerce has developed an ambitious agenda to help children that are at risk of dropping out of school. Albuquerque's Stay in School Program is just getting off the ground but already it has the ingredients of a successful program.

The program is pulling together educators, the business community, and social service agencies in order to combat the high dropout rates among Hispanic children in Albuquerque. Using resources from the private sector, the Hispano Chamber of Commerce has implemented an intensive campaign to promote the value of staying in school. It has developed a comprehensive directory of services available in the area for children at risk of dropping out. Using private donations, the program will also implement a Student of the Month award.

Mr. President, there are other examples of innovative efforts occurring at the local level for children at risk of failure.

The Annie E. Casey Foundation, a national foundation formed 40 years ago to provide care services, recently awarded planning grants to 10 cities for comprehensive programs targeted to children at risk. Five cities will be selected to receive operational grants for 5 years.

Known as the New Futures Program, these grants will support innovative programs for dropouts, unemployed youth, and pregnant teenagers. In awarding the grants, the foundation will give priority to programs that pull together activities in schools, local governments, and businesses.

Mr. President, my bill recognizes that initiatives such as Albuquerque's Stay in School Program and the Annie E. Casey Foundation's New Futures Program are being implemented across the Nation. The funds that are authorized in my bill can be used to support these programs and many many more.

Mr. President, I ask unanimous consent that a summary of my bill and a section-by-section analysis be printed in the RECORD.

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

BILL SUMMARY

PURPOSE

A bill to establish discretionary grants within the U.S. Department of Education for the development of new or improved programs serving children at risk of low academic achievement. The block grant is intended to be a supplementary resource to be used by state and local agencies to provide comprehensive and coordinated services to at-risk-children.

ELIGIBLE PARTICIPANTS

Recognizing that there is no nationally accepted definition of an "at-risk" child, this bill provides state and local agencies with discretion to define their population. However, states must concentrate resources on children that are generally considered to be at-risk of low academic achievement, unemployment and welfare dependency.

Eligible children are those that are between the ages of 3-17 and include (but are not limited to):

Low income children eligible for Chapter 1, including pre-school children;
Minorities;
Pregnant teenagers or teenage parents;
Drop-outs;
Limited English proficient;
Homeless children;
Substance abusers;
Neglected and delinquent children;

GRANT ALLOCATIONS

From the amounts appropriated, the Secretary of Education is authorized to reserve up to 5 percent for activities of national significance including systematic evaluation of what works for at-risk children, dissemination of information on effective methods, research, evaluations, technical assistance to state and local agencies and the rewarding of outstanding state and local programs.

Grants are competitive and are distributed to Governors through the Secretary of Education. States must apply for grants every three years. The Governor shall designate state agencies responsible for the administration of the program. Language is included to state that nothing shall preclude state legislatures from enacting legislation relating to the state implementation of this program, consistent with the provisions of this bill.

Resources are allocated to states based on the counts of children aged 3-17, with additional weight given to children living at the poverty level.

States may reserve up to 5 percent of the state allocation for administrative costs and up to 20 percent of the state allocation for state wide programs; 75% of the state allocation must be used at the local level.

Grants are competitive to the local level. Local agencies *must* enter into cooperative agreements with other agencies offering services to children at risk. Agencies wishing to receive funds must submit an application to the state designated agency every three years.

State agencies shall award grants to programs that are serving children with the greatest need, programs that will address the multiple needs of students, and to programs in both urban and rural regions of the state.

ELIGIBLE ACTIVITIES

It is the purpose of this bill to explore innnovative methods of assisting children in "at-risk" categories. Considerable discretion is afforded to state and local officials in the design of programs. Examples of eligible activities include (but are not limited to):

Innovative projects and programs designed to improve the attendance and educational achievement of eligible students;

Supplementary educational programs to help students attain grade level proficiency in basic skills;

Innovate projects and programs for the prevention of youth suicide, drug and substance abuse treatment and prevention;

Projects designed to coordinate Federal, State and local efforts serving eligible students; and

Incentive-based programs to reward schools for lowering the drop out rate or reclaiming students who have dropped out.

EVALUATION REQUIREMENTS

In accordance with national standards, local agencies must conduct program assessments every three years. Assessments must be submitted to the state designated agency and must include an evaluation of the effectiveness of programs, with particular attention to the academic improvement of eligible children.

In accordance with national standards, state designated agencies must submit evaluations of state-wide and local programs to the Secretary of Education every three years.

PROGRAM IMPROVEMENT

Programs that show no improvement in children served or a decline in achievement in children served in any three consecutive years shall submit a detailed plan to the state designated agency that includes a proposal for corrective action. The state agency is authorized to provide technical assistance.

If achievement continues to decline, the Secretary of Education is authorized to provide technical assistance from the amounts reserved for the Secretary's Discretionary Fund.

FISCAL REQUIREMENTS AND PRIVATE SCHOOL PARTICIPATION

The fiscal requirements and the requirements for the participation of children enrolled in private schools that apply to Chapter 2 of the ECIA of 1981 are also applicable to this Chapter.

AUTHORIZATION LEVEL

The authorization level for this program is $486 million for FY 1989 and such sums as necessary for FY 1990 through FY 1993. For FY 1989, the authorization level is the same as the amount included in the Senate-passed trade bill for similar activities.

[Section-by-Section Analysis]

EDUCATIONAL BLOCK GRANT FOR CHILDREN AT RISK

SECTION 1. SHORT TITLE

Names the Act the Educational Block grant for Children at Risk.

SECTION 2. FINDINGS

States that the Congress finds that efforts to reach certain categories of children that are at risk of failing in our educational system today and our future economy are narrow and fragmented. These at risk children are our future workforce; the future economy will require that these children are better educated. Also states that the needs of these children can best be served by discretionary block grants to the state and local levels and by programs that include accountability measures and rewards for outstanding performance.

SECTION 3. PROGRAM AUTHORIZED

Amends the Education Consolidation and Improvement Act of 1981 by redesignating Chapter 3 as Chapter 4 and adding a new Chapter 3, Innovative Programs for Children at Risk of Low Academic Achievement.

SECTION 590A. STATEMENT OF PURPOSE

States that the purpose of this Act is to provide additional assistance to LEAs with high concentrations of children at risk of low academic achievement in order to improve the achievement of these children so that they may avoid lives of unemployment or welfare dependency.

SECTION 590B. ELIGIBLE CHILDREN

Defines eligible children as those children who are between the ages of 3-17 who are at risk of low academic achievement and, as a result, future unemployment and welfare dependency. Provides examples of eligible children such as low income children eligible for Chapter 1 (including pre-school children), minorities, pregnant teenagers and teenage parents, children with limited English proficiency, drop-outs, substance abusers, homeless children, and neglected and delinquent children. Also states that local agencies may provide their own definition of children at risk.

SECTION 590C. GRANT ALLOCATIONS

From the amounts appropriated, the Secretary of Education may reserve up to 5 percent of the funds for programs of national significance, including systematic evaluations, information dissemination, research, technical assistance to state and local agencies, and rewards to outstanding state and local programs.

One-third of the funds are allocated to states (the 50 states, D.C. and Puerto Rico) based on the number of school aged children and two-thirds of the funds are allocated based on the number of children counted for the purposes of Chapter 1, including pre-school children. States may reserve no more than 5 percent of their allocation for state administrative costs and 20 percent of their allocation for statewide programs.

States must allocate at least 75 percent of their funds to the local level. Funds are competitive to the local level and distributed using the same factors as those for state allocations.

Local educational agencies *must* enter into cooperative agreements with community-based organizations, businesses, and other community organizations providing services to children at risk.

SECTION 590D. USE OF FUNDS

States that funds may be used for new and innovative programs designed to address the educational needs of eligible students including programs designed to improve attendance and educational achievement, supplementary educational programs to assist students to attain grade level proficiency in basic skills, programs for the prevention of youth suicide, projects designed to coordinate Federal, State and local efforts serving eligible students and incentive based programs to reward schools for lowering drop-out rates or reclaiming students who have dropped out.

SECTION 590E. APPLICATIONS

States must apply for funding to the Secretary of Education; applications must be submitted every three years. Applications must designate the state administering agency, describe the statewide activities, describe the funding allocation procedures, describe evaluation procedures, and other information required by the Secretary of Education.

Local agencies must submit applications every three years to the state designated agency. Applications must describe the program goals and objectives, assurances of cooperative agreements with other agencies, the activities of the program, assurances that only eligible children will participate, assurances of parental involvement, assurances of coordination of activities with other agencies, assurances that services provided are not duplicative of other services supported by federal programs, and any additional information that may be required by the State designated agency.

In all applications after the first, the program evaluation results must be included as well as a description of action taken to improve the performance of children not showing gains in educational achievement.

SECTION 590F. AWARD OF GRANTS

Provides that designated state agencies shall award grants to programs that are serving children with the greatest need, programs of high quality, programs that address the multiple needs of eligible children, and programs that are representative of urban and rural regions of the states.

SECTION 590G. FISCAL REQUIREMENTS AND PRIVATE SCHOOL PARTICIPATION

This section provides that the fiscal requirements that are applicable to Chapter 2, State Block Grants, are also applicable to this chapter (i.e. maintenance of effort, supplement not supplant, and comparability of service requirements). Also applies Chapter 2 private school participation requirements to this chapter.

SECTION 590H. EVALUATION AND PROGRAM IMPROVEMENT

Provides that, in accordance with national standards, local agencies must evaluate programs for their effectiveness in achieving the goals of this chapter with particular attention on the improvement of academic achievement. Local agencies must submit evaluations every three years and conduct a thorough assessment of the programmatic needs of eligible students who remains in the program after 3 years.

Using local evaluation data, State agencies must conduct program evaluations every three years. State agencies must inform local agencies of the specific evaluation data required and must collect data on the characteristics of program participants.

Provides that programs that show a decline in achievement of children served by this chapter for any three consecutive years must submit a detailed plan for improvement to the state designated agency. The state agency shall provide technical assistance for program improvement. If achievement continues to decline, the Secretary of Education is authorized to provide technical assistance from the amounts reserved under the Secretary's Discretionary Fund.

SECTION 590I. AUTHORITY OF STATE LEGISLATURE

This section states that nothing in this chapter shall preclude the enactment of State legislation providing for the implementation of this act, consistent with the provisions of this chapter.

SECTION 590J. AUTHORIZATION OF APPROPRIATIONS

Authorizes $486 million for FY 1989 and such sums as may be necessary for each year, FY 1990-1993.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 2227. A bill to authorize competitive leasing of quartz mineral deposits in the Ouachita National Forest; to the Committee on Energy and Natural Resources.

COMPETITIVE QUARTZ LEASING IN QUACHITA NATIONAL FOREST

● Mr. BUMPERS. Mr. President, I am introducing legislation today to authorize competitive leasing of quartz within the Ouachita National Forest in Arkansas. The Forest Service and the Bureau of Land Management are currently experiencing a difficult resource management problem in this national forest. The Ouachita contains large deposits of quartz, a silica-based mineral which is valued for its aesthetic qualities and for certain industrial applications. Small mining operations have existed on and near the national forest for many years. Recently, however, the market for quartz crystals has expanded and values for certain crystals have increased dramatically. The best quality quartz, which sold for around $30 a pound in 1985, now commands prices of about $100 a pound.

It is my understanding that this new market for crystals is attributable to "new age" beliefs which assign metaphysical qualities and special healing properties to crystals. In the Ouachita Forest, where the quartz crystal formations are reputed to be the best in the world, the result has been an onslaught of new mining activity. In the past 2 to 3 years there has been a 300-percent increase in mining activities on the forest. Unfortunately, the Forest Service and Bureau of Land Management are hampered in their ability to consistently regulate this mining activity because of widely differing laws applicable to lands within the forest.

The Ouachita National Forest, created by a proclamation of President Theodore Roosevelt in 1907, consists of approximately 1.3 million acres in western Arkansas. Unlike most forests in the southern and eastern parts of the United States, which are made up of lands acquired by the Federal Government under the authority of the Weeks Act (36 stat. 961, as amended), the Ouachita consists of intermingled "acquired land" and land reserved from the public domain. On the acquired lands—approximately 600,000 acres—deposits of quartz crystals are leasable minerals. On the public domain lands, however, quartz crystal is treated as a locatable mineral subject to the mining law of 1872.

The applicable procedures can be described as follows: On acquired lands, a person interested in mining quartz must apply to the Bureau of Land Management for a prospecting permit. If minerals are found, the applicant may apply for a lease. If the applicant's mining plan is approved, a lease will be issued. Minerals located in "known leasing areas"—areas that contain known deposits and do not need to be explored—are leased competitively to the highest bidder. BLM is currently reviewing the data necessary to designate the entire Ouachita Forest a "known leasing area." In both situations, BLM and the Forest Service impose appropriate lease stipulations for environmental protection and reclamation work. Royalties and rentals on the leases are paid to the Federal Government and shared with the State of Arkansas.

In contrast, on public domain lands, anyone may stake a claim for quartz crystals. After payment of a $5 filing fee to the BLM, the claimant has the right to remove the minerals including quartz, subject to limited surface management regulation by the Forest Service. The Federal Government receives no royalties or rentals from the miner for the resources removed from the public land. In addition the miner may ultimately receive a patent to his claim—full fee title—if he complies with the requirements of the 1872 mining law for patenting. His total cost—$500 in improvements, $100 annual assessment work, and $5 an acre.

Recently I received a letter from the Supervisor of the Ouachita National Forest detailing some specific problems associated with the quartz crystal "rush." In regards to the 1872 mining law, the letter points out that:

> The provision for patenting away the surface with the mineral estate, will always pose a real threat to sound resource management as long as there is the potential for loss of control of the surface estate. * * * A real example of the effects of this situation can be found right now on the Ouachita National Forest. Lake Winona, in the northeast corner of the forest, is an extremely important resource not only for its recreational, aesthetic, and other values, but primarily because it provides * * * drinking water to the city of Little Rock. The National Forest lands adjacent to Lake Winona are "public domain" status lands open to mining claim location under the 1872 mining law. At the request of the city of Little Rock to protect the watershed, the forest is pursuing a withdrawal from "locatable" mineral entry for these lands. The 1872 mining law allows us virtually no choice but to outright remove the lands from total mineral entry for all "locatable" minerals, even though it is recognized that a well controlled minerals exploration program and low level mining activities could be conducted in such a way that they would have virtually no impact on the water quality or other valuable resources in that area.

Mr. President, the "rush" for quartz crystal on the Ouachita National Forest shares many of the elements of the gold rushes of the past: a rapid increase in mining activity; an increase in the number of people in the area; an increase in the size and nature of impacts; more operations in environmentally sensitive areas; and a significant increase in unauthorized activity.

Several thousand mining claims have been filed on the forest in the past 3 years. As the claims are not commodity specific, the agencies do not know how many are for quartz crystal. However, they have estimated that up to 2,000 claims have been filed for quartz. At the same time, on the same forest, quartz has been leased competitively for bonus bids approaching $300 an acre. The management regime makes no sense and is becoming an untenable situation for the Federal land managers. In addition, State and local residents who treasure the scenic beauty of the Ouachita Forest are becoming increasingly concerned about mining activity on public domain lands.

My legislation would authorize the Secretary of the Interior to lease quartz crystal deposits competitively anywhere within the Ouachita National Forest. Holders of valid existing mining claims would be given the opportunity to apply for patents within 6 months of enactment of the bill, and the mining law of 1872 would remain in effect for other locatable minerals.

The bill would clarify the management of this mineral on a forestwide basis, and provide the Forest Service and BLM with the administrative authorities necessary for dealing with this unique resource in the extremely intermingled public domain and acquired land ownership pattern within the Ouachita Forest boundary.

I believe this legislation will improve the land and minerals management in my State. It is good policy. I urge the Senate to act favorably on this legislation.●

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 2228. A bill to designate the U.S. Post Office Building located at 1105 Moss Street in Lafayette, LA, as the "James Domengeaux Post Office Building"; to the Committee on Governmental Affairs.

JAMES DOMENGEAUX POST OFFICE BUILDING

● Mr. BREAUX. Mr. President, today my distinguished colleague from Louisiana, Senator BENNETT JOHNSTON, and I are pleased to introduce legislation that would designate a U.S. Post Office in Lafayette, LA, to be named in honor of one of the State's more revered and respected spokesmen, James Domengeaux.

While Mr. Domengeaux's contributions to southwest Louisiana are too numerous to mention here, I would like to touch upon a few of the highlights of his career.

Mr. Domengeaux was born in Lafayette on January 6, 1907. He attended

Louisiana schools and was admitted to the bar of Louisiana in July 1930. He practiced law in Lafayette until 1940 when he was elected to the State legislature and was named chairman of the Appropriations Committee. After serving the spring session in the legislature he was elected to the U.S. Congress from Louisiana's 3d Congressional District.

In 1944 he resigned from Congress becoming only one of three Members of Congress since the Civil War to resign in order to volunteer for the armed services in time of conflict. He was reelected to Congress upon conclusion of the war and served until 1948. Mr. Domengeaux then returned to private practice in Lafayette and he is the senior partner in the law firm of Domengeaux & Wright.

Since returning to southwestern Louisiana he has served as an original member of the Tidelands Committee in the State and as secretary of the Louisiana Science Foundation.

Notwithstanding these accomplishments, maybe his greatest contribution centers on his efforts with CODOFIL [The Council for the Development of French in Louisiana]. Since 1969 he has served as the originator and chairman of this organization without any financial compensation.

As a pioneer in this effort, he realized the importance of preserving the unique French language and culture in the State that was gradually, but surely, fading away. He attempted to reverse this trend by soliciting the support of public officials, State agencies, parish school boards, community leaders, and, most importantly, the people, in promoting and encouraging the revival of French heritage and culture indigenous to the area.

In order to ensure the success of this movement, he realized that, without the participation of the younger generations, the language and culture would truly be dead. Therefore, Mr. Domengeaux started to send Louisiana's teenagers to places where they could interact daily within the language; to Quebec, France, Belgium, and other areas. By living with friends in other countries, these students return to Louisiana with a new respect and attachment for their heritage. Additionally, Mr. Domengeaux's campaign served as a catalyst for a French language renaissance in Louisiana, tributes to cajun music, and the teaching of French in elementary schools.

Through these successful efforts, people have a new-found sense of pride in their Acadian background. I believe that it is fitting to commend and recognize Mr. Domengeaux's achievements in preserving our valuable cultural assets by naming a public building in Acadiana after one of its most favorite sons.

Mr. President, I, therefore, urge my fellow colleagues to support this legislation in order to appropriately salute a gentleman whose contributions deserve to be recognized.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, is hereby designated as the "James Domengeaux Post Office Building." Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "James Domengeaux Post Office Building."●

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mr. PELL, and Mr. SIMON):

S. 2229. A bill to amend the Public Health Service Act to reauthorize programs concerning health research and teaching facilities, and training of professional health personnel under title VII of such Act, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS REAUTHORIZATION ACT

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues, Senators PELL, MATSUNAGA, METZENBAUM, and ROCKEFELLER in introducing the Health Professions Reauthorization Act of 1988. This legislation reauthorizes all the programs in title VII of the Public Health Service Act, and continues the targeted Federal support for the training of health professionals. Title VII programs received $156 million in appropriations for fiscal year 1988; this legislation provides for $209 million in fiscal year 1989, $223 million in fiscal year 1990, and $230 million in fiscal year 1991 to address persistent problems in the supply and distribution of our Nation's health manpower.

Over the past 20 years, these Federal programs have served to increase the number of medical care providers when shortages were felt, increase the number of primary care practitioners when an oversupply of subspecialists was recognized, stimulate health professions schools to increase their enrollment of underrepresented minorities, and facilitate the exposure of students to health manpower shortage areas. By all accounts, these programs have been very successful in stimulating change and bettering our health care system. But the job is not complete.

Despite a perceived glut in the aggregate supply of physicians, our citizens still need more primary care providers. Because of our increasingly elderly population, the demand for individuals trained in all disciplines of allied health far outstrips the supply. The costs of attending medical and other health professions schools is rising in excess of inflation, to the point where fewer individuals are pursuing these careers. Because of rising student indebtedness, by the year 2000, we may again experience shortages of physicians, dentists, and other health care providers. Many urban and rural areas of our country still cannot attract and retain physicians and other providers.

Despite considerable Federal resources directed toward increasing the enrollment of minority and disadvantaged individuals in health professions schools, the number of black and other minority graduates is declining. To reach our goals of improving access to high quality medical care, increasing the number of primary care and minority health care providers, and assuring an adequate supply of physicians, dentists, allied health specialists, and other practitioners for the American people, the programs under title VII of the Public Health Service Act should continue with expanded funding. The Health Professions Reauthorization Act of 1988 refocuses and directs Federal health policy toward these goals.

The educational indebtedness of graduates from health professions schools has risen sharply during the 1980's. As a result, applicants to health professions schools, particularly medicine and dentistry, have decreased substantially. And graduates are increasingly attracted to the higher paying subspecialities and away from primary care. The significant rise in the costs of attending these schools has exacerbated the problems. For the 1986-87 academic year, tuition and other expenses for 1 year at a public medical school averaged just over $12,000, with average costs at a private medical school just over $23,000. The impact of rising educational indebtedness has hit minority individuals particularly hard.

The average indebtedness of minority medical school graduates increased from $18,350 in 1980, to $41,457 in 1987, an increase of 126 percent. Among nonminority graduates, average indebtedness went from $17,125 in 1980, to $35,104 in 1987, an increase of 105 percent. Instances where students graduate from medical school with educational debts in excess of $100,000 are not uncommon. To counteract this alarming trend, I have included an additional $15 million in fiscal year 1989 for low interest health professions student loans and increased the authorization for the exceptional financial need scholarships from $7 million in fiscal year 1988 to $20 million in fiscal years 1989, 1990, and 1991. The ceiling for the Federal loan guarantees under the Health Education Assistance Loan Program has also been increased to

provide for rising tuition and educational costs. Future health professionals should not have to assume crippling debt burdens prior to entering practice. We as a society will pay the cost of this debt in terms of fewer health care providers and lessened access to essential services.

This legislation continues the support for own Nation's 24 schools of public health. The Federal Government has been assisting schools of public health for over 30 years on the basis that the schools are a national resource for training health manpower for public service in Federal, State, and local health agencies, universities and private voluntary organizations. The original mission of the schools has been revised in recent years from preparing personnel to control communicable diseases through sanitation and inoculation, to preparing professionals in health policy, management, and environmental health concerns. Many schools have strong community outreach programs to provide services to communities and multistate regions, yet lack the third-party reimbursements system available to other health professions schools. Federal support of the schools is actually an investment in the front end of the health care system. The products of their efforts will not only help to prevent illness but will help slow down the rapidly escalating costs of medical care. I have included $5 million for each of the next 3 years to continue the public health student traineeships, and $5 million in fiscal year 1989 for capitation grants to schools of public health.

The Federal Government has a responsibility for helping to assure access to high-quality medical care for all citizens. Integral to this assurance is a supply of primary care physicians. Federal funds to support primary care residency programs have been allocated since the 1970's, facilitating the training of family physicians, general internists, and pediatricians. Without question, these dollars represent a good investment. Primary care physicians are locating their practices in shortage and rural areas in notably higher proportions than other medical specialists, thus helping to address the national problem of geographic maldistribution. And primary care physicians are much more cost efficient than their subspecialist colleagues. Maintaining the supply of family physicians will be very important, because more than one-third of current family/general practitioners are beyond the age of 55.

Federal support for family medicine departments and residency programs has spurred the establishment of programs and departments in 120 of the Nation's 138 medical schools. An average of 82 general internal medicine and general pediatric residency programs have been supported by Federal grants each year during the past 10 years. Over this period the number of federally supported residents in training in general internal medicine and general pediatrics per year doubled to 1,840. We propose to continue support for these vital programs; $7 million for family medicine departments, $41 million for family medicine residency programs, and $22 million for residency programs in general internal medicine and general pediatrics.

The Area Health Education Center [AHEC] Program has been very effective over the years in facilitating educational experiences in underserved areas for health professions students. In addition, these programs have served to link health care providers in rural areas with academic medical centers, providing continuing education and information exchange. AHEC's have done a particularly good job in encouraging health care providers to enter practice in health manpower shortage areas, and in facilitating the entry of minority students into the health professions. AHEC's originally started in the 1970's, such as in Massachusetts and North Carolina, have increased their programmatic efforts despite the loss of Federal funding.

The positive impact of their educational and outreach activities has been recognized in the States, and they have been successful at receiving funding from other sources. AHEC's that currently receive Federal funding need to be supported in the future to address problems such as high infant mortality and the health problems of low income communities in our border States. And several States, especially in the South, are anxious to receive funds to start AHEC's. As one of the most successful programs in title VII, we need to continue Federal support. This legislation includes $20 million in fiscal year 1989, $21 million in fiscal year 1990, and $16 million in fiscal year 1991 for the AHEC Program. This will provide core funding for current AHEC's, funds to train personnel to offer maternal and child health services in underserved areas and for personnel to provide services in States along the Mexican border and frontier areas addressing infant mortality, and funds for special projects and initiative of new AHEC's.

Since the early 1970's, federally sponsored programs to increase the number of underrepresented minority and disadvantaged students in health professions schools have been very successful. Before 1970, blacks represented less than 3 percent of all medical students in this country, despite their 12 percent representation in the general population. Fewer than 100 Mexican-Americans were enrolled annually in medical schools prior to this time. The Health Career Opportunity Program, funded under the educational assistance to individuals from disadvantaged backgrounds section of title VII has facilitated significant increases over the last 15 years in the enrollment of blacks, Mexican-Americans, mainland Puerto Ricans, native Americans, and other disadvantaged students in all health professions schools. Last year, the total enrollment in our Nation's medical schools of all underrepresented minorities was 8.7 percent, the highest it has ever been. Even though great strides have been made, our health professions schools need to increase the enrollment of these students to levels equal to their representation in the general population. Equal opportunities to enter the health professions need to be available to all of our citizens. The reauthorization of title VII includes a continuation of this program at $30 million for fiscal year 1989, equal to the fiscal year 1988 level.

The special projects section of title VII has been revised to allow for administrative flexibility and support of innovative projects in health professions schools. This section includes funding for 2-year schools of medicine and osteopathy, faculty and curriculum development, training in preventive medicine, and programs for physician assistants. An authorization of $8 million is provided for these very important programs.

With our rapidly increasing elderly population, the importance of providing health professions students with training in geriatrics is obvious. All physicians, dentists, allied health practitioners and other health professionals need improved and expanded training in geriatrics to provide high quality health care to this important segment of our population. In addition, greater numbers of faculty to teach geriatrics represent one of the most pressing needs in health professions education. This legislation establishes a new section in title VII to support geriatric education centers and geriatric faculty training. A total of $20 million will be provided for these critically important activities in fiscal year 1989. Well trained health care providers are essential for the care of our older citizens. These new programs appropriately focus and direct federal resources in this direction.

With the growing complexity and corporatization of our health care system, the need for well trained personnel in health administration is clear. Physicians and other clinicians, who also have training in business, economics and management, are in great need to increase the efficiency of health care systems large and small. State and local health offices, hospitals and managed care systems have and will continue to benefit from well trained personnel in health administration. Well trained managers have

improved efficiency and productivity in the business and service sectors of our economy; their expertise will enhance our health care system. This legislation includes $1.5 million for fiscal year 1989 to support programs in health administration.

The Nation is entering what may be the most severe shortage of allied health professionals ever. The demand for physical therapists, occupational therapists, and other practitioners in the rehabilitation fields has hit crisis proportions among hospitals, nursing homes, home health agencies and hospices. These therapists are essential in the provision of care to the elderly, the chronically ill, handicapped children, and the mentally retarded. Shortages in these fields are expected to intensify in the coming years. This growing problem requires a renewed Federal initiative to assure that an adequate number of these practitioners is available. This reauthorization includes a new section to provide allied health student traineeships, faculty development, and improvement of curriculum. In addition, funds will be provided for recruitment of students into the allied health disciplines. A total of $15 million will be provided in fiscal year 1989 for these important allied health programs.

In summary, this legislation to reauthorize and revise the programs in title VII of the Public Health Service Act responds to persistent and newly recognized needs in our health care system. Health policy and Federal support for health professions education should be guided by the overall goal of improving access to high quality health care for all of our citizens. I appreciate the assistance of the many organizations that have made recommendations concerning this legislation. And I look forward to its consideration by the Committee on Labor and Human Resources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—STUDENT ASSISTANCE

Sec. 101. Allied health professionals.
Sec. 102. Scope and duration of Federal loan insurance program.
Sec. 103. Eligibility of student borrowers and terms of Federally insured loans.
Sec. 104. Default of borrower under Federal loan insurance program.
Sec. 105. Schools of allied health.
Sec. 106. Loan agreements.
Sec. 107. Loan provisions.
Sec. 108. Authorization of appropriations.
Sec. 109. Distribution of assets from loan funds.
Sec. 110. Traineeships.
Sec. 111. Health professions scholarships.

TITLE II—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF PUBLIC HEALTH

Sec. 201. Capitation grants for schools of public health.
Sec. 202. Eligibility for capitation grants.
Sec. 203. Application for capitation grants.

TITLE III—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

Sec. 301. Project grants for establishment of departments of family medicine.
Sec. 302. Area health education centers.
Sec. 303. Grants for training, traineeships, and fellowships in general internal medicine and general pediatrics.
Sec. 304. Family medicine and general practice of dentistry.
Sec. 305. Educational assistance to individuals from disadvantaged backgrounds.
Sec. 306. Special projects; geriatric education and training.
Sec. 307. Grants for minority education.
Sec. 308. Advanced financial distress assistance.

TITLE IV—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

Sec. 401. Grants and traineeships for graduate programs.
Sec. 402. Statistics and annual report.
Sec. 403. Allied health project grants and contracts.
Sec. 404. Allied health student traineeship.
Sec. 404. Traineeships for advanced training of allied health personnel.
Sec. 405. Traineeships for advanced training of allied health personnel.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 292a et seq.).

TITLE I—STUDENT ASSISTANCE

SEC. 101. ALLIED HEALTH PROFESSIONALS.

Section 701(13)(C) (42 U.S.C. 292a(13)(C)) is amended by inserting ", or a degree in social work or an equivalent degree" before the period.

SEC. 102. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

Subsection (a) of section 728 (42 U.S.C. 294a(a)) is amended to read as follows:

"(a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 737) to borrowers covered by Federal loan insurance under this subpart shall not exceed $325,000,000 for fiscal year 1989; $375,000,000 for fiscal year 1990; and $450,000,000 for fiscal year 1991. If the total amount of new loans made and installments paid pursuant to lines of credit in any fiscal year is less than the ceiling established for such year, the difference between the loans made and installments paid and the ceiling shall be carried over to the next fiscal year and added to the ceiling applicable to that fiscal year. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 731(a)(1)(B) to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1994, and for the next fiscal year. The total principal amount of Federal loan insurance available in each fiscal year shall be granted by the Secretary without regard to any apportionment or other similar limitation.".

SEC. 103. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED LOANS.

Section 731(a)(2)(D) (42 U.S.C. 294d(a)(2)(D)) is amended by inserting "not more frequently than" before "semiannually".

SEC. 104. DEFAULT OF BORROWER UNDER FEDERAL LOAN INSURANCE PROGRAM.

(a) IN GENERAL.—Section 733 (42 U.S.C. 294f) is amended—

(1) in subsection (b), by adding at the end thereof the following new sentence: "The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence.";

(2) in subsection (g), by inserting "any chapter of" before "title 11,"; and

(3) by adding at the end thereof the following new subsection:

"(h) A State statute of limitations shall not bar an action by an insurance beneficiary against a borrower if such action is commenced within 6 years of the date of default (excluding any period for which the statute of limitations is tolled).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(3) shall apply only to actions commenced under title 11 after the date of enactment of this Act.

SEC. 105. SCHOOL OF ALLIED HEALTH.

Section 737 (42 U.S.C. 294j) is amended by striking out paragraph (4).

SEC. 106. LOAN AGREEMENTS.

(a) IN GENERAL.—Section 740 (42 U.S.C. 294m) is amended—

(1) in subsection (a), by inserting before the period at the end thereof the following: ", or with any public or nonprofit private institution that has a graduate program in clinical psychology or allied health and that is located in a State";

(2) in subsection (b)(4)—

(A) by striking out "or" before "doctor of veterinary medicine"; and

(B) by inserting before the semicolon at the end thereof the following: ", or a doctoral degree in clinical psychology";

(3) in subsection (c)(1), by inserting ", or by graduate programs in clinical psychology," after "veterinary medicine"; and

(4) in subsection (c)(3)(C), by inserting before the semicolon a comma and "or at a graduate program in clinical psychology".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effec-

tive with respect to loans made on or after the date of the enactment of this Act.

SEC. 107. LOAN PROVISIONS.

(a) IN GENERAL.—Section 741 (42 U.S.C. 294n) is amended—

(1) in subsection (b)(1)—

(A) by striking out "or" before "doctor of veterinary medicine"; and

(B) by inserting before the comma at the end thereof the following: ", a doctoral degree in clinical psychology, or a bachelor of science in allied health or an equivelent degree";

(2) in subsection (c), by inserting after "veterinary medicine," the following: "or at a graduate program in clinical psychology or allied health,";

(3) in subsection (f)—

(A) in paragraph (1)(A), by inserting before the semicolon at the end thereof the following: ", a doctoral degree in clinical psychology, or a bachelor of science in allied health or an equivalent degree";

(B) in paragraph (1)(B), is amended by inserting before the semicolon at the end thereof the following: ", or at a graduate program in clinical psychology or allied health"; and

(C) in paragraph (1)(C), by inserting ", or as a full time faculty member not receiving a stipend or fellowship in a health professions school referred to in section 701(4) (as determined by the Secretary)" before the semicolon; and

(4) in subsection (l), by striking out "or podiatry" each place it appears and inserting in lieu thereof "podiatry, clinical psychology, or allied health".

(b) STATUTE OF LIMITATIONS.—Section 741 is amended by adding at the end thereof the following new subsection:

"(n) A State statute of limitations shall not bar an action by a school against a borrower if such action is commenced within 6 years of the date of default (excluding any period for which the statute of limitations is tolled).".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply only to actions commenced under section 741 of the Public Health Service Act after the date of enactment of this Act.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 742 (42 U.S.C. 294o) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under section 740, there are authorized to be appropriated $15,000,000 for fiscal year 1989, $16,000,000 for fiscal year 1990, and $17,000,000 for fiscal year 1991. Not less than 30 percent of the amounts appropriated in each fiscal year under this section shall be allocated to schools of allied health."; and

(2) in subsection (b)(5), by striking out ", to schools which," through "this subpart".

SEC. 109. DISTRIBUTION OF ASSETS FROM LOAN FUNDS.

Section 743 (42 U.S.C. 294p) is amended—

(1) in subsection (a)—

(A) by striking out "September 30, 1991, and not later than December 31, 1991," and inserting in lieu thereof "September 30, 1994, and not later than December 31, 1994,"; and

(B) by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1994," in paragraph (1); and

(2) in subsection (b), by striking out "1991" each place in appears and inserting in lieu thereof "1994".

SEC. 110. TRAINEESHIPS.

Part C of title VII (42 U.S.C. 294 et seq.) is amended by inserting after subpart II, the following new subpart:

"Subpart III—Traineeships

"SEC. 751. PUBLIC HEALTH TRAINEESHIPS.

"(a) GRANTS.—The Secretary may make grants to accredited schools of public health to provide traineeships.

"(b) LIMITATIONS AND REQUIREMENTS.—

"(1) APPLICATION.—No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(2) TUITION AND FEES.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) AWARDING TRAINEESHIPS.—In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this section shall go to individuals who—

"(A) have previously received a baccalaureate degree; or

"(B) are pursuing a course of study in—

"(i) biostatistics or epidemiology;

"(ii) health administration, health planning, or health policy analysis and planning;

"(iii) environmental or occupational health;

"(iv) dietetics and nutrition;

"(v) preventive medicine or dentistry; or

"(vi) maternal and child health.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For payments under grants under subsection (a), there are authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 112. HEALTH PROFESSIONS SCHOLARSHIPS.

(a) HEADINGS.—

(1) SUBPART IV.—The heading for subpart IV of part C of title VII is amended to read as follows:

"SUBPART IV—HEALTH PROFESSIONS SCHOLARSHIPS".

(2) SUBPART V.—Part C of title VII is amended by striking out the heading of subpart V.

(b) SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.—Section 758 (42 U.S.C. 294z) is amended—

(1) in subsection (a), by striking out "and who are in their first year of study at such school";

(2) in subsection (b)—

(A) by striking out paragraphs (1) and (6);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (1) (as so redesignated)—

(i) by striking out "shall consist" and inserting in lieu thereof "may consist of all or part";

(ii) by striking out "paragraph (4)" in subparagraph (A) and inserting in lieu thereof "paragraph (3)";

(iii) by inserting "not in excess" before "of $400" in subparagraph (B); and

(iv) by striking out "paragraph (5)" in subparagraph (B) and inserting in lieu thereof "paragraph (4)";

(D) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)";

(E) in paragraph (3) (as so redesignated), by striking out "paragraph (2)(A)" and inserting in lieu thereof "paragraph (1)(A)"; and

(F) in paragraph (4) (as so redesignated)—

(i) by inserting "maximum allowable" before "monthly stipend"; and

(ii) by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (1)(B)"; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) For the purpose of making grants under this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1989 through 1991.".

TITLE II—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF PUBLIC HEALTH

SEC. 201. CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH.

Section 770 (42 U.S.C. 295f) is amended—

(1) in subsection (a)(2), by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1989,"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) An applicant school shall expend in carrying out its functions as a school of public health during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(f) For payments under this section, there are authorized to be appropriated $5,000,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $7,000,000 for fiscal year 1991.".

SEC. 202. ELIGIBILITY FOR CAPITATION GRANTS.

Section 771 (42 U.S.C. 295f-1) is repealed.

SEC. 203. APPLICATION FOR CAPITATION GRANTS.

Section 772 (42 U.S.C. 295f-2) is amended by striking out subsection (e).

TITLE III—GRANTS AND CONTRACTS FOR PROGRAMS AND PROJECTS

SEC. 301. PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE.

Section 780 (42 U.S.C. 295g) is amended—

(1) in subsection (c), by inserting before the period the following: ", and coordination of curriculum development and student and resident teaching activities with departments of internal medicine and pediatrics where there is a department within the same school";

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) There are authorized to be appropriated $7,000,000 for each of the fiscal years 1989 through 1991 for payments for grants under subsection (a).".

SEC. 302. AREA HEALTH EDUCATION CENTERS.

Section 781 (42 U.S.C. 295g-1) is amended—

(1) in subsection (a)—

(A) by inserting "(A)" before "The" in paragraph (1);

(B) by adding at the end of paragraph (1) the following new subparagraph:

"(B)(i) Under subparagraph (A), the Secretary shall enter into contracts to establish and support area health education center programs that include training of personnel to offer maternal health services and child health services, including oral health screening and treatment, in underserved areas.

"(ii) In entering into contracts under clause (i), the Secretary shall give priority to programs that will train personnel to provide such services in areas along the border between the United States and Mexico, in frontier areas, and in areas in which the rate of infant mortality and low birthweight are disproportionately higher than such rates for the State in which such an area is located.";

(C) by adding "and" at the end of paragraph (2)(B)(i); and

(D) by striking out clauses (ii) and (iii) of paragraph (2)(B) and inserting in lieu thereof the following new clause:

"(ii) projects to increase the number of health care providers in health manpower shortage areas as defined in section 332.";

(2) in subsection (c)—

(A) by inserting before the semicolon in paragraph (1) the following: ", except that a program described in subsection (a)(1)(B) shall only be required to provide for active participation in such program of individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no departments) of pediatrics, obstetrics and gynecology, family medicine, and dentistry"; and

(B) by inserting "except in the case of a program described in subsection (a)(1)(B)," before "provide" in paragraph (2);

(3) in subsection (d)(2)(C)—

(A) by inserting "(i) except as provided in clause (ii)," before "provide";

(B) by inserting "or" after the semicolon; and

(C) by adding at the end thereof the following new clause:

"(ii) in the case of a program described in subsection (a)(1)(B), provide for or conduct a medical residency program in obstetrics and gynecology in which no fewer than six individuals are enrolled in first year positions in such program;";

(4) in subsection (d)(2)(F), by striking out "and nurse practitioners" and inserting in lieu thereof ", nurse practitioners, and nurse midwives"; and

(5) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for fiscal year 1989, $21,000,000 for fiscal year 1990, and $16,000,000 for fiscal year 1991. The Secretary shall obligate not more than 10 percent of the amount appropriated under this subsection for any fiscal year for contracts under subsection (a)(2). Of the amounts appropriated under this subsection for fiscal years 1989 through 1991, $3,000,000 shall be available in each such fiscal year for contracts under subsection (a)(1)(B).".

SEC. 303. GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

Section 784 (42 U.S.C. 295g-4) is amended—

(1) in subsection (b), by inserting ", and coordination of curriculum development and resident teaching activities with departments of family medicine where there is a department within the same school" before the period; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) There are authorized to be appropriated to carry out the provisions of this section $22,000,000 for fiscal year 1989, $22,000,000 for fiscal year 1990, and $22,000,000 for fiscal year 1991.".

SEC. 304. FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY.

Section 786 (42 U.S.C. 295g-6) is amended—

(1) in subsection (b), by inserting ", or enter into contracts with," after "grants to";

(2) in subsection (c), by inserting ", and coordination of curriculum development and resident teaching activities with departments of internal medicine and pediatrics where there is a department within the same school, and for residency or internship programs under paragraph (1) or (3) of subsection (a)" before the period; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) There are authorized to be appropriated to carry out the provisions of this section $41,000,000 for each of the fiscal years 1989 through 1991. In making grants and entering into contracts under this section, the Secretary shall obligate not less than 7½ percent of such amounts in each such fiscal year for grants or contracts under subsection (b). If amounts are appropriated in excess of $38,000,000, for a fiscal year, 15 percent of such excess amounts shall be obligated for grants under subsection (b).".

SEC. 305. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 787 (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)—

(A) by striking out subparagraphs (D), (E), and (F) of paragraph (2) and inserting in lieu thereof the following new subparagraphs:

"(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) paying such stipends to students enrolled in structured summer academic enrichment programs designed to support activities under subparagraphs (B), (C), and (D), as determined by the Secretary."; and

(B) by adding at the end thereof the following new paragraph:

"(3) All individuals participating in activities supported by a grant under this subsection must have completed the 10th grade of high school, or the equivalent of such.";

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection:

"(b)(1) Schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatry, and public and nonprofit schools which offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years, commencing on the date of the award of the grant, increase their first year enrollments of individuals from disadvantaged backgrounds by at least 20 percent.

"(2) If the increase in such first year enrollment is not attained by the end of the 3-year period, the grant recipient shall be ineligible for any subsequent grant under such subsection until the 20 percent increase in such enrollment is achieved and maintained.

"(3) The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a total enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average total enrollment of such individuals in all schools of each health professions discipline.

"(4) Determination of both first year and total enrollment of such individuals shall be made by the Secretary under the provisions outlined in section 708."; and

(3) by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated for grants and contracts under subsection (a)(1), $30,000,000 for fiscal year 1989, $32,000,000 for fiscal year 1990, and $34,000,000 for fiscal year 1991. Not less than 80 percent of the funds appropriated in any fiscal year shall be obligated for grants or contracts to institutions of higher education and not more than 5 percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers. Of the funds appropriated under this section for any fiscal year, not less than 20 percent shall be obligated for stipends under section (a)(2)(E).".

SEC. 306. SPECIAL PROJECTS; GERIATRIC EDUCATION AND TRAINING.

(a) SPECIAL PROJECTS.—Section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"SEC. 788. SPECIAL PROJECTS.

"(a) TWO-YEAR SCHOOLS.—

"(1) IN GENERAL.—The Secretary may make grants to maintain and improve schools that provide the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this paragraph to schools that were in existence on September 30, 1985, may be used for construction and the purchase of equipment.

"(2) ELIGIBILITY.—To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy and be accredited by or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

"(b) FACULTY AND CURRICULUM DEVELOPMENT AND CLINICAL TRAINING SITES.—

"(1) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may make grants to and enter into contracts with any health professions institution or any other public or private nonprofit entity for the development and implementation of model projects in areas such as faculty and curriculum development, and development of new clinical training sites.

"(B) ALLOCATION OF FUNDS.—Priority shall be given to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, chiropractic, allied health, and to graduate programs at public and nonprofit private

schools in health administration and clinical psychology in the allocation of funds under this subsection. Funds shall be allocated to each profession for award within that profession on the basis of competitive applications. Investigator-initiated projects should be encouraged. Funding priorities may be determined by the Secretary on consultation with the health professions schools and the National Advisory Council on the Health Professions Education.

"(C) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(2) HEALTH PROFESSIONS INSTITUTIONS AND ALLIED HEALTH INSTITUTIONS.—

"(A) SET-ASIDE.—Of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (e), at least 75 percent shall be obligated for grants to and contracts with health professions institutions and allied health institutions.

"(B) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(C) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant to an institution described in subparagraph (A) unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (B) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(c) TRAINING IN PREVENTIVE MEDICINE.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to meet the costs of projects—

"(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine; and

"(B) to provide financial assistance to residency trainees enrolled in such programs.

"(2) ADMINISTRATION.—

"(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

"(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(C) ELIGIBILITY.—To be eligible for a grant under paragraph (1), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(D) OTHER FUNDS.—Schools of medicine, osteopathy, and public health may use funds committed by State, local, or county public health officers or matching amounts for Federal grant funds for residency training programs in preventive medicine.

"(d) PROGRAMS FOR PHYSICIAN ASSISTANTS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(8)).

"(2) APPLICATIONS.—No grant or contract may be made under paragraph (1) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted, in positions for which they have been trained.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $8,000,000 for each of the fiscal years 1989 through 1991, of which 10 percent of the funds appropriated each fiscal year shall be used to carry out subsection (a). Funds provided to carry out this section shall remain available until expended without regard to any fiscal year limitation.".

(b) GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.—Part F of title VII (42 U.S.C. 295g et seq.) is amended by adding at the end thereof the following new section:

"SEC. 789. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

"(a) GERIATRIC TRAINING.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited health professions schools, including schools of allied health, referred to in section 701(4) or 701(10) and programs referred to in section 701(8) to assist in meeting the costs of such schools or programs of providing projects to—

"(A) improve the training of health professionals in geriatrics;

"(B) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) expand and strengthen instruction in methods of such treatment;

"(D) support the training and retraining of faculty to provide such instruction;

"(E) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(F) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(2) APPROVAL OF APPLICATIONS.—

"(A) PEER REVIEW.—Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(b) GERIATRIC MEDICINE TRAINING PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathy, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including traineeships and fellowships) for geriatric medicine training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

"(B) be staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine, or in a department of geriatrics in existence as of December 1, 1987;

"(D) provide participants in the project with exposure to a diversified population of elderly individuals;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathy; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 1-year or 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have completed postdoctoral dental education programs.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) GRADUATE MEDICAL EDUCATION PROGRAM.—The term 'graduate medical education program', means a program sponsored by a school of medicine, a school of osteopathy, a hospital, or a public or private institution, that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) POST-DOCTORAL DENTAL EDUCATION PROGRAM.—The term 'post-doctoral dental education program', means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GERIATRIC TRAINING.—For grants and contracts under subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $14,000,000 for fiscal year 1991.

"(2) GERIATRIC MEDICINE TRAINING PROJECTS.—For grants and contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $14,000,000 for fiscal year 1991.".

(c) CONFORMING AMENDMENTS.—Section 783 (42 U.S.C. 295g-3) is repealed.

SEC. 307. GRANTS FOR MINORITY EDUCATION.

(a) REORGANIZATION.—Section 788A (42 U.S.C. 295g-8a) is transferred to immediately after section 781 (42 U.S.C. 295g-1) and redesignated as section 782.

(b) ELIGIBILITY.—Subsection (c) of section 782 (as transferred and redesignated by subsection (a)) is amended to read as follows:

"(c) Only health professions schools shall be eligible for a grant under this section, and to be eligible such schools must—

(1) be a school described in section 701(4); and

(2) have received a contract under section 788A for fiscal year 1987.".

SEC. 308. ADVANCED FINANCIAL DISTRESS ASSISTANCE.

Part F of title VII (42 U.S.C. 295g et seq.) (as amended by section 307(a) of this Act) is amended by redesignating section 788B as section 788A.

TITLE IV—PROGRAMS FOR PERSONNEL IN HEALTH ADMINISTRATION AND IN ALLIED HEALTH

SEC. 401. GRANTS AND TRAINEESHIPS FOR GRADUATE PROGRAMS.

(a) IN GENERAL.—Section 791 (42 U.S.C. 295h) is amended to read as follows:

"SEC. 791. GRANTS AND TRAINEESHIPS FOR GRADUATE PROGRAMS.

"(a) GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.—

"(1) IN GENERAL.—From funds appropriated under subsection (c)(1), the Secretary shall make annual grants to public or nonprofit private educational entities (including schools of social work and excluding accredited schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, and health planning.

"(2) APPLICATIONS.—

"(A) IN GENERAL.—No grant may be made under paragraph (1) unless an application therefor has been submitted to the Secretary before such time as the Secretary shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation, prescribe.

"(B) REQUIREMENTS.—The Secretary may not approve an application submitted under subparagraph (A) unless—

"(i) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under paragraph (1) that—

"(I) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted, except that in any case in which the number of minority students enrolled in the graduate educational programs of such entity in such school year will exceed an amount equal to 45 percent of the number of all students that will be enrolled in such programs in such school year, such application shall only be required to contain assurances that at least 20 individuals will complete such programs in such school year; and

"(II) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs; and

"(ii) the program for which such application was submitted has been accredited for the training of individuals for health administration, hospital administration, or health planning by a recognized body or bodies approved for such purpose by the Secretary of Education and meets such other quality standards as the Secretary shall by regulation prescribe.

"(C) WAIVER.—The Secretary may waive (in whole or in part) the requirements of subclause (II) of subparagraph (B)(i) with respect to any school on written notification by the appropriate accreditation body or bodies that compliance with the assurances required by such subparagraph will prevent such school from meeting the accreditation standards of such body or bodies.

"(D) CONSULTATION.—The Secretary may not approve or disapprove an application submitted under paragraph (1) except after consultation with the National Advisory Council on Health Professions Education.

"(b) TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary may make grants to public or nonprofit private educational entities, including graduate schools of social work but excluding accredited schools of public health, that offer a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and that meets such other quality standards as the Secretary by regulation may prescribe, for traineeships to train students enrolled in such a program.

"(2) ADMINISTRATION.—

"(A) APPLICATIONS.—No grant for traineeships may be made under paragraph (1) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(B) USE.—Traineeships awarded under grants made under paragraph (1) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may consider necessary.

"(C) SET-ASIDE.—In awarding traineeships under this section, each applicant shall assure to the satisfaction of the Secretary that at least 80 percent of the funds received under this subsection shall go to individuals who—

"(i) have previously received a baccalaureate degree; or

"(ii) have 3 years of work experience in health services.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.—For payments under grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 through 1991.

"(2) TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS.—For payments under grants under subsection (b), there are authorized to be appropriated $500,000 for each of the fiscal years 1989 through 1991.".

(b) PUBLIC HEALTH PERSONNEL.—Subpart I of part G of title VII (42 U.S.C. 295h et seq.) is amended by repealing sections 791A, 792 and 793 (42 U.S.C. 295h-1a, 295h-1b, and 295h-1c).

SEC. 402. STATISTICS AND ANNUAL REPORT.

Subsection (c) of section 794 (42 U.S.C. 295h-2(c)) is amended—

(1) by striking out "Interstate and Foreign Commerce" and inserting in lieu thereof "Energy and Commerce"; and

(2) by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

SEC. 403. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, establishing, operating, and evaluating projects relating to:

"(1) Improving and strengthening the effectiveness of allied health administration, program directors, faculty, and clinical faculty.

"(2) Improving and expanding program enrollments in those professions in greatest demand and whose services most impact the elderly.

"(3) Interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly.

"(4) Demonstration centers to emphasize innovative models to link allied health profession's clinical practice, education, and research.

"(5) Adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long term care, home health and hospice care, and ethics.

"(6) The recruitment of individuals into allied health professions, including projects for—

"(A) the identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels;

"(B) the identification and recruitment of minority and disadvantaged students, including the provisions of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and

"(C) the coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.";

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) For purposes of subsection (a), the term "eligible entities" means entities which are—

"(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe; or

"(2) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a)."; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d)(1) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $4,800,000 for fiscal year 1989; and $5,000,000 for each of the fiscal years 1990 and 1991.

"(2) In each fiscal year for which funds are authorized to be appropriated under this subsection, all grants made with such funds shall preferentially be awarded to training centers for the allied health professions.

"(3) In each fiscal year for which funds are authorized to be appropriated under this subsection, all such funds appropriated shall be reserved for award to training centers for allied health professions.".

SEC. 404. ALLIED HEALTH STUDENT TRAINEESHIP.

(a) GRANTS.—The Secretary may make grants to, and enter into contracts with, public or nonprofit private schools of allied health or other educational entities offering an allied health program to assist students in meeting the costs of entry level education.

(b) USE OF GRANTS.—Grants awarded under subsection (a) shall be used for tuition, fees, and such stipends and allowances for trainees as the Secretary may consider necessary.

(c) ELDERLY POPULATION.—In making grants under this section, the Secretary shall ensure that 80 percent of the funds available for such grants shall be used to enable individuals to participate in allied health programs which prepare personnel to meet the rehabilitation needs of the elderly population.

(d) TAXATION.—Notwithstanding any other provision of law, any payment to, or on behalf of, a participating student of tuition under this section shall be exempt from taxation.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 405. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

"(a) GRANTS.—The Secretary may make grants to and enter into contracts with public or nonprofit private educational entities to meet the costs of projects designed to—

"(1) plan, develop, establish, expand, and operate doctoral programs for the advanced specialty training of allied health professionals who plan to teach and conduct research in an allied health training program; and

"(2) provide financial assistance in the form of traineeships or fellowships to doctoral students who are participants in any such program and who plan to teach and conduct research in an allied health discipline or to postdoctoral students who are continuing specialized study and research in an allied health discipline.

"(b) LIMITATION.—The Secretary shall limit grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; and

"(3) a significant role in the care and rehabilitation of patients and clients who are elderly or disabled.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1989; $8,500,000 for fiscal year 1990; and $11,500,000 for fiscal year 1991.

"(d) AWARDING OF GRANTS.—In each fiscal year for which funds are authorized to be appropriated under this section, all grants made with such funds shall preferentially be awarded to training centers for the allied health professions.

"(e) AVAILABILITY OF FUNDS.—Funds appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1991.".

SEC. 406. ALLIED HEALTH PROFESSIONS DATA.

Section 798 (42 U.S.C. 295h-7) is amended to read as follows:

"SEC. 798. ALLIED HEALTH PROFESSIONS DATA.

"(a) ESTABLISHMENT OF REPORTING SYSTEM.—The Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any non-profit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(b) DATA.—Data shall include the most current information concerning the supply, distribution, and utilization of allied health practitioners and faculty, including physical therapy, occupational therapy, respiratory therapy, speech pathology, and audiology, medical records, dietetics, medical technology, and radiological technology.

"(c) REPORTS.—

"(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and each year thereafter, the Secretary shall prepare and submit, to the President, the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report of the status and development of the uniform allied health professions data reporting system and of the activities carried out under this section.

"(2) BIANNUAL REPORT.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary shall also prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that shall include a description and analysis of data collected pursuant to this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section there are authorized to be appropriated $1,200,000 for fiscal year 1989; $2,000,000 for fiscal year 1990; and $3,000,000 for fiscal year 1991. Funds appropriated for fiscal year 1989 shall remain available 3 years beyond the date of the last appropriation, and until at least 1991.".●

By Ms. MIKULSKI (for herself and Mr. SARBANES):

S. 2230. A bill to establish the Office of Enforcement and Border Affairs within the Department of the Treasury; pursuant to the order of August 4, 1977, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

COAST GUARD AND NATIONAL BORDER COORDINATION REVITALIZATION ACT

● Ms. MIKULSKI. Mr. President, I am pleased to announce that my senior colleague, Senator SARBANES, and I are introducing legislation to revitalize our Coast Guard by transferring it from the Department of Transportation to the Department of Treasury.

This bill, the Coast Guard and National Border Coordination Revitalization Act, puts the Coast Guard where it belongs, in Treasury with Customs and other drug-fighting agencies. In recent years, the Office of Management and Budget has proposed sharp reductions in function 400, Transportation's budget function. They have done so each and every time because of their strong opposition to Federal funding for mass transit and Amtrak. And every year, Congress has been forced to try and do more with the activities in that function with less resources proposed in the President's budget.

Last year this complication resulted in a $100 million shortfall for the Coast Guard's operations. That funding gap has forced the Coast Guard to reduce its presence at numerous installations around the country. In Maryland, they have proposed a 5-year phaseout of the Coast Guard Yard at Curtis Bay. This would mean the loss of 700 jobs and would virtually end Curtis Bay's 89-year history of "service to the fleet."

In this process, I believe that the Appropriations Committees have been unfairly singled out as responsible for this shortfall. In reality, the real culprit has been an administration that has pitted aviation funds and the Coast Guard against public transportation. During interdiction and public safety should not be forced to compete with grant programs essential to the successful operation of State and local governments. The Congress has rejected this approach in each of the last 7 years and in all likelihood will do so again this year.

The legislation Senator SARBANES and I are introducing would eliminate this kind of finger pointing at the Transportation Appropriations Subcommittee by guaranteeing that the Coast Guard is placed in the budget function where it best belongs, 750—administration of justice.

By moving the Coast Guard out of Transportation, the Coast Guard will not be forced to compete for resources with subways and Amtrak. There's no relation between mass transit and the

Coast Guard, and the Congress should not be forced into an annual showdown over the two because the administration opposes any Federal funds for public transportation.

The framework which this legislation sets out will also guarantee that the Federal Government has a more coordinated approach to fighting illegal drugs from entering into this country. The creation of an Office of Enforcement and Border Affairs within the Department of the Treasury, headed by an Under Secretary who reports directly to the Secretary, will ensure a one-stop shop that guarantees the best possible effort to reverse the growing crisis of drug abuse in America.

I am pleased that this bill was included last week as title V in S. 2205, the Omnibus Antidrug Abuse Act. It is my hope that we can enact this important Government reorganization through S. 2205 or some other vehicle. Only then can we begin to reverse the recent budgetary trend which has shortchanged the Coast Guard in its fight as one of the agencies who have become the cops for the new economy in the war against drugs.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF MAJOR PROVISIONS, COAST GUARD AND NATIONAL BORDER COORDINATION REVITALIZATION ACT OF 1988

OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

Establishes Office of Enforcement & Border Affairs within Dept. of Treasury, headed by the Undersecretary for Enforcement and Border Affairs.

Under this office, will be an Office of Border Management, responsible for all non-narcotics interdiction activities.

Under this Office, will also be Office of Narcotics Interdiction, responsible for all narcotics interdiction activities.

AGENCY COMPOSITION

Agencies within Office of Enforcement & Border Affairs:

Coast Guard [transferred from Dept. of Transportation].

Customs Service.

Bureau of Alcohol, Tobacco & Firearms.

Secret Service.

Immigration & Naturalization Service [transferred from Dept. of Justice].

Federal Law Enforcement Training Center.

TRANSFER OF COAST GUARD BUDGET FUNCTION

Transfer the Budget Function for the Coast Guard from Function 400, Transportation, to Function 750, Administration of Justice, beginning with FY 1989.

COAST GUARD RESPONSIBILITIES IN TIME OF MILITARY CONFLICT

Makes no change in Coast Guard's transfer to the Dept. of Navy in time of military conflict.

TRANSITIONAL PROVISIONS

Includes necessary transitional provisions to protect current personnel within Coast Guard and INS to prevent them from being adversely affected upon the transfer of their agencies to the Treasury Dept.●

●Mr. SARBANES. Mr. President, I am pleased to join my colleague, Senator MIKULSKI, in sponsoring the Coast Guard and National Border Coordination Revitalization Act of 1988. The purpose of this legislation is twofold: to provide greater stability in the Coast Guard's funding and increased coordination in our Nation's war against drugs.

The adoption of the budget for the Coast Guard has been the subject of serious controversy for the past few years. This has been precipitated, in part, by the agency's increased responsibilities in maritime drug interdiction and other activities at the same time that the Department of Transportation's resources, under which the Coast Guard operates, have come under increased pressure by the Federal deficit. While the Congress has sought to augment the Coast Guard's budget with funds from the Department of Defense, these funds have also been squeezed. Last year, in order to achieve the level of deficit reduction called for in the budget summit agreement, deep cuts were made in Department of Transportation programs including approximately $100 million from the Coast Guard's operating budget. In January of this year, the Coast Guard announced that, as a result of this $100 million shortfall in the agency's funding for fiscal 1988, drug interdiction efforts would be reduced by 55 percent and a number of important Coast Guard operations—including the shipbuilding and repair activities at the Curtis Bay Coast Guard Yard in Baltimore—would be phased out.

In order to address this problem and to ensure that the Coast Guard receives the resources necessary to perform its missions and continue vital operations like the Curtis Bay Yard, Senator MIKULSKI and I are introducing legislation to move the Coast Guard from the Department of Transportation to the Department of Treasury. This is a move that makes sense on several fronts. First of all, it will place the agency with the Customs Service and other bureaus involved in the attack on the national drug trafficking problem and help ensure a coordinated antidrug effort. This provision has also been included in the Omnibus Anti-Drug Abuse Act of 1988, which was introduced last week and is a very significant effort to combat the serious drug problem in our Nation.

Second, moving the Coast Guard to the Treasury Department, where it was housed for 177 years, will better enable us to provide a long-term approach for dealing with shortfalls in the Coast Guard's operating budget. It makes sense to remove the Coast Guard from the transportation function where it had to annually compete for resources from transportation specific programs. A major part of the Coast Guard's function is not transportation-specific, as it is with the other programs such as the Federal Aviation Administration, mass transit and other important programs in the Transportation budget. Placing it under the Treasury Department will enable us to more adequately address the needs of the Coast Guard, and our country, with regards to drug interdiction, marine and boating safety, and enforcement of laws and treaties.

I urge my colleagues to join me in supporting this measure to restore sound budget policy and strengthen the Coast Guard.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 552

At the request of Mr. EVANS, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government, and for other purposes.

S. 698

At the request of Mr. THURMOND, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 698, a bill to amend title 17, United States Code, to prohibit the conveyance of the right to perform publicly syndicated television programs without conveying the right to perform accompanying music.

S. 1522

At the request of Mr. RIEGLE, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1776

At the request of Mr. ARMSTRONG, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution.

S. 1817

At the request of Mr. KENNEDY, the names of the Senator from Nevada

[Mr. HECHT], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1817, a bill to amend the Internal Revenue Code of 1986 to provide that gross income of an individual shall not include income from U.S. savings bonds which are transferred to an educational institution as payment for tuition and fees.

S. 1851

At the request of Mr. SIMON, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2015

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2042

At the request of Mr. DURENBERGER, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2061

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2061, a bill to establish national standards for voter registration for elections for Federal office, and for other purposes.

S. 2077

At the request of Mr. KASTEN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2077, a bill entitled the "Livestock Producers' Recordkeeping Act of 1988."

S. 2120

At the request of Mr. MATSUNAGA, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 2120, to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either.

S. 2134

At the request of Mr. D'AMATO, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2134, a bill to impose sanctions against the Republic of Panama.

S. 2152

At the request of Mr. NICKLES, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2152, a bill to increase the authority to transfer unobligated balances between certain accounts of the Department of Defense in order to meet increased military personnel costs resulting from fluctuations in foreign currency exchange rates, and for other purposes.

S. 2156

At the request of Mr. LUGAR, the names of the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Montana [Mr. MELCHER], the Senator from North Carolina [Mr. HELMS], the Senator from Georgia [Mr. FOWLER], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Nebraska [Mr. KARNES], the Senator from California [Mr. WILSON], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Missouri [Mr. BOND], the Senator from Louisiana [Mr. JOHNSTON], the Senator from North Carolina [Mr. SANFORD], the Senator from Maine [Mr. MITCHELL], and the Senator from Florida [Mr. CHILES] were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2167

At the request of Mr. METZENBAUM, the names of the Senator from Montana [Mr. MELCHER], the Senator from Indiana [Mr. LUGAR], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

S. 2205

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. ADAMS, the names of the Senator from Virginia [Mr. WARNER], the Senator from Georgia [Mr. FOWLER], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Concurrent Resolution 97, a concurrent resolution to commend the President, the Secretary of State, and the Administrator of the Agency for International Development on relief efforts that have been undertaken by the United States Government for the people in Ethiopia and other affected nations of sub-Saharan Africa, and encourage these officials to continue to extend all efforts deemed appropriate to preclude the onset of famine in these nations, and for other purposes.

SENATE RESOLUTION 377

At the request of Mr. LUGAR, the names of the Senator from Montana [Mr. MELCHER], the Senator from Vermont [Mr. LEAHY], the Senator from Oklahoma [Mr. BOREN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Indiana [Mr. QUAYLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. EXON], the Senator from Missouri [Mr. BOND], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. HELMS], the Senator from Tennessee [Mr. GORE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Resolution 377, a resolution to express the sense of the Senate regarding negotiations on a new long-term agreement on agricultural trade with the Soviet Union.

SENATE RESOLUTION 388

At the request of Mr. METZENBAUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Resolution 388, a resolution expressing the opposition of the Senate to the proposed $400 million World Bank loan to restructure Mexico's steel industry.

AMENDMENT NO. 1680

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of amendment No. 1680 intended to be proposed to 100-11, a resolution expressing the sense of the House of Representatives that Federal excise tax rates should not be increased.

AMENDMENTS SUBMITTED

HIGH-RISK DISEASE NOTIFICATION AND PREVENTION ACT

WALLOP AMENDMENT NO. 1906

Mr. WALLOP proposed an amendment to the bill (S. 79) to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes; as follows:

Add at the end of the bill the following new section:

"SEC. a.

(1) Since the stated goal of the Treaty on Intermediate- and Shorter-range Missiles (hereafter referred to as the INF Treaty) is the global and verifiable elimination of all intermediate- and shorter-range missiles;

(2) Since a principal element of the INF Treaty's verification regime is the list of limited items to be destroyed contained in the INF Treaty's Memorandum of Understanding;

(3) Since a central premise of the INF Treaty is that the destruction of all items

on that list will effect the complete elimination of the Parties' inventories of limited systems;

(4) Since the realization of this premise depends critically upon the accuracy of the accounting of such inventories made in the Memorandum of Understanding;

(5) Since the United States received the Soviet data listed in the Memorandum of Understanding before the INF Treaty was signed and then chose to sign that Treaty, thereby accepting the essential accuracy of those data;

(6) Since the United States' ability to evaluate such Soviet data cannot be made with the precision that characterizes, for example, the reconciliation of a bank account, i.e., it does not have the ability to check Soviet data down to the last missile;

(7) Since consequently, U.S. intelligence judgments of actual Soviet force levels reflect the fact that each component of the United States Intelligence Community (e.g., the Central Intelligence Agency, the Defense Intelligence Agency, the State Department's Bureau of Intelligence and Research), using its own methodology, arrives at the individual agency's "best-assessment" of the precise number of missiles in the Soviet inventory;

(8) Since the United States Government's estimate of Soviet missiles like the intermediate-range SS-20 as a result represents a collective"best-assessment" of the USSR's inventory of such missiles expressed in a range of estimated force levels;

(9) Since the confidence we can have in the accuracy of the Soviet-provided data is a function of the breadth of the range of uncertainty in such intelligence "best-assessments" i.e., the greater the discrepancy between the high and low U.S. Intelligence Community estimates, the less confident can the United States be in its ability to gauge the accuracy of the Soviet-supplied data;

(10) Since the Administration has said that the number of SS-20's accounted for by the Soviet Union in the INF Treaty's Memorandum of Understanding fall within the range of U.S. Intelligence estimates of those forces;

(11) Since this fact is said to reflect favorably on the credibility of the Soviet-provided data; and

(12) Since the Senate could not properly discharge its responsibility to grant or withhold consent to the INF Treaty were it unable to assess the likelihood that, from the perspective of the United States, that Treaty's principal object and purpose would be realized through the complete elimination of all Soviet SS-20s.

(b) It is therefore the sense of the Senate that:

1. Before the Senate convenes in executive session for the purpose of considering the proposed INF Treaty, the President, without delegation, should certify that the monitored destruction of all systems enumerated in the Memorandum of Understanding will result, in his judgment, in the complete elimination of the Soviet Union's inventory of such systems;

2. If the President is unable to make the certification called for in subsection b.(1) of this section, he should then report to the Senate the number of SS-20's assessed by each agency of the U.S. Intelligence Community to exist in the Soviet inventory over and above the level declared by the USSR in the Memorandum of Understanding and describe the methodology used by each agency to arrive at that number;

(3) The report called for by subsection b.(2) of this section should also provide the President's judgment as to whether the Soviet Union was aware, before it provided the data now incorporated in the Memorandum of Understanding, of what was the range of U.S. intelligence agency estimates of the size of Soviet forces limited by the INF Treaty;

(4) The report called for by subsection b.(2) of this section should also contain an analysis prepared by the Joint Chiefs of Staff explaining whether the forces assessed to exist in the Soviet inventory by one or more U.S. intelligence agencies contained in the Memorandum of Understanding constitute a militarily-significant capability.

INDIAN SELF-DETERMINATION ACT AMENDMENTS

EVANS (AND INOUYE) AMENDMENT NO. 1907

(Ordered to lie on the table.)

Mr. EVANS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill (S. 1703) to amend the Indian Self-Determination and Education Assistance Act, and for other purposes; as follows:

S. 1703, as reported, is amended by deleting section 209 and inserting the following in lieu thereof:

"SEC. 301. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended by adding a new Title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

SEC. 302(a). At the request of the governing body of any Indian tribe otherwise eligible for mature contracts as defined in section 103(i), the Secretary shall negotiate and enter into a written agreement with such tribe which—

(1) shall enable the tribe to design and administer programs, services and activities according to its own budget and priorities;

(2) shall, except as provided in paragraph (3), provide for payment by the Secretary to the tribe of an amount equal to that which the tribe would have been eligible to receive under contracts or grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe and its members;

(3) shall not include payment by the Secretary of funds provided for tribally controlled community colleges pursuant to the Tribally Controlled Community Colleges Act (Public Law 95-471) or for elementary and secondary schools under the Indian School Equalization Formula (ISEF) pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended);

(4) shall specify the functions and responsibilities of both a tribe and the Secretary relative to the Tribal Self-Governance Project, including the authority of the tribe to reallocate funds or modify budget allocations within any project year;

(5) shall allow for retrocession of programs or portions thereof pursuant to section 105(e);

(6) shall not allow the Secretary to waive, modify, or diminish in any way the trust responsibility of the United States with respect top Indian people which exists under treaties, Executive orders, and Acts of Congress; and

(7) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to the Congress for the review of the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) At the request of the governing body of a tribe, and following the negotiation and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

(c) For the year for which and the extent to which funding is provided to a tribe pursuant to this title, such tribe—

(1) shall not be entitled to contract with the Secretary for such funds under section 102;

(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under the title; and

(3) shall not be required to provide the same programs, services and activities as the Secretary would have provided to the tribe and its members: *Provided,* however, That funds for trust services to individual Indians are available to support Self-Governance Demonstration Projects only to the extent that the same trust services are provided to individual Indians by the tribe.

SEC. 303. Unless the Secretary and the tribe otherwise agree, disputes arising under this title shall, upon written notice either from the Secretary or the tribe to the other and within ten days following such notice, be submitted to binding arbitration. Any subsequent arbitration decision or order may be enforced pursuant to section 110(a). For purposes of sections 110(a), 110(b), and 110(c), agreements under this title shall be treated the same as contracts are treated under such sections: *Provided,* That, for the purposes of this section, "disputes" shall include any determination of the application of federal laws and regulations to agreements authorized by this title: *Provided further,* That to the maximum extent feasible, the Secretary shall interpret applicable federal laws and regulations in a manner that will not prohibit or restrict the implementation of agreements authorized by this title.

SEC. 304. The Secretary shall identify in the President's annual Budget Request to Congress any funds proposed to be included in the Tribal Self-Governance Project and to be provided by the Secretary. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriation acts.

SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and the participating tribes, and

shall separately include the views of such tribes.

SEC. 306. Nothing in this title shall limit or reduce in any way any services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or other applicable federal law.

● Mr. EVANS. Mr. President, I am sending to the desk an amendment to S. 1703, the Indian Self-Determination Act Amendments of 1987. This amendment, which authorizes a 5-year research and demonstration program to be known as the Tribal Self-Governance project, is intended to supersede the amendment which Senator INOUYE and I proposed on February 3, 1988. This previous amendment was the subject of a hearing conducted by the Select Committee on Indian Affairs on February 18, 1988, where testimony was taken from the administration and representatives of many Indian tribes and tribal organizations.

The key provision of this amendment directs the Secretary of the Interior, at the request of the governing body of any Indian tribe, to negotiate and enter into agreements with such Indian tribes to design and administer programs, services and activities which the Secretary is required to provide to such tribes and their members. Significantly, the amendment provides the authority to participating tribes to allocate funds within any project year according to their own priorities instead of those determined primarily by the Bureau of Indian Affairs. The revisions incorporated in this amendment are the result of the comments and recommendations received by the Indian Affairs Committee since we filed the earlier amendment. They have, in my opinion, substantially improved this proposal.

As Senator INOUYE and I have previously explained, the primary motive for our work to develop this proposal has been to respond to the initiative taken by the several Indian tribes who requested demonstration project authority. Based on the valuable input we have received and our own analysis, we have concluded that the Self-Governance project should include the following features:

First, the Demonstration Project should be open to all Indian tribes who wish to participate rather than be limited to the original 10 who were included and identified in the Fiscal Year 1988 Continuing Appropriations Resolution. The primary criteria for eligibility under our modified proposal is that participating tribes must have a track record of financially sound and responsible Indian Self-Determination contract administration. We believe that this will be demonstrated by continuous administration of contracts under Public Law 93-638 for 3 or more years with no significant or material audit exceptions. Any tribe which can point to such a track record can apply for a demonstration funding agreement as authorized in this amendment.

Second, demonstration project agreements will include payment of an amount of funds equal to that which the tribe would have been eligible to receive under contracts and grants available pursuant to the Indian Self-Determination Act, including direct and indirect programs costs, and any funds which are specifically or functionally related to the provision of services by the Secretary to the tribe or its members. Section 306 of the amendment imposes a requirement that these agreements shall not limit or reduce in any way services, contracts or funds that any other tribe or tribal organization is eligible to receive by this act or any other law. Consistent with this provision, however, a tribe applying for an agreement may identify funds in addition to its BIA agency or local level budget which have been set aside or allocated for services specifically to its members for a particular reservation and proposes that such funds be included in the agreement.

Third, the two principal formula based education programs have been excluded from the scope of the agreements in response to tribal concerns that such formula funding does not readily lend itself to the reprogramming authority contemplated in the demonstration projects. In the future, Congress may examine the possibility of including these functions after the program has proven itself.

Fourth, the agreements shall not be interpreted as authority for the Secretary to waive, modify or diminish in any way the trust responsibility of the United States for Indian people as provided for under treaties, executive orders and Federal Statutes. Since the Self-Determination Act provides that any program can be contracted for by a tribal organization, this certainly includes trust functions as the report on S. 1703 properly points out. In such instances, the Secretary's responsibility as trustee is to make sure that contracts properly define the level of performance necessary to manage trust assets and to supervise such performance. If at any time during a contract period the trust is endangered or mismanaged and it is clear that the contractor cannot correct the problem, then the Secretary has authority to intervene to protect trust assets. Clearly, there is nothing in this relationship that requires a waiver of the trust and the same shall be true for demonstration agreements.

(5) We have also required that these demonstration agreements be submitted by the Secretary 90 days in advance of their effective date to the Congress for review. Members of Congress and the relevant committees are thereby provided an opportunity to exercise their overnight powers to urge a change of correction of any aspect of such agreements that may be of concern.

(6) Section 304 of this amendment requires the Secretary to identify in the administration's annual budget request any funds included in the Tribal Self-Governance project. Furthermore, it is made clear that the use of such funds shall remain subject to specific directions or limitations as may be included in applicable appropriation acts. Finally, the Congress will be kept fully informed of the progress made in implementing the Tribal Self-Governance Demonstration project by virtue of the requirement contained in section 305. This section directs the Secretary to submit written reports on the relative costs and benefits of the projects on January 1 and July 1 of each year. Participating tribes are given the opportunity to submit separately their views in such reports and to work with the Secretary to develop the baseline measurements upon which a cost-benefit evaluation is to be determined.

Mr. President, these amendments include carefully formulated checks and balances. I am confident they are protective of the important Federal Indian policy concerns that were conveyed to Senator INOUYE and I during our deliberations on this proposal. In addition, a full explanation of our objectives and intentions has been provided in a letter Senator INOUYE and I sent last week to 250 tribal leaders.

Our extensive consultation with Indian leadership regarding this proposal and in response to the intense interest which has been shown has proven to be most rewarding. As we now go forward with this bill, we can assure our colleagues in the Senate that the amendments to the Indian Self-Determination Act contained in S. 1703 are congruent with each other and the underlying statutory framework. The demonstration authority provided in this new title III builds upon the substantive reforms of S. 1703. Although there is an experimental aspect inherent to such demonstration programs, if proven to be workable and successful, as I believe it will, this experiment will show us the direction to a future government-to-government relationship that each Indian tribal group can define according to its own distinctive vision.

Mr. President, I look forward to speedy congressional action on this important bill, including adoption of this amendment.●

● Mr. INOUYE. Mr. President, I am pleased to support Senator EVANS' amendments to S. 1703, the Indian Self-Determination Act of 1987. When Senator EVANS agreed in the beginning of this session of Congress to serve as vice chairman of the Indian Affairs

Committee, I was positive that he would make a great contribution and his work as prime sponsor of this important bill certainly justifies my confidence in him.

I see that he has incorporated substantial improvements to the original proposal which we introduced last month at the request of 10 tribes. They have taken the initiative to develop a comprehensive funding authority entitled the Tribal Self-Governance Research and Demonstration project. Since this project was originally established in the BIA's 1988 appropriation bill, it makes sense for us to exercise our responsibilities as an authorizing committee to establish guidelines for the program. In doing so, I see that we have also provided protections for these tribes who will not be participating in this project as well as define some reasonable limitations on what is essentially an experimental program.

In closing, I would like to once again reiterate that the measure before us was not conceived in Washington. It was drafted in Indian country by Indian people to resolve Indian problems. As the vice chairman of this committee said in the committee report, it is perfectly appropriate that the bill was developed with the active participation of tribal leaders from tribes throughout the country. These are the people who will implement this bill; they are the ones who will rejoice in its strength—and they are also the ones who will struggle with its weaknesses.

We have no way of knowing what the outcome will be. It may be a great success, or it may fail. But as the vice chairman indicated, why not try? If we maintain the status quo and insist upon it, that is where we will be—right here. I think it is about time that we took bold steps and in taking these steps we may fall. But that is the way we learn.

I am confident that it will succeed. It is the product of many minds and many months. And we, both of us, Senator EVANS and I, will assure you that everything will be done to expedite a successful consideration and passage.●

TAXPAYER RIGHTS

BENTSEN (AND OTHERS) AMENDMENT NO. 1908

(Ordered to lie on the table.)

Mr. BENTSEN (for himself, Mr. PACKWOOD, Mr. MATSUNAGA, Mr. DOLE, Mr. BAUCUS, Mr. ROTH, Mr. BOREN, Mr. DANFORTH, Mr. BRADLEY, Mr. HEINZ, Mr. MITCHELL, Mr. WALLOP, Mr. PRYOR, Mr. DURENBERGER, Mr. RIEGLE, Mr. DASCHLE, Mr. ARMSTRONG, Mr. BYRD, Mr. GRAMM, Mr. BURDICK, Mr. HOLLINGS, Mr. STEVENS, Mr. NUNN, Mr. JOHNSTON, Mr. DOMENICI, Mr. BUMPERS, Mr. MCCLURE, Mr. DECONCINI, Mr. MELCHER, Mr. WARNER, Mr. EXON, Mr. PRESSLER, Mr. HEFLIN, Mr. LEVIN, Mr. SYMMS, Mr. BINGAMAN, Mr. GORE, Mr. HARKIN, Mr. BREAUX, Mr. CONRAD, Mr. MCCAIN, Mr. REID, and Mr. SHELBY) submitted an amendment intended to be proposed by them to the bill (S. 2223) to promote and protect taxpayer rights, and for other purposes; as follows:

Beginning on page 75, line 10, strike out all through page 77, line 3, and insert in lieu thereof the following:

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 1988.

(2) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED 90 DAYS AFTER EFFECTIVE DATE.—Not later than July 1, 1988, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the Internal Revenue Code of 1986 (as added by this section).

On page 79, line 4, strike out "September 30, 1988" and insert in lieu thereof "March 31, 1988".

On page 79, line 16, strike out "September 30, 1988" and insert in lieu thereof "March 31, 1988".

On page 82, strike out lines 3 through 8, and insert in lieu thereof the following new section:

SEC. 301. AMOUNT OF CORPORATE ESTIMATED TAX INSTALLMENT REDUCTION RECAPTURE INCREASED.

(a) IN GENERAL.—Section 6655(e)(1) (relating to lower required installment where annualized income installment or adjusted seasonal installment is less than amount determined under subsection (d)) is amended by striking out "90 percent" and inserting in lieu thereof "96 percent (93.5 percent in the case of any reduction after March 31, 1988, and before October 1, 1988)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reductions in required installments occurring after March 31, 1988.

● Mr. BENTSEN. Mr. President, I am offering an amendment to S. 2223 on behalf of the Committee on Finance. The purpose of the amendment is to provide immediate relief from the diesel tax collection problem created by last year's Budget Reconciliation Act. The amendment is cosponsored by 41 Members of the Senate, including 16 members of the Finance Committee.

The problem created by the budget reconciliation bill arose from a provision proposed by the administration to move the collection point for the Federal excise tax on diesel fuel from the wholesale level to the retail level. That change was intended to reduce what the Federal Highway Administration described as widespread evasion of the diesel tax. As passed in the Reconciliation Act, the change is scheduled to take effect April 1.

Since the enactment of the provision, we have learned of the serious problems it causes for those diesel fuel users who are exempt from the tax because they use the fuel for nonhighway purposes. Exempt users include farmers, mining companies, well drillers, barge operators, and others. The provision requires exempt users to pay the 15 cent-per-gallon diesel tax that they don't owe, and then file for a refund. In short, that amounts to an interest-free loan to the Government.

S. 2223, reported by the committee March 21, goes a long way toward solving the problem, but it does not go all the way. The bill permits all off-road users of diesel fuel to purchase diesel fuel tax-free at the wholesale level. The legislation also provides special, liberal rules for marine use, where the opportunities for tax evasion are limited, and requires the IRS to pay interest on refunds to any exempt users who purchase diesel fuel tax paid.

The shortcoming of the reported legislation is in the effective date. Members of the Finance Committee wanted to make the provisions of the legislation effective immediately—on April 1. But according to the Treasury Department, by doing so we would be adding more than $200 million to the budget deficit for fiscal 1988. We were unwilling to do that.

To avoid increasing the fiscal 1988 budget deficit, the committee agreed to report the bill out with an effective date of October 1, 1988. The bill contained sufficient revenue-raising provisions to offset the revenue loss for fiscal 1989 and beyond. We asked the staffs of the Finance Committee and the Joint Committee on Taxation to investigate sound ways of raising fiscal 1988 revenues to enable us to move the effective date up to April 1.

Having studied the matter since March 21, the committee is now in a position to endorse the April 1 effective date. That is what this amendment does. This amendment provides immediate relief for farmers and all other off-road users of diesel fuel.

To finance the amendment, we propose to continue reforms started last year in the corporate estimated tax. What we propose essentially is to require that estimated tax payments of corporations more closely follow the pattern of the income of each corporation over the year. Thus, corporations that earn greater amounts of income in the first part of the year would have to pay greater estimated taxes in that part of the year. Our amendment calls for a 2-year phase-in to the tighter rules. The proposal also makes it possible to eliminate the provisions in S. 2223 that extends the IRS refund offset program for another year.

Mr. President, the committee amendment perfects S. 2223. We have proposed to solve the diesel tax problems as of April 1, and we have done so in a fiscally responsible fashion.

The Finance Committee has done as much as it can on its own to solve the

diesel problem. We can't act without a House bill. I know our colleagues on the House side share our concerns about the impact of this provision on the farm community and others. I urge them to act quickly, so that we can put this diesel tax problem behind us.

Mr. President, I ask unanimous consent that a staff explanation of the corporate estimated tax reform be printed in the RECORD.

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

EXPLANATION OF CORPORATE ESTIMATED TAX PROVISION IN COMMITTEE AMENDMENT PREPARED BY THE STAFF OF THE JOINT COMMITTEE ON TAXATION

PRESENT LAW

Under present law, corporations are required to make estimated tax payments four times a year (sec. 6655). For small corporations, each installment is required to be based on an amount equal to the lesser of (1) 90 percent of the tax shown on the return or (2) 100 percent of the tax shown on the preceding year's return. For large corporations, each installment is required to be based on an amount equal to 90 percent of the tax shown on the return (except that the first payment may be based on 100 percent of the tax shown on the preceding year's return). For both large and small corporations, the amount of any payment is not required to exceed an amount which would be due if the total payments for the year up to the required payment equal 90 percent of the tax which would be due if the income already received during the current year were placed on an annual basis. Any reduction in a payment resulting from using this annualization rule must be made up in the subsequent payment if the corporation does not use the annualization rule for that subsequent payment. However, if the subsequent payment makes up at least 90 percent of the earlier shortfall, no penalty is imposed.

REASONS FOR CHANGE

The committee believes that a corporation that made an estimated tax payment based on its annualized income should be required to make up any shortfall in subsequent payments more rapidly in order to pay estimated tax on a more current basis.

EXPLANATION OF PROVISION

Under the bill, a corporation that used the annualization method for a prior payment must make up at least 96 percent (rather than 90 percent as under present law) of the shortfall in the subsequent payment in order to avoid an estimated tax penalty. This provision is phased in over two fiscal years. Effective for payments required to be made after the date of enactment, at least 93.5 percent of the shortfall in the subsequent payment must be made up in order to avoid an estimated tax penalty. The increase to 96 percent is effective for estimated tax payments required to be made after September 30, 1988.

EFFECTIVE DATE

The increase to 93.5 percent is effective for estimated tax payments required to be made after the date of enactment. The increase to 96 percent is effective for estimated tax payments required to be made after September 30, 1988.●

● Mr. DANFORTH. Mr. President, I welcome this amendment which moves the effective date to April 1, 1988, for the diesel fuel legislation the Senate Finance Committee approved on March 21, 1988. I was dissatisfied with the October 1 effective date of the committee's legislation as I see no reason to subject our farmers and other off-road users of diesel fuel to the pay-and-refund procedures for 6 months. I am pleased that the committee was able to develop a proposal that is revenue neutral and if passed would take care of the problem before it begins, April 1.

The Revenue Act of 1987 requires effective April 1, that farmers and other purchasers of diesel fuel for off-road use must pay the 15-cent per gallon excise tax at the time of purchase and apply later for a refund. Farmers in my State will be required to pay at least $14 million annually in excise taxes that they do not owe and recover the money by putting in applications for refunds. These pay-and-refund procedures result in expensive paperwork and damage to farmer's cash flow.

Now that the Senate Finance Committee has reached agreement on an April 1 repeal date, it is my hope that the House will send us tax legislation so that the repeal can be enacted by April 1, or as soon thereafter as possible.●

ASSESSING SOVIET FORCE LEVELS

WALLOP AMENDMENT NO. 1909

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him; as follows:

Add at the end of the bill the following new section:

"Sec. a.

(1) Since the stated goal of the Treaty on Intermediate-and Shorter-range Missiles (hereafter referred to as the INF Treaty) is the global and verifiable elimination of all intermediate-and shorter-range missiles;

(2) Since a principal element of the INF Treaty's verification regime is the list of limited items to be destroyed contained in the Treaty's Memorandum of Understanding;

(3) Since a central premise of the INF Treaty is that the destruction of all items on that list will effect the complete elimination of the Parties' inventories of limited systems;

(4) Since the realization of this premise depends critically upon the accuracy of the accounting of such inventories made in the Memorandum of Understanding;

(5) Since the United States received the Soviet data listed in the Memorandum of Understanding before the INF Treaty was signed and then chose to sign that Treaty, thereby accepting the essential accuracy of those data;

(6) Since the United States' ability to evaluate such Soviet data cannot be made with the precision that characterizes, for example the reconciliation of a bank account, i.e., it does not have the ability to check Soviet data down to the last missile;

(7) Since consequently, U.S. intelligence judgments of actual Soviet force levels reflect the fact that each component of the United States Intelligence Community (e.g., the Central Intelligence Agency, the Defense Intelligence Agency, the State Department's Bureau of Intelligence and Research), using its own methodology, arrives at that individual agency's "best-assessment" of the precise number of missiles in the Soviet inventory;

(8) Since the United States Government's estimate of Soviet missiles like the intermediate-range SS-20 as a result represents a collective "best assessment" of the USSR's inventory of such missiles expressed in a range of estimated force levels;

(9) Since the confidence we can have in the accuracy of the Soviet-provided data is a function of the breadth of the range of uncertainty in such intelligence "best-assessments" i.e., the greater the discrepancy between the high and low U.S. Intelligence Community estimates, the less confident can the United States be in its ability to gauge the accuracy of the * * *

(10) Since the Administration has said that the number of SS-20's accounted for by the Soviet Union in the INF Treaty's Memorandum of Understanding fall within the range of U.S. Intelligence estimates of those forces;

(11) Since this fact is said to reflect favorably on the credibility of the Soviet-provided data; and

(12) Since the Senate could not properly discharge its responsibility to grant or withhold consent to the INF Treaty were it unable to assess the likelihood that, from the perspective of the United States, that Treaty's principal object and purpose would be realized through the complete elimination of all Soviet SS-20's.

b. It is therefore the sense of the Senate that:

(1) Before the Senate convenes in executive session for the purpose of considering the proposed INF Treaty, the President, without delegation, should certify that the monitored destruction of all systems enumerated in the Memorandum of Understanding will result, in his judgment, in the complete elimination of the Soviet Union's inventory of such systems;

(2) If the President is unable to make the certification called for in subsection b.(1) of this section, he should then report to the Senate the number of SS-20's assessed by each agency of the U.S. Intelligence Community to exist in the Soviet inventory over and above the level declared by the USSR in the Memorandum of Understanding and describe the methodology used by each agency to arrive at that number;

(3) The report called for by subsection b.(2) of this section should also provide the President's judgment as to whether the Soviet Union was aware, before it provided the data now incorporated in the Memorandum of Understanding, of what was the range of U.S. intelligence agency estimates of the size of Soviet forces limited by the INF Treaty;

(4) The report called for by subsection b.(2) of this section should also contain an analysis prepared by the Joint Chiefs of Staff explaining whether the forces assessed to exist in the Soviet inventory by one or more U.S. intelligence agencies in excess of those accounted for in the Soviet-

supplied data contained in the Memorandum of Understanding constitute a militarily-significant capability.

URANIUM REVITALIZATION TAILINGS RECLAMATION AND ENRICHMENT ACT

JOHNSTON (AND OTHERS) AMENDMENT NO. 1910

Mr. JOHNSTON (for himself, Mr. FORD, Mr. PROXMIRE, Mr. MCCLURE, and Mr. DOMENICI) submitted an amendment to the bill (S. 2097) to provide for a viable domestic uranium industry, to establish a program to fund reclamation and other remedial actions with respect to mill tailings at active uranium and thorium sites, to establish a wholly-owned Government corporation to manage the Nation's enrichment enterprise, operating as a continuing, commercial enterprise on a profitable and efficient basis, and for other purposes; as follows:

On page 33, after line 25, add the following and renumber the paragraphs accordingly:

"(6) To establish a corporate structure that is self-financing and would obviate the need for appropriations or other sources of government financing after enactment of this title;"

On page 54, beginning with line 19, strike all of subsection (a) through page 55 line 4, and insert the following new subsection in lieu thereof:

"(a) Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation."

On page 55, strike lines 13 through 20, insert the following new subsections, and renumber the subsections accordingly:

"(c)(1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for Fiscal Year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States; Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator and the Secretary as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by federal law enacted after enactment of this title.

"(d) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves."

On page 56, at line 3, beginning with "The money" strike everything through line 13 and insert in lieu thereof the following:

"The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"(e) Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt, shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title."

On page 60 at line 19 add ", including an explanation of the decision to pay or not pay dividends" after "performance".

On page 74, strike section 313 and insert the following:

"Sec. 313

For fiscal year 1989, total expenditures of the Corporation shall not exceed total receipts".

JOHNSTON AMENDMENT NO. 1911

Mr. JOHNSTON proposed an amendment to the bill (S. 2097) supra; as follows:

On page 73 at line 12 strike "import or".

METZENBAUM (AND OTHERS) AMENDMENT NO. 1912

Mr. METZENBAUM (for himself, Mr. JOHNSTON, and Mr. MCCLURE) proposed an amendment to the bill (S. 2097) supra; as follows:

On page 55, strike lines 5 through 12, and renumber the remaining subsections accordingly.

On page 59, on line 1, before "To" insert "(a)"; on line 7, after "assets," insert "decontamination and decommissioning,"; and, after line 19, insert a new subsection (b) as follows:

"(b)(1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its current customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning and decontamination of the various property of the Corporation, including property transferred under section 1505(a). Such costs shall be based on the point in time that such decommissioning and decontamination is undertaken and accomplished.

"(2) In order to meet the objective defined in paragraph (1), the Corporation, in consultation with the Secretary, shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) With respect to property that has been used in the production of low-assay separative work,

"(A) the cost of decommissioning and decontamination that shall be recoverable from commercial customers in prices and charges shall be in the same ratio to the total costs of decommissioning and decontaminating the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning and decontaminating such property shall be recovered in prices and charges to the Department.

"(4) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning and decontamination of such property shall be recovered in prices and charges to the Department."

On page 72, after line 9, insert a new chapter 27, as follows:

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. (a) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account, and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(B) The Fund shall consist of—

"(i) amounts paid into it by the Corporation in accordance with section 1702; and

"(ii) any interest earned under subsection (b)(2).

"(b) ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.

"(a) When the Corporation determines that particular property should be decommissioned or decontaminated, or both, it shall, in consultation with the Secretary, enter into a contract for the performance of such decommissioning and decontamination.

"(b) The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

"(c) Upon satisfaction of the terms and conditions of the contract entered into pursuant to subsection (a) and full payment of costs pursuant to subsection (b), the Corporation shall transfer to the Secretary all of its rights, title and interest in the particular property that is the subject of such decommissioning and decontamination contract.

METZENBAUM AMENDMENT NO. 1913

Mr. METZENBAUM proposed an amendment to the bill (S. 2097) supra; as follows:

At the appropriate place, insert the following new section:

SEC. . PERRY NUCLEAR POWERPLANT ANTITRUST PROTECTIONS.—The Nuclear Regulatory Commission shall not suspend or modify the application of any antitrust provision contained in the Perry operating license No. NPF-58, as such provision applies to any licensee of the Perry Nuclear Powerplant, Unit 1.

EVANS (AND OTHERS) AMENDMENT NO. 1914

Mr. EVANS (for himself, Mr. BRADLEY, and Mr. PACKWOOD) proposed an amendment to amendment No. 1465 proposed by Mr. DOMENICI, and subsequently modified, to the bill (S. 2097) supra; as follows:

Strike sections 111 through 119 in the amendment (from page 3, line 6 through page 10, line 10), and insert in lieu thereof the following:

SEC. 11: (a) Congress finds that—

(1) there is a possibility that the national security interest of the United States is being impaired by the current level of imports of source material from major uranium producing countries;

(2) section 170(B)(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(B)(e)) requires the Secretary of Energy to request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962, as amended, if imports of source material exceed 37.5 percent of actual or projected domestic uranium requirements for any two-year period; and

(3) the most recent data from the Energy Information Administration indicate that imports of source material as a percentage of domestic utility requirements for calendar years 1985 and 1986 were 34.4 percent and 43.8 percent, respectively, and are projected to be 29.8 percent in 1987.

(b) It is the sense of the Congress that the Secretary of Energy should request the Secretary of Commerce to conduct an investigation under section 232 of the Trade Expansion Act of 1962 with respect to source material as expeditiously as possible.

(c) In addition to the factors described in section 232(c) of the Trade Expansion Act of 1962, as amended, the Secretary of Commerce should give equal consideration in the investigation described in subsection (b) to—

(1) the current and projected levels of inventories maintained within the jurisdiction of the United States;

(2) the surge production capability of U.S. uranium producers in the event of a national emergency;

(3) the security treaties and other defense-related agreements between the United States and each major producing country; and

(4) the economic security interests of the United States in the maintenance of an open trading system, including any free trade agreement negotiated pursuant to section 102 of the Trade Act of 1974, as amended;

(d) By no later than May 1, 1988, the Secretary of Commerce should submit to the President under section 232(b) of the Trade Expansion Act of 1962 the report and recommendations of the Secretary of Commerce regarding the investigation described in subsection (b).

(e) By no later than May 15, 1988, the President shall submit such report and its recommendations, and his determination to take (or not to take) any action to adjust the level of imports based on such recommendations, to the Committees on Finance and Energy and Natural Resources in the Senate, and Committees on Interior and Insular Affairs, Energy and Commerce, and Ways and Means in the House of Representatives.

(f) For purposes of this section, the term "source material" has the meaning given to such term by section 11(2) of the Atomic Energy Act of 1954.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 29, 1988 to conduct a hearing on "Reauthorization of National Institutes of Health."

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 29, 1988 to consider pending committee business.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, March 29, beginning at 10 a.m., to conduct a markup of pending business.

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

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, in open session to receive testimony on DOD policies and international agreements that affect the defense industrial base.

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

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, in open session to receive testimony concerning the military medical system in review of the amended fiscal year 1989 defense authorization request.

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

SUBCOMMITTEE ON ENERGY AND CONSERVATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation for the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 29, 1988, to receive testimony concerning S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

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

ADDITIONAL STATEMENTS

CITY OF EUNICE GAINS RECOGNITION THROUGH RESTORATION EFFORTS

● Mr. JOHNSTON. Mr. President, today I would like to recognize a community in my State of Louisiana whose dedication, loyalty, hard-work, and pride in our Acadian culture is resulting in the magnificent renovation of a historical theater that would otherwise stand as a dark, moldy, and empty ghost of a building.

The community I am referring to is the town of Eunice and the theater they are restoring is the Liberty Theatre for the Performing Arts.

In 1924 the Liberty was opened as a vaudeville house and a movie theater. Generations of families of Eunice remember the old movie house fondly, but time slowly took its toll on the building and in 1982 it was closed to the public.

In 1986 Mayor Curtis Joubert, of Eunice, along with a handful of volunteers, decided to take matters into their own hands and the city of Eunice purchased the dilapidated theater.

Since then, the structure has been designated as the temporary home of the Jean Lafitte National Historical Park Acadian Cultural Center whose main focus will be the housing and preservation of the Acadian heritage through weekly radio shows and exhibits depicting the food, music, folklore, and all other aspects of the rich southern Louisiana culture. The Liberty has been listed on the National Register of Historic Places and is also included in the Great American Movie Theatres' Preservation Press Guide, published by the Smithsonian. Most recently, the Liberty Center has gained further prominence through its

designation as a rural arts center by the Southern Arts Federation.

It is clear that temporarily locating one of the Jean Lafitte satellite parks in Eunice will serve to ensure the success of the Liberty Theatre. But credit for the real success of the theater and the preservation of our vital Acadian heritage must be attributed to Mayor Joubert and to the people of Eunice who have given an enormous amount of their time and energy toward restoring the Liberty.

Over the past couple of years it was not at all unusual to find a number of restoration committee members at the theater during the wee hours of the morning chipping away old cement to reveal the original richly tiled green and white ceramic floors, scrubbing for hours on what appeared to be permanently black fixtures only to uncover the magnificent brass splendor that had been hidden for years, or repainting the severely chipped walls which encompassed the main auditorium. Local artists undertook the job of restoring several of the enormous original murals that had been covered up on the walls behind the stage curtains for decades and even went so far as to borrow safety belts from telephone linemen so they could mount the scaffold and restore the original stenciling that ran along the ceiling.

Businesses in town played a large part in the restoration process as well. An area bank volunteered their employees to work a minimum of 20 hours each on the theater. Lumber, building materials, and fabric to recover the 750 original seats were all donated as enthusiasm for the project grew.

Although the project is not totally complete and funding is desperately needed, the people of Eunice still persist. The Keller family, who owned the building before it was bought by the city, recently donated an old organ with wooden pipes—discovered by a worker in the backstage area—the value of which was estimated at $25,000 by the Historical Organ Society. Restoring the organ to working order would alone cost roughly $10,000.

In these hard economic times in my State of Louisiana I can certainly understand how attitudes sometimes turn negative when it seems that there is no light at the end of the tunnel for recovery. But when I see the genuine dedication and enthusiasm that Mayor Joubert and the people of Eunice have put forth so selflessly in their efforts to restore and preserve a heritage so dear to them I know that there is, indeed, a light at the end of that tunnel. And I thank the people of Eunice for setting such a beautiful example for our entire State—an example of how we can successfully restore to Louisiana the splendor that once was—just as Mayor Joubert and the community of Eunice are doing with the Liberty Theatre.●

HOPE FOR THE HOMELESS—FIVE APPROACHES THAT WORK

● Mr. DOMENICI. Mr. President, earlier this month, on March 4, I had the privilege of addressing a national meeting of the Association of Junior Leagues here in Washington, DC.

I focused my remarks on an excellent article in the February 29 issue of U.S. News & World Report, entitled "Hope for the Homeless—Five Approaches that Work."

The more I reflect on the growing problem of homelessness, the more I appreciate this article that focuses on successful ways to help the homeless. As we begin our legislative thinking about the needed reauthorization of the Stewart B. McKinney Homeless Assistance Act, I decided it would be timely to share this insightful article with my Senate colleagues.

After sending reporters around the Nation to find programs that work, U.S. News then compiled the findings, which were often surprising.

In one of the more fascinating quotations, U.S. News reporters said that "* * * the homeless antidote prescribed by some advocates—'housing, housing, and housing'—is mistaken."

As the reporters explained this surprising statement:

> To say that the homeless need housing is a bit like saying the poor need money—both statements are true, but neither ultimately does much to illuminate the problem. What's now clear is that if every homeless person were put in an affordable low-income apartment tomorrow, many would be back on the street several days later. The reason, as study after study has shown, is that the homeless are different from other poor people in one crucial respect: They are profoundly alone.
>
> Whether they are single mothers on welfare or drug addicts, the homeless almost invariably lack friends, close ties with family members and any affiliation with a church or local organization. And for the homeless, that isolation typically transforms temporary crises, such as an apartment eviction or an alcoholic binge, into prolonged emergencies.

Thus, the homeless, as seen by these U.S. News reporters, have a critical need for social services in a setting where they feel comfortable.

The five elements of successful homeless assistance programs indentified by the reporters revolve around these basics: a stable place for healing and social services, supported with every available source of assistance—from food stamps to supplemental security income.

Thus housing alone or social services alone are simply not enough. The long and often painful rehabilitation process requires a full set of appropriate services properly coordinated to meet the individual needs of the homeless person.

As these reporters put it:

> Despite the current paucity of programs for preserving low-income housing, the answer to the homeless problem is not simply another massive federal construction program. Indeed, it's clear that a Great Society, one-glove-fits-all solution won't work. In part, that's because the homeless are a troubled group of individuals who require more than just roofs over their heads.

With this spirit of locally focused and coordinated activities in mind, I urge my Senate colleagues to give this analysis careful attention.

I believe it is vital to continue our Federal assistance for the homeless. We should not, however, pretend to know all the answers. The worst thing we could do is to mandate prescribed courses of action to cities that have many varieties of homelessness.

I still believe that we can improve the McKinney Act by placing more trust in local providers, who pooled their own resources to help the homeless years before we enacted Federal legislation.

Mr. President, there is plenty of room in our federal system for each level of government to join with churches and other public and private organizations to help the homeless. Our challenge is to provide the five elements of successful programs described in the U.S. News report: First, stretch the safety net, second, treat them where they live, third, stop the revolving door, fourth, seal up the cracks, and fifth, preserve low-cost housing.

In closing, Mr. President, I would also like to call my colleagues' attention to a New Mexico magazine article about a local folk hero in Albuquerque, NM—Brother Mathias. This man embodies the type of commitment and resourcefulness that actually helps to improve the lives of homeless people.

Brother Mathias started the Little Brothers of the Good Shepherd in Albuquerque in 1951 with no money and two old buildings that were about to be torn down.

His story exemplifies the American spirit, valuing actions more than words. Today, this 88-year-old man is still helping those who are less fortunate, including those who are homeless. The Little Brothers of the Good Shepherd have 20 houses in the United States, Canada, England, and Ireland.

I ask that these two articles be printed in the RECORD.

The articles follow:

[From U.S. News & World Report, Feb. 29, 1988]

HOPE FOR THE HOMELESS

[By David Whitman]

A little over a century ago, Leo Tolstoy tried puzzling out a plan to rid Moscow of the poor and homeless. The famed novelist and wealthy aristocrat first went to the worst hovels in town and gave money to beggars. He realized, however, that he had

been "cheated by men who said they only needed money to buy a railway ticket home" when he spotted them still in town days later. Next, Tolstoy spent several months helping take the Moscow census, searching for the "truly" needy. But Tolstoy saw the homeless could not be helped merely by "feeding and clothing a thousand people as one feeds and drives under shelter a thousand sheep." At last, he sadly concluded: "Of all the people I noted down, I really helped none. . . . I did not find any unfortunates who could be made fortunate by a mere gift of money."

That was more than 100 years ago in a city halfway around the world. Yet the same knotty problem that so frustrated and saddened Tolstoy today baffles the modern American urbanite. In our nation's cities, the faces of thousands of homeless men and women confront and unnerve passers-by on a daily basis—the pleading wino who stinks of urine, the addled bag lady who chatters loudly to a store window and the nomadic family of five that shivers through the night in a run-down car. The country's homeless, moreover, can no longer be considered evanescent, temporary victims of the 1982-83 recession. During the last three years of economic recovery, the number of homeless has actually increased, and a report released by the U.S. Conference of Mayors last December projects that all but two of 26 major cities surveyed this winter will have more homeless in 1988. A national poll released earlier this month shows the country's voters rank homelessness and hunger as the second most important issue facing the next President—just behind reducing the federal deficit, but well ahead of controlling the nuclear-arms race or finding a cure for AIDS. And so the elemental question about the poor and hungry—put to John the Baptist by the masses and later taken up by Tolstoy—is, once again, inescapable: *What then must we do?*

Until just recently, the answer to that question was indecipherable. When the number of street people first swelled in the early 1980s, little reliable information existed on the size of the homeless population. Estimates ranged from 250,000 individuals on a given night to 3 million homeless over the course of a year. Nor did the experts have a promising antidote. Instead, most government and charitable agencies simply opened hundreds of new shelters and soup kitchens to provide more food and beds for the nation's street people.

Though many of the homeless appreciated this well-intentioned aid, it ultimately proved about as effective as a Band-Aid on a bullet wound. Instead of rehabilitating the homeless, many of the nation's shelters now simply warehouse them, failing to provide such needed services as job training, psychiatric counseling and housing assistance. And while the proliferation of Spartan shelters is easy to understand—it's cheaper to throw an extra cot in the rectory basement than to provide transitional services—even the homeless advocates who once pushed for right-to-shelter laws now consider them shortsighted. As Mary Orton, executive director of Central Arizona Shelter Services, explains: "We've learned you don't do anybody a favor by offering them three hots and a cot—hot meals and a free place to live."

In part, attempts to help the homeless—including New York City's controversial plan to involuntarily commit the sickest of its street people—have run afoul of libertarian concerns. The homeless mentally ill, it is sometimes said, may be consigned to "die with their rights on". Yet in the end, the practical and philosophical reluctance to assist the homeless may stem less from the perceived threat to their civil rights than from the stubborn belief that the homeless reject help. President Reagan once suggested that many street people are homeless "by choice"—a bit of conventional wisdom that was clearly mistaken. To take but one example, the first national study of the homeless shows that they seek medical treatment with about the same regularity as the U.S. population as a whole. "That nothing can be done," write James Wright and Eleanor Weber in Homelessness and Health, "is no longer an acceptable excuse for doing nothing, if indeed it ever was."

As more and more communities experiment with homeless aid programs, liberal and conservative public-policy experts have now discovered new ways to best help those living in shelters and on the streets. What's surprising is that the most effective programs inevitably offer a specially tailored form of long-term support quite unlike that of the social programs of the Great Society era. To highlight how such programs work, *U.S. News* sent reporters to cities around the nation. Their report, in five sections, follows.

1 STRETCH THE SAFETY NET

It's 10 degrees in downtown Philadelphia, but inside this plain classroom, 15 homeless men and women sit at their folding-arm desks for the start of an intensive, 11-week job-training program. The class, run by the nonprofit Community Occupational Readiness and Placement Program (CORPP), doesn't begin with a crash course in reading want ads or a tutorial on résumés. Instead, students are first asked to draw self-portraits; next, they prepare a videotaped presentation that answers the question "Who am I?"

It may sound like the beginning of a primal-scream-therapy session, but for a surprising number of students—who have never pondered what they want out of life, much less a job—some introspection is necessary at first to help break old habits. In fact, if there is any lesson that those who work day to day with the homeless have learned, it is that they are desperately in need of what Tolstoy called "spiritual food"—and what today's social workers call "support systems."

When such support is provided, the results can be impressive. Todd Conway, 21, ended up in a shelter in January of last year after he couldn't get along with his roommates or afford his own apartment. He quickly became depressed and lost his job. Thieves stole his clock radio and cassette recorder—gifts he took with him to the shelter. Conway, with few job skills, spent the next 10 months in three Philadelphia shelters. Only after he went through CORPP and a secretarial-training program did Conway find a job as a clerk at the Internal Revenue Service. Today, he is a dapper young man with enthusiasm to spare for his work. But as Conway can attest, the homeless antidote prescribed by some advocates—"housing, housing and housing"—is mistaken.

To say that the homeless need housing is a bit like saying the poor need money—both statements are true, but neither ultimately does much to illuminate the problem. What's now clear is that if every homeless person were put in an affordable low-income apartment tomorrow, many would be back on the street several weeks later. The reason, as study after study has shown, is that the homeless are different from other poor people in one crucial respect: They are profoundly alone.

Whether they are single mothers on welfare or drug addicts, the homeless almost invariably lack friends, close ties with family members and any affiliation with a church or local organization. And for the homeless, that isolation typically transforms temporary crises, such as an apartment eviction or an alcoholic binge, into prolonged emergencies.

To rebuild that support network, CORPP turns its homeless students into a kind of peer support group, much in the same fashion that recovering drug addicts in Narcotics Anonymous encourage each other to persevere in breaking their habits. Each homeless trainee, for instance, does a videotaped mock job interview that his or her classmates critique. At CORPP and other model programs, the starting point for helping shelter clients is simple. As Sister Marie Sullivan, who directs the Christian Emergency Help Centers in Atlanta, sums up: "Somebody who is homeless has lost everything."

2 TREAT THEM WHERE THEY LIVE

Dr. Rodger Farr's skid-row mental-health clinic in Los Angeles may have won awards from the American Psychiatric Association, but it's certainly no social worker's heaven. In the clinic's drop-in-center, toothless women chatter loudly and young men rock persistently on metallic chairs as a fan silently pushes the overwhelming stench of urine throughout the room. Yet Farr's unappetizing clinic works in part precisely because he does force social workers beyond their traditional 9-to-5 office appointment schedule. What Farr and other experts around the country have discovered is that they can best assist the homeless through unorthodox outreach efforts. By traditional standards, the homeless are lousy patients—they routinely miss appointments at the hospital or at the health clinic because they're too poor, drunk or mentally disoriented to take a bus across town. So Farr decided to take the services to the homeless mentally ill—by setting up shop in skid row and then dispatching teams of outreach workers to missions, bus terminals and soup kitchens to ferret out those in need of help.

It has proved to be a useful model. Today, a number of cities have set up outreach teams like Farr's, demonstrating that social workers can reach the homeless—so long as they don't wait for them. New York City outreach workers and volunteers, for instance, provided more than 43,000 rides to shelters last year. For the sickest of those on the streets, the outreach teams serve as a kind of wedge, prying them—once some initial trust is established—away from the street and into detoxification or other medical treatment at local clinics.

Not surprisingly, there are few overnight successes. Instead, Farr has found that he must build trust the old-fashioned way: Very slowly. His social workers, for instance, are more likely to tell a bag lady at first encounter how to get rid of lice and find new clothing than to try to coax her into taking medicine. One woman in her early 40s treated by the clinic was raped and beaten several times but continued to live on the streets for five years because she believed anyone who gave her food was trying to poison her. After a staff worker befriended her, she started visiting the clinic but would periodically skip her psychiatric appointments. Once she finally started taking medicine,

however, her delusions faded. And after a year of on-again, off-again treatment, she moved to a low-rent suburban apartment and was transferred to her local mental-health facility.

3 STOP THE REVOLVING DOOR

Most model programs acknowledge that temporarily stabilizing the homeless—in a shelter, in a detox facility or in a hospital—is only the beginning of a long treatment process. Yet, extended rehabilitation of the homeless is relatively rare. The U.S. Conference of Mayors found that roughly a quarter of 26 cities surveyed last year, including major urban centers such as Detroit and Providence, had no transitional apartments for homeless families temporarily unable to rent their own apartments. Prospects for interim lodging are no better for the nation's chronic street people. Roughly 75 percent of all public inebriates go through detox in a few days—and then leave without an aftercare referral. The revolving door spins the emotionally disturbed out of mental-health facilities into the street as well. Many of the nation's largest cities have only 5 to 10 percent of the community and institutional placements needed for the mentally ill. "When you talk to the homeless mentally ill," says University of Southern California Prof. H. Richard Lamb, "you find almost none are on *anbody's* case load."

To stop the revolving door, say experts like Peter Smith of Partnership for the Homeless, "you need an extended Welcome Wagon." For those lucky enough to get on board, assistance typically involves a lot of firm handholding in a transitional setting. Philadelphia's Washington House, run by the Diagnostic and Rehabilitation Center (DRC) in a converted garage, provides drug-free barracks-style housing for 35 homeless alcoholics and drug abusers for four months after they finish detox. Instead of offering traditional outpatient care in facilities scattered around town, the Washington House provides lessons in personal hygiene, AA meetings, mandatory Breathalyzer tests and job counseling on site or at DRC's main detox facility. "you can therapize the hell out of these guys 18 hours a day," says DRC President Irving Shandler. "But if you send them to a flophouse at night where everyone is drinking, it's worth nothing. You've got to have them 24 hours a day."

That around-the-clock approach has paid off even among some hard-core clients. Take 36-year-old Frank Gigliotti—who, by his own estimate, has gone through detox 35 times. For the first half of 1987, Gigliotti was drinking half a gallon of wine a day, eating from garbage cans and spending each night with other drunks in an alley behind a Philadelphia restaurant. He didn't even know what his baby boy from his common-law wife looked like. One day last summer, his brother threw over a trash can in the alley in a fit of frustration and started sobbing when Gigliotti wouldn't come in for detox. The next day, a tearful scene in the alley with his mother persuaded him to go to the DRC detox facility; since then, he has stayed sober and has found a full-time job as a maintenance man. "I can see a lot clearer today," Gigliotti says quietly. "My son is beautiful—I took him the other day to the hospital for his polio shots."

Like the Washington House, the most effective transitional housing for the homeless offers more than cheap lodging or a private kitchen. Instead, the housing is subtly designed to encourage the homeless to rejoin the community. In Memphis, the Metropolitan Inter-Faith Association renovates and leases foreclosed HUD-owned properties for $1 a year, with 10 houses scattered in middle-class neighborhoods throughout the city. Each house has a private phone, facilitating job hunting and contact with social workers or peers during the 60 days families are allowed to remain. Ann, a 32-year-old addict who took back her children after she began rehabilitation, moved with her two young sons to a MIFA House in November. There, she was provided not only with daily necessities, such as toilet paper and mops, but a Christmas tree as well. Today, Ann and her boys live in a two-bedroom apartment in Memphis, and she works full time as a clerk at a health-food store—a comeback she attributes in part to the timely sanctity of her MIFA House. "At no time did I feel condescended to," she says. "They didn't make me feel like a junkie."

4 SEAL UP THE CRACKS

The current welfare system is so poorly suited to the homeless that a handful of cities have found that simply coordinating and centralizing local assistance often keeps people from missing out on needed services. The existing system is especially hard on homeless people who have multiple problems. In New York for instance, the city is primarily responsible for acute care and the state is responsible for long-term care—a difficult distinction to explain to a mentally ill person in Grand Central Station. Federal programs are not much better. The 1981 Temporary Emergency Food Assistance Program was designed to make surplus agricultural commodities available to needy Americans—but as of October, 1986, almost all the surplus food, 99 percent, was going to people who were *not* homeless. Explains Department of Agriculture official Anna Kondratas: "When you're homeless, you don't carry around a 5-pound block of cheese."

One place where better coordination has made a big difference is St. Louis. In 1982, the city's modest shelter system turned away roughly 1,200 people a month; today, it accepts virtually everyone. The difference is largely due to the Homeless Services Network, which opened late in 1985. The network, created and largely funded by the city, divvies up the job of helping the homeless, determining which local agency is best suited to perform each task. For instance, the Salvation Army runs a central walk-in computerized intake facility; the Red Cross provides transportation to shelters, health clinics and job interviews, and more than 100 community agencies supply everything from advice on finding housing to training in child rearing.

That kind of coordination can prevent the homeless from languishing in shelters. Three sisters—Kathy, Edna and Monica Rayford—all ended up at Grace Hill shelter in December after their landlord forced them out of the family apartment to make way for renovations. But with the assistance of peer counselors familiar with the local neighborhood, all three young women found permanent housing within two months. The counselors actually took each of the Rayford sisters to look for rental apartments—and when one was found made sure that it was suitable. One of the sisters, 20-year-old Monica, had never rented her own apartment and needed classes in family budgeting. Today, she and her 4-year-old son, Ranard—pictured on this week's cover—live in an inexpensive, privately owned one-bedroom apartment. The assistance of her counselor, she says, "made all the difference. On our own, my sisters and I couldn't find apartments in our price range—many of the landlords just wouldn't accept children or they told us we weren't old enough to rent."

5 PRESERVE LOW-COST HOUSING

Not all of the homeless are as fortunate as Monica Rayford. Far too often, those ready to leave the streets and shelters fail to find affordable low-income housing. Nationwide, the number of low-income families unable to find affordable housing rocketed from 8.9 million in 1974 to 11.9 million in 1983—an increase due to factors such as urban gentrification, arson, rent control and the conversion of apartments to offices and condominiums. One telltale sign of the housing crunch: More than 800,000 families have signed up to move into low-rent public housing, despite its unsavory reputation. In two thirds of the 26 cities surveyed by the U.S. Conference of Mayors earlier this winter, the wait for public housing is so long that city officials simply stopped taking new names.

Clearly, many homeless families—80 percent in New York City—ultimately leave the shelter system by finding their own housing, often with a relative or friend. Today, however, city and state officials are just beginning to create programs to preserve the low-income-housing stock for those who can't find low-rent units. One needed initiative—now in place in 12 states—is trust funds that offer financial incentives for developers to contribute to building low and moderate-income housing. With federal support for new public housing almost nil, local authorities have, of necessity, experimented widely with other programs as well. Massachusetts restricts condominium conversions; in New Jersey, a state program that pays off delinquent rents forestalled the eviction of roughly 8,000 low-income residents last year. And no city has had more impressive results than New York, which has rehabilitated more than 12,500 apartments for the homeless since 1983.

Still, for a variety of reasons, no level of government has done enough to preserve low-income apartments. Most cities, for instance, lack New York's vast inventory of abandoned and foreclosed buildings. Moreover, builders of low-income housing are still deterred from new construction by overly strict building codes and intricate laws governing the bidding of construction contracts. In Portland, Oreg., a county task force found that licensed group homes had to be licensed a second time by the city's office of residential facilities—a process involving two public hearings and inspections by as many as six city and county departments. Unfortunately, the recent overhaul of the federal tax code is expected to further tighten the low-income rental market because it eliminates traditional landlord tax benefits, such as large depreciation write-offs and the use of tax-exempt bonds to finance low-income housing.

Despite the current paucity of programs for preserving low-income housing, the answer to the homeless is not simply another massive federal construction program. Indeed, it's clear that a Great Society, one-glove-fits-all solution won't work. In part, that's because the homeless are a troubled group of individuals who require more than just roofs over their heads. Moreover, the needs of the homeless vary surprisingly from city to city. To take one recent example, city officials report that 80 percent of the homeless in Minneapolis are single men,

while in Providence, 65 percent are families with children.

PROSPECTS FOR PROGRESS

Ultimately, there may never be a vaccine that prevents homelessness, but the programs outlined above can weaken its grip. In Philadelphia, 70 percent of the homeless alcoholics who enter the Washington House program end up employed or in school and live independently; across town in the CORPP job-training program, 35 percent of the students from shelters find jobs; in New York City, an estimated 70 percent of the homeless families assigned to renovated city apartments adjust well, with few problems reported with their landlords.

Still, as the statistics above illustrate, a sizable minority of the homeless don't benefit even from the most effective treatment programs. And unlike most welfare programs, the cost of failure can be tragically high. John T. spent six sober weeks at the Washington House last winter and even got a job as a painter. But he went AWOL last March. And by the time police found him in a rooming house, he had been dead for two days from an alcohol-drug overdose. Before the police arrived, fellow roomers had stolen John T.'s clothes and all his belongings.

Moreover, although experts largely agree on how to overhaul programs for the homeless—and despite the clear identifiable successes in places like Philadelphia, St. Louis and Los Angeles—major reform isn't likely soon. The first obstacle is money. New York city officials estimate that each bedroom in a renovated single/occupancy hotel costs about $35,000; in a shelter, the same bed costs the city only $10,000, providing a powerful financial incentive for maintaining the shelter status quo. Even an innocuous-sounding goal like "coordinating services" can ring financial alarm bells. As Irene Levine, associate director of the National Institute of Mental Health program for the homeless mentally ill, puts it: "At federal, state and local levels, mental-health and housing authorities vociferously argue that someone else should have the major responsibility for providing services to the homeless mentally ill." The Reagan administration's apparent attempt to duck financial responsibility for the homeless has been especially noteworthy. The President has publicly made only five brief references to the homeless (typically in response to questions raised at a press conference) during all of his second term. He has never made a substantive proposal or speech on the subject.

It's easy to criticize the administration's lack of initiative, but the truth is that many business and civic organizations are just as queasy about the homeless as are politicians and bureaucrats. Just about everyone favors getting the mentally ill off the streets and into community mental-health facilities—as long as the facility is not next door. Nationwide, for every community mental-health residence that is built, roughly 3 are blocked—even though studies indicate such facilities don't generally reduce property values.

Ironically, professionals who work with the homeless can be part of the problem, too. Understandably, many health-care providers and social workers prefer compliant middle-class clients to belligerent street people. When Dr. Farr set up his mental-health clinic on skid row in Los Angeles, he found that fearful workers at the Social Services Department interviewed the homeless through bulletproof glass. Like professionals in other fields, alcohol-abuse and mental-health counselors chase insurance dollars—money that is in short supply among street people. "The experts all talk about the industrial and hidden alcoholic," laments Philadelphia's Irving Shandler. "What happens is simple: The good bums drive out the bad bums."

In the final analysis, street people may always inspire excessive prejudice and fear. But the multibillion-dollar price tag affixed to America's growing homeless population could also force government officials, social workers and civic groups to alter the way we help the homeless and provide the nation's neediest citizens, for the first time, with real hope for the future. However, if the status quo is maintained—or even if the homeless are abandoned—life on America's streets will become that much more brutish.

HIS IRISH EYES ARE SMILING—BROTHER MATHIAS TENDS HIS FLOCK

(By Urith Lucas)

If Albuquerque had a patron saint, it would be Brother Mathias Barrett.

Brother Mathias turned used coffee grounds and day-old bread into a charity that feeds a multitude of the hungry.

He founded the Little Brothers of the Good Shepherd. Now international in scope, it has 20 houses in the United States, Canada, England and Ireland.

The Brothers also give shelter and comfort to the homeless, aged, the retarded, as well as destitute women and children.

Without fanfare, the Brothers opened a house in Toronto, Canada, where AIDS victims can live out their lives with dignity. Those with immune deficiency syndrome who have nowhere to go can stay in the homelike setting.

On St. Patrick's Day, thousands of New Mexicans celebrate Brother Mathias' birthday with a corned beef and cabbage dinner to raise funds for the Brother's many charities. He will be 88 this year.

Brother Mathias was born March 15, 1900, in Ballybricken, Waterford, Ireland. However, he and Albuquerque have adopted St. Patrick's Day—March 17—for his celebration.

He fits the role of a movie priest with his wit and charm. His eyes are not as strong as they were, but they twinkle with delight in life.

His voice retains the lilt of an Irish brogue. His robes of pristine white hang in graceful folds around his slight figure. He carries a crucifix and a small black pouch.

The Most Reverend Robert F. Sanchez, archbishop of the Catholic Diocese of Santa Fe, described Mother Teresa of Calcutta and Brother Mathias as "two of the most outstanding people I know." The archbishop added, "They are alike in many ways. Both are small of stature with great concern for others. They are fortified by their faith."

It all started in Albuquerque on January 19, 1951.

In December 1950, Archbishop Edwin V. Byrne asked Brother Mathias to establish an order to help the unfortunate. Previously, Brother Mathias had requested permission to form an order of lay brothers.

"What will you call it?" the archbishop asked.

"The Little Brothers of the Good Shepherd," Brother Mathias replied promptly.

"I didn't have a penny," Brother Mathias recalled with a smile. Then the late Monsignor José Garcia of Sacred Heart Catholic Church let him have two old buildings that were to be pulled down.

"It was 3 o'clock in the afternoon of January 19, 1951. I knew I had enough to start. I went to see Sister Frances Marie at St. Joseph Hospital. She saw my predicament. She gave me a couple of beds, some chairs and light bulbs," he said.

That very night two men came by for help.

Brother Mathias went to St. Joseph Hospital again. This time he was given used coffee grounds. Then he collected day-old bread from a nearby bakery. He had cups and could heat water.

"I felt encouraged. Then a lady, Mrs. Jewel, came around. She offered to bring me oleo and jam for bread.

"That night, in the line of humans, a lady came seeking a handout," he recalled. I went to see Sister Frances Marie. She let the lady stay at the hospital that night. The next day, I got the YWCA to help her. That stayed in my mind and led to adding special services for women," he said.

Ralph Looney of the Albuquerque Tribune sent photographer Clarence Redman to take a picture of the new refuge. "Redman gave me $10. Soon many others were helping," Brother Mathias recalled.

As a boy roaming the green hills of Ireland, Brother Mathias, then named Maurice Barrett, dreamed of serving God and helping the poor and homeless. The Catholic church was the center of life for his parents, Mary Foley Barrett and Tom Barrett, and their children.

He quit school, got a job in a cabinet factory and, at age 16, joined the Brothers of St. John, an ancient order that does hospital work. He got his first taste of serving the poor and sick. Work began at 4:30 or 5:30 am and lasted to 10 pm.

Maurice soon learned the routine. He received his habit and the name Brother Mathias on July 16, 1916. Boyhood memories rushed in as Brother Mathias recalled the moment. He was elated as his dream came true. Yet he says, somewhat wistfully, that Maurice was a beloved family name.

In 1920, he went to Lyon, France, where he took his formal vows on November 21, 1921. He worked in a hospital there and at a clinic in Paris, where he learned French.

Brother Mathias wanted to come to the United States soon after joining his order. He was sent, however, to Montreal, Canada, where for 14 years he worked with the Brothers of St. John of God. He felt closer to the United States.

Though he was recalled to Ireland in 1941, war prevented his trip, and by March 1941, Brother Mathias was in California. He had written Archbishop John Cantwell of Los Angeles, who had grown up in Tipperary, Ireland, telling of his dreams.

Brother Mathias went to work to help Skid Row poor. "I just had $5 of my own," Brother Mathias said.

He accomplished so much in California that Cardinal Richard J. Cushing, archbishop of Boston, asked him to set up a similar project in Boston. Brother Mathias was successful but worked so hard that superiors sent him to Ireland for a rest.

In December 1950, he was given permission to leave his religious order in Ireland. He came to New Mexico to help the Reverend Gerald Fitzgerald establish a home for alcoholic priests in the Jémez, and he began the work in Albuquerque.

It has been hard work. Over the years, Brother Mathias has made the rounds of food dealers and businessmen to get money and food. His magic words, showing appreciation for the gifts, are "thank you" and

"it's lovely." His approach is gentle and humble.

However, his voice becomes stern, with less of an accent, and his manner is like a prosecuting attorney if he has to deal with red tape and runaround by bureaucrats when he needs immediate aid for the suffering.

Some retired business and professional men have become brothers. "We need men 20 to 30. The problem is describing the grandeur of the work they will do in a way they can understand," Brother Mathias said softly.

At Good Shepherd Centre in Wolverhampton, near Birmingham, England, Brother David sums up the Little Brothers.

"We do not preach to the men. Brother Mathias, our founder, believes that if our religion does not speak through action, it is worthless."●

EDIE JO VAN NESTE McGINLEY

● Mr. EXON. Mr. President, as U.S. Senators, all of us develop close friendship with our fellow Senators and with members of our own staffs and committee staffs.

We all realize that what we are able to do as Senators is not only what we personally can do, but it is often the result of the help of our staff members.

I have lost a very important member of my staff and a very dear friend of my wife Pat and myself.

Edie McGinley was a worker in all of my campaigns and in my first race for the Senate in 1978. She was the manager of my statewide campaign office. Edie had worked in State government and she brought much knowledge of Nebraska and Nebraskans to her work.

After I took office in 1979, I asked Edie to be my representative in North Platte, NE, in my district office. There had never been a Senate office in North Platte before.

Edie brought great dedication to that task and the people of the Third Congressional District of Nebraska had a person who would listen to their problems with great attention and then do all she could solve their problems. She cared about people a great deal and worked relentlessly on their behalf.

Late last year Edie herself began a personal battle against cancer. She brought to that battle the same intensity she had brought to her job. We thought she was winning that battle when on Saturday, March 26, 1988, an aneurysm struck and took her life. Edie had just reached her 50th birthday. She was struck down in the prime of life. Pat and I have lost a dear friend and the U.S. Senate and the people of Nebraska have lost a caring, dedicated public servant.

To her children, Deborah, Pamela and Stephen Van Neste, I offer my most sincere condolences. They can hold on to the thought that Edie did make a difference for good in this world and we all should hope that the same can be said about each of us.●

TRIBUTE TO JANE DELANO

● Mr. D'AMATO. Mr. President, I rise today to bring attention to the 126th birthday of an extraordinary New Yorker, Jane Delano, who was born March 26, 1862 near Townsend, NY. Jane Delano lived from 1862-1919 and lived a remarkable life, full of remarkable things achieved.

This dedicated American nurse and teacher was superintendent of the U.S. Army Nurse Corps and chairman of the American Red Cross Nursing Service in the early 1900's. While occupying this dual position, she developed the plan for making the Red Cross Nursing Service the reserve of the Army Nurse Corps.

The period from the organization of the Red Cross Nursing Service in 1910 to 1917 when the United States entered World War I was one of dramatic growth and historical signficance—a period which quickly followed by a speeding up of all Red Cross activities. By the time of the armistice, the Red Cross Nursing Service had assigned 17,931 nurses to the Army; 1,058 to the Navy; 284 to the U.S. Public Health Service, and 604 to work with civilian population in the countries of the allies. In addition, the nursing service also supplied 553 Red Cross aides for special work in France and over 15,000 graduate and practical nurses and volunteer aides to the influenza epidemic.

The war over and the influenza epidemic allayed, Miss Delano decided to make a trip overseas in the fall of 1918 to see the conditions under which the nurses were working and to estimate the needs of the future. Developing a mastoid from which she never recovered, she died at the Savenay Hospital Center in France on April 15, 1919. "What about my work? I must get back to my work." These last words spoken were so characteristic of her undying devotion to the Red Cross.

Miss Delano's uniqueness and great contributions to humanity went not forgotten. The Distinguished Service Medal of the United States and that of the American Red Cross were bestowed upon her posthumously. She has been, and will continue to be, fondly remembered among New Yorkers and around the world.●

REPORT OF THE COUNCIL ON COMPETITIVENESS ON THE FISCAL YEAR 1989 BUDGET

● Mr. BINGAMAN. Mr. President, earlier this month, the Council on Competitiveness, an organization of leading executives from industry, labor, and higher education dedicated to improving the ability of American companies and workers to compete in world markets, released its report on the impact of the President's fiscal year 1989 budget request. The report looks at the budget's impact on structural competitiveness problems, such as human resources, research and development, export promotion, and infrastructure, as well as the budget's macroeconomic effects.

The council's report concludes that deficit reduction is critical to restoring the U.S. competitive position. But, deficit reduction must not come at the expense of those programs needed to solve specific portions of our competitiveness problem. As Alan Magazine, president of the council, has said, "the challenge is to reconcile the need to reduce the budget deficit with greater support for procompetitiveness initiatives."

In assessing how well the budget request meets this challenge, I must say that the council's report is much more generous to the administration than am I. The council gives the budget mixed reviews. I am more critical. In earlier statements, I have discussed the problems of the administration's budget for education and export promotion. While the administration continues its rhetoric on the importance of education and export promotion, its funding requests continue to downplay these issues.

Mr. President, while I do not agree with all the findings in this report, I believe it correctly focuses our attention on the crucial issues. I commend the council for its work and urge my colleagues to study this report. I ask that the summary of the council's report be printed in the RECORD preceding my remarks.

The summary follows:

THE PRESIDENT'S FISCAL YEAR 1989 BUDGET REQUEST: A COMPETITIVENESS ASSESSMENT, COUNCIL ON COMPETITIVENESS, MARCH 1988

INTRODUCTION

The federal budget has profound implications for America's competitiveness. On a macroeconomic level, the budget deficit influences the extent to which the nation can increase domestic saving needed for investment, reduce the merchandise trade and current account deficits, and improve coordination of economic policies with other advanced industrialized countries.

On a structural level, the allocation of federal funds has a major impact on the nation's ability to educate and train its students and workers, improve the performance of science and technology, strengthen U.S. firms' ability to export, and upgrade America's infrastructure. All of these areas underpin America's ability to compete.

The Council on Competitiveness believes that the reduction of the federal budget deficit must be a top public policy priority. At the same time, the Council recognizes the need for adequately funded programs in areas that support the nation's long-term competitiveness. How these two objectives can be reconciled through U.S. fiscal policy is the subject of a separate Council initiative currently underway.

This assessment of the President's FY 1989 budget request is designed to increase awareness of the competitiveness implications of federal budget deficits and to highlight the impact on competitiveness of federal budget resource allocation.

SUMMARY

From a competitiveness perspective, the President's FY 1989 budget request gets mixed reviews. While some of the proposed funding increases for education and research and development programs are encouraging, the persistence of large U.S. budget deficits will make it difficult to advance important U.S. macroeconomic policy objectives.

The President's FY 1989 budget calls for spending approximately $1.1 trillion. This includes budget outlays of $294 billion for national defense, $511 billion for entitlement programs, $185 billion for non-defense discretionary programs, and $152 billion for interest payments on the national debt. The Administration expects revenues and asset sales of $965 billion and undistributed offsetting receipts of $41 billion.

The absolute level of the budget request and the allocation of resources among broad categories is consistent with the parameters agreed to by Congress and the Administration during the November 1987 Budget Summit and codified in the 1987 Omnibus Budget Reconciliation Act. The Budget Summit agreement mandated $46 billion in spending cuts and revenue increases for FY 1989 to meet targets established in Gramm-Rudman-Hollings legislation. For the most part, the agreed-upon spending reductions and revenue increases reflect politically expedient short-term actions rather than longer-term reforms that address the structural nature of the deficit.

The President's budget projects a federal budget deficit of $129.5 billion in FY 1989. The estimated deficit would continue a downward trend in the size of the budget deficit—from $221 billion in 1986 to $150 billion in 1987, to an estimated $146 billion in 1988.

The Administration's FY 1989 deficit estimate is based upon a set of economic assumptions that are considerably more optimistic than those of private forecasters and the Congressional Budget Office (CBO). CBO, for instance, projects lower growth estimates than the Administration (2.6 percent GNP growth compared to 3.5 percent GNP growth), higher inflation (4.2 percent compared to 3.7 percent) and higher levels of unemployment (6.1 percent compared to 5.6 percent). If the CBO forecast is correct, the FY 1989 deficit would be $176 billion, which would require at least $30 billion in additional spending reductions or revenue increases to meet the deficit-reduction target established by Gramm-Rudman-Hollings.

Macroeconomic effects of the deficit

Regardless of whose assumptions are correct, the federal deficit will remain large. As a result, it will continue to drain the national saving essential to finance domestic investment. In turn, America will continue to rely heavily on foreign capital to finance these needed investments. This reliance on foreign capital will reduce the American standard of living as more and more U.S. resources are transferred abroad to pay the principal and interest on foreign borrowings. If, as estimated, U.S. debt held abroad reaches $800 billion within five or six years, payments of interest and dividends to foreign creditors could exceed $50 billion annually.

Continued high deficits also will make dramatic reversals in the U.S. trade deficit more difficult to achieve. The trade deficit has been exacerbated in the 1980s by both a strong dollar up until 1985 and U.S. demand that has exceeded production. The result has been a flood of imports to satisfy consumers. The federal budget deficit has contributed to both phenomena. Although the dollar's value has fallen recently, continued high federal deficits fuel consumption and reduce the overall level of saving needed to increase domestic production enough to satisfy domestic and foreign demand for U.S. goods.

Finally, U.S. objectives for improved coordination of macroeconomic policy among the advanced industrialized nations are not expected to be considerably improved by the FY 1989 budget request. Until the United States addresses the structural causes of the budget deficit, countries such as Japan and West Germany will be reluctant to take measures to stimulate their economies and satisfy increased domestic demand through foreign imports from the United States and elsewhere.

Structural implications of the budget

More encouraging is that the FY 1989 budget request provides some indication that in deciding where to allocate resources, greater attention is being given to the need to address structural competitiveness problems. This is particularly the case with respect to human resource development and science and technology.

In assessing the President's budget request, two benchmarks need to be kept in mind. The first is that spending increases need to be viewed against the overall spending limitations for domestic discretionary programs established in the Budget Summit agreement. This agreement established overall budget authority and budget outlay increases of 2.1 percent and 5.6 percent respectively, over FY 1988 levels. Second, the budget request is in current dollars. Given projected inflation rates of 3.7 percent, funding that grows at less than 3.7 represents a real decline in program authority, while increases over 3.7 percent represent real gains.

In education, proposed spending increases represent a shift in Administration attitudes. When the Administration came into office in 1981, it sought to eliminate the Department of Education. As recently as last year, it proposed a $14 billion budget for the Department, which was 18 percent below the FY 1987 level. By contrast, the proposed FY 1989 budget seeks a 5 percent increase in total funding for Department of Education programs. Although no new significant education initiatives are proposed, the proposed funding increases are welcome.

Within this total, spending for two programs is particularly noteworthy from a competitiveness perspective: a 5.5 percent increase for compensatory education for disadvantaged youth (Chapter 1) and an 18 percent increase for student aid (Pell) grants. Strong support for these types of programs is essential to counter trends that are undermining the development of a skilled and flexible work force.

The President's budget also includes $980 million for a new worker-adjustment program to assist dislocated workers. While this proposal was introduced in the FY 1988 budget, it was not acted upon. This request represents a significant increase over current levels of $355 million for predecessor programs.

In science and technology, the budget includes a 4 percent increase in funding for research and development programs from $61.9 billion to $64.6 billion. Within this category, a number of programs are targeted for significant increases, including the National Science Foundation (19 percent), the general science programs of the Department of Energy (49 percent), and space-related activities of NASA (30 percent). However, the Council cautions that the biggest funding increases are for major new projects such as the Superconducting Super Collider, rather than in fundamental areas such as university infrastructure and engineering education, which are essential to a competitive America. In determining spending priorities, the federal government should make sure that the overall science and technology system is strong before funding mega-projects in specific areas. Federal funding for large science projects, even if warranted on its own merits, should not displace the basic investments in education and equipment that are necessary to keep our technology system healthy.

In the area of export promotion, the Administration has proposed $705 million in direct loans for the Export-Import Bank, a 2 percent increase over 1988 funding levels. Dramatic declines in authority for this program since the early 1980s have resulted from reduced overseas demand for procurement of "big-ticket" items, such as power plants, and the successful conclusion of multilateral financing agreements, which have shifted demand from direct credits to the Bank's guarantee programs. Eximbank programs can be expected to become more important to U.S. exporters' efforts given the window of opportunity provided by the falling value of the dollar.

With respect to infrastructure, the FY 1989 budget request for these programs of $29 billion represents a small decline from the FY 1988 level of $28 billion. Most of the decline is accounted for by the reduction in funding for public transit systems. A number of these infrastructure programs are financed through user fees that are paid into trust funds. The Council is concerned that funding from these trust funds is being used to reduce the federal deficit rather than for the purpose for which it is intended.

Particularly given funding constraints imposed by the Budget Summit agreement, the Council welcomes the proposed funding increases for a number of competitiveness-related programs. However, we also note that to be effective, there must be consistency in funding levels for these programs over time.●

INFORMED CONSENT: FLORIDA

● Mr. HUMPHREY. Mr. President, in addition to taking the life of an unborn child, abortion may also leave physical as well as emotional scars on the mother. For many, the wounds take years to heal. For others, a permanent scar of infertility may prevent them from ever conceiving a child again. Whether permanent or temporary, the scars of abortion are avoidable. This is especially true for the thousands of women who would never have consented to an abortion if the whole truth had been told. I'm not talking about subjective information, but factual, medically relevant information concerning the risks and alternatives to this procedure. Women are at least entitled to this. They are at least entitled to make an informed choice. I hope my colleagues will agree and will support my bills, S. 272 and S.

273. I ask unanimous consent that two letters from Florida be inserted into the CONGRESSIONAL RECORD.

The letters follow:

GIBSONTOW, FL, *March 2, 1987.*

DEAR SENATOR HUMPHREY: I am a Concerned Woman of America and four years ago I had an abortion. Unmarried, 17, and very scared, I took the advice of my father who thought it would ruin my life to keep the baby. My father had plenty of money and did send me to a good OBGYN, but there was no counseling.

I felt as though they were looking down on me. I didn't want to have the abortion, and if just one person would have talked to me about keeping my baby, I would have in a minute.

As soon as they told me I was pregnant, they said "You are going to have an abortion, aren't you?" Nobody was willing to help me keep my baby and my father wouldn't let me come home if I didn't have the abortion. I hope that you can help girls in the future that get in trouble. Nobody should be forced into having an abortion.

Thank you,

MRS. LAURA M. EDSALL.

HOLLYWOOD, FL,
March 3, 1987.

Hon. GORDON J. HUMPHREY: I feel a great need to write. Back in 1973, I was 18 and had an abortion in Buffalo, NY. The father of the baby is the man I am married to now. He took me from Rochester to a clinic in Buffalo, as my gynecologist referred us to it. My doctor wouldn't perform the "aspiration" as it was against his beliefs, but yet he gave us the name and address of the clinic.

Upon arriving, I was nervous, full of anxiety, and overwhelmed with guilt, even though I didn't recognize it as such. As I entered the clinic, a nurse rushed me back to the conference area. Other young women as well as married, were all sitting around a table full of cookies and beverages. We all had our cards because we would have our abortions on a first come first serve basis.

Another nurse entered carrying a plastic uterus. She simply showed us how our uterus would contract. After our "tea-talk" the same nurse handed us gowns and showed us where we were to change into them.

One by one we were called—same manner of that in a meat market. I remember the doctor physically. He was a thin black man—no personality, totally hardened to his profession. The nurse in assistance kept making flattering comments about my figure etc. . . . Anything was said to detour my thoughts from what was actually taking place.

As I sat up from the table, I noticed the Dr. quickly folding over a plastic garbage bag that was inside a container. I got weepy, and the nurse said, "It's all over honey, there's nothing to worry about."

Nothing to worry about? I was emotionally a mess. The psychological problems immediately followed. I started hearing a baby cry as I lay on my bed during the night. I felt like my body had been violated by a machine. My cramping was tremendous, and the "discharge" was nothing I could even imagine.

A year later I was married and pregnant, but later suffered a miscarriage. Later, my Dr. walked in and said "Sometimes these things happen especially if your body has already been previously disrupted in any manner." I could hardly believe it—why wasn't that said prior to the abortion?

I urge you to evaluate what is presented to women in these clinics. Also, I urge you to find out the truth as to what happens to many of the fetuses and babies after their mothers leave the operating table.

God Bless you in your endeavors.

REBECCA A. METCHICK.

TRIBUTE TO JIM CASEY

● Mr. ADAMS. Mr. President, I want to call to the attention of my colleagues the fact that March 29, 1988, will mark the centennial of the birth of James E. Casey, a truly outstanding American. His high ideals, strength of character, foresight, and accomplishments have left a positive and lasting impression on our Nation.

In 1907, at the age of 19, Jim Casey helped found in Seattle, WA, the small local messenger company that was to become United Parcel Service. This teenager's business venture was capitalized at $100. Today, United Parcel Service operates a delivery network that encompasses every address in all 50 States, extends to Puerto Rico, Canada, Japan, and 16 European countries.

The growth and success of United Parcel Service can be traced in part to a philosophy which Jim Casey once expressed, when he told his associates:

> Determined people make conditions, they do not allow themselves to be victims of them. Determined people working together can do anything.

Jim Casey backed his faith in cooperative effort by inaugurating a profit-sharing program for his employees so that he would not have what he called hired hands working around him.

This was one of the first incentive systems adopted by American business, and today the stock of United Parcel Service is owned almost entirely by the managers and supervisors who run the company, or by former managers, their estates, or heirs.

Determination was a dominant force in Jim Casey's life. He was born in a small Nevada mining town, the oldest of four children. While still an infant, his family moved to Seattle. There at the age of 11 he had to quit school to take a job and help support the family of six because of an ailing father.

As a delivery boy for a department store he earned $2.50 a week. He also worked as a messenger for a telegraph company, and finally, at age 15, he and two fellow messengers founded their own service.

Within 2 years, Jim Casey sold his interest in the business and returned to Nevada briefly to prospect for gold. He found none and went back to Seattle where in 1907 he and a companion founded the American Messenger Co.

The new company, which opened for business in a small, dark room under a Seattle sidewalk, was the forerunner of United Parcel Service.

In a struggle to survive against nine competing messenger services in Seattle, Jim Casey posted advertising placards near public telephones. These posters promised "Best Service and Lowest Rates." It was a pledge that became the firm's guiding business philosophy.

Jim Casey once explained:

> Anybody can deliver packages, from the small boy in the neighborhood on up to the most extensive delivery systems in the land. But the one thing we can offer that others will not always have is quality.

The new messenger service stayed open all night and on Sundays, even though there was little business. Jim Casey reasoned that this was the surest way to earn the American Messenger Co. a reputation for dependability.

His messengers used streetcars or walked to their destinations. Eventually, the company acquired bicycles and motorcycles and finally, in 1913, the firm purchased its first package delivery truck.

Within months after its founding, the company began concentrating on package deliveries in addition to its messenger service. With the purchase of its first truck, it began a regularly scheduled package delivery service in the Seattle area and contracted with major department stores to distribute their packages.

In 1919, the company changed its name to United Parcel Service and extended operations to Oakland, CA. In 1922, service was instituted in Los Angeles, and, by 1927, brown United Parcel Service vehicles were rolling through the Portland, San Francisco, and San Diego areas.

In 1930, the company began making deliveries for New York department stores, then on to Cincinnati in 1934, Milwaukee in 1938, and Chicago in 1940. As the company's reputation and capability grew, it moved into other metropolitan areas.

After World War II, the American economy underwent explosive changes that unleased a flood of small packages. United Parcel Service decided to extend its operations over broad areas of the Nation, making its package delivery service available to everybody, not just the department stores and specialty shops which it continued to serve.

The first attempts at this new kind of business were made in the more densely populated Midwestern and eastern seaboard areas where the company already was serving department stores. Gradually, the firm acquired operating authority that permitted it to deliver packages across the Nation.

Jim Casey pioneered in the development of special equipment that brought efficiency to package handling. During the company's formative years, he designed the first package sorting mechanism in Seattle. The basic theory of the device, which pro-

vided both storage and movement of packages, has been incorporated into the modern systems now used by package carriers everywhere.

Despite many innovations he brought to the package delivery business, Jim Casey was self-effacing, shunned personal publicity and constantly credited others with successes the company achieved.

During his lifetime, Jim Casey, who died 5 years ago, quietly engaged in many philanthropic works, including many that focused on child welfare. For these purposes, he and his family established the Casey Family Program for youth and the Annie E. Casey Foundation.

The Casey Family Program has financed a program for the long-term placement of disadvantaged children in foster homes. The project includes payment of monthly service fees to the foster parents to obtain participation of highly qualified foster families.

The Annie E. Casey Foundation, which Jim Casey formed with his brothers and sisters and named after their mother, has recently embarked upon two endeavors in which $100 million will be spent.

After intense study, the foundation has put $50 million into a New Futures Program for children at risk, offering $10 million each to five cities to help teenagers who drop out of school, cannot find a job, or have unwanted pregnancies.

The Annie E. Casey Foundation is also shaping a $50 million program to promote changes in child welfare. A third project will aim to reduce the sentencing of juvenile offenders to training institutions.

Jim Casey's legacy is an important contribution to the Nation's economy through the delivery network he pioneered and an enduring assistance to troubled youth.

I salute Jim Casey for these outstanding endeavors.●

GOLDEN ARROW AWARD

● Mr. EVANS. Mr. President, throughout my 30-year career in public service, it is all too often that I have seen attention focused on the negative aspects of Government. As a result, the outstanding work being done in the Federal sector often goes unnoticed.

For this reason, I created the Golden Arrow Award. I began this award program in January 1986 as a way to honor excellence in Federal employees and agencies. Specifically, the award recognizes superior achievement by a Federal employee or agency on behalf of the citizens of Washington State.

Recipients of the Golden Arrow Award are chosen quarterly on the basis of their demonstrated ability to "make the system work." The award may be issued in recognition of consistent cost-effective performance, or extraordinary worker or agency responsiveness, or it may honor an innovative program that produces significant benefits. Since I began this award program, we have had some impressive recipients indeed.

Our first golden arrow was awarded to Dr. R. James Cook, a U.S. Department of Agriculture scientist, who discovered the fungus that infects nearly 1 million acres of wheat annually throughout the northwestern United States. As a result of Dr. Cook's dedication and perseverance in wheat disease research, new ways are now being developed to control the fungus which, in turn, could improve crop yields by as much as 50 percent.

Our most recent recipient of the Golden Arrow Award was the Hazardous Material Response Branch of the National Oceanic and Atmospheric Administration regional office in Seattle, WA. The branch was honored for their development of a computer program called Computer-Aided Management of Emergency Operations, or CAMEO. This system has revolutionized the way in which hazardous material responders manage chemical accident emergencies. CAMEO quickly and accurately identifies the chemicals involved in an accident and gives specific instructions on how to respond to and control the spill.

NOAA designed CAMEO with the help of the Seattle Fire Department and funding from EPA's Chemical Preparedness Program. Beginning last year, Seattle was the first city in the Nation with a CAMEO unit operating in the fire department's hazardous material response van. The system has proved to be so successful, it is now being used by nearly 500 fire departments nationwide. The demand for incorporating CAMEO into other hazardous material response units has become so great, the National Safety Council is being considered to take responsibility for distribution of the program.

CAMEO, which began as a pilot project, will eventually be distributed around the country as a vital tool for firefighters, Coast Guard personnel, and other professionals responsible for hazardous material emergency management.

In a ceremony held in Seattle last month, I presented the Golden Arrow Award to Mr. John Robinson, manager of NOAA's Hazardous Material Response Branch. He graciously accepted the award on behalf of his department. Also receiving special recognition for their key role in the development of CAMEO's pilot design were the following members of the Seattle Fire Department: Capt. John Hadfield, firefighters Steve Beaumont, Phil Boreen, and Preston Bhang. These individuals comprise the Seattle Fire Department's Hazardous Material Unit. They provided the technical data about various chemicals and mapping information which is now a vital part of the computer program.

It has been my distinct pleasure to honor these professionals for their innovation and leadership in making CAMEO a reality.

It is this kind of superior performance that sets an outstanding example for the community as well as other Federal employees. I am proud to recognize these individuals and their achievements with the Golden Arrow Award.●

TRIBUTE TO DR. MONTE DuVAL

● Mr. DURENBERGER. Mr. President, the Washington health care community said goodbye to an outstanding leader last week when Dr. Merlin K. "Monte" DuVal resigned his position as president of American Healthcare Institute and returned to his adopted home State of Arizona. Monte DuVal will join Samaritan Health Service in Phoenix as senior vice president for quality assurance.

While I'm sure Arizonans are delighted to welcome Monte back, all of us in the Washington health care community will miss his thoughtfulness and his valuable insights about the present and the future of the health care delivery system in the United States.

Dr. DuVal has been a strong, refreshing voice for the hospital industry since he came to Washington in 1984 as the founding president of American Healthcare Institute [AHI], representing American Healthcare Systems, the largest not-for-profit health care network in the world. He came to Washington when the Congress was making dramatic changes in the way hospitals were reimbursed for providing care to Medicare patients. Dr. DuVal provided a steady and reasoned response to these often difficult debates.

He represented his AHI members well and in the process gained the respect and trust of all of us in Washington. To those who have followed Monte's career, his success should come as no surprise. He was educated at Dartmouth College and received his medical degree from Cornell University in 1946. He served as a member of the surgical faculty at the State University of New York College of Medicine at Kings County Hospital, Brooklyn, NY, and the University of Oklahoma's School of Medicine in Oklahoma City.

In 1963, Dr. DuVal was selected to be the founding dean for the College of Medicine at the University of Arizona and served as either dean or vice president for health services at the university from 1963 to 1979. He served as

Assistant Secretary for the Department of Health, Education, and Welfare—1971-73—and as the president of the National Center for Health Education in San Francisco before joining Associated Health Systems. Dr. DuVal is a board-certified surgeon and holds eight honorary degrees. Last year he was honored with the Dean's Award from the University of Arizona College of Medicine and the designation of the Merlin K. DuVal, M.D., Auditorium at the University of Arizona Health Sciences Center.

Monte's valued experience will be missed here in Washington but we are certain he will continue to influence us. With Monte's tireless energy and policy interests, we know we will see him often in Washington, advising us on the most important issue in health care—ensuring quality care for all Americans. We wish Monte DuVal and his wife, Ruth, the best of luck in their return to Arizona.●

CAPITAL GAINS AREN'T JUST FOR THE RICH

● Mr. KASTEN. Mr. President, one of the major criticisms of restoring a captial gains differential is that it will benefit the wealthy at the expense of the middle class and poor.

I call to the attention of my colleagues a letter which appeared in the March 26 edition of the Washington Post by Mr. C.M. Stripling on the issue of fairness and capital gains. Mr. Stripling is a tree farmer in Camilla, GA, and is the American Forest Foundation's 1987 National Outstanding Tree Farmer.

In his letter, Mr. Stripling points out that the 1986 Tax Reform Act's capital gains provisions have hit middle-income individuals, small businesses and—as in his particular case—family farms much harder than the affluent. He goes on to say that, "It doesn't take much of a tax increase to put us out of business. If we are going to talk fairness, it shouldn't matter whether you're rich or poor when it comes to how capital gains are taxed."

Mr. President, there are several reasons why reducing the capital gains tax is fair and equitable. First, experience of the 1978 and 1981 capital gains tax cuts shows that the wealthy actually pay more capital gains taxes at lower rates. Second, capital gains tax cut sparks the creation of new small businesses, new ventures and, more importantly, new jobs for American workers. Third, a capital gains tax cut benefits many middle-class Americans who invest in capital assets to finance their retirement. Clearly, a capital gains tax reduction is not a tax break for the rich.

Mr. President, I ask that Mr. Stripling's letter be placed in the RECORD.

The letter follows:

CAPITAL GAINS AREN'T JUST FOR THE RICH

Your March 15 editorial on "Capital Gains and Fairness" sure made me mad! A friend in Washington called and read the editorial to me, and I put this response to you in a purple airplane the next day so that he could drop it at your office while it was still hot.

Your statement that 50 percent of the capital gains go to upper-income people may be true, but that means that the other 50 percent goes to those of us in lower brackets. It doesn't take much of a tax increase to put us out of business. If we are going to talk fairness, it shouldn't matter whether you're rich or poor when it comes to how capital gains are taxed.

I just did my taxes, and your comments about millionaires hit me like salt on a sunburnt blister. I finally made a sale on some trees that I've been growing half a lifetime, and the new tax rates are taking 71 percent more of my income than under the old rules. That's a lot of money to me. It would replace my old pickup truck. It would reforest 150 acres of land. It would more than pay for the forestry consultant I hire to make sure my forest is in good shape. The topping on this bitter cake is that the paper work required to complete the process of being fleeced has more than doubled.

In spite of what the tax laws have done to me, I'm going to plant trees to replace those I've cut, and I'm going to hire foresters to keep my forest in prime condition. This farm goes back in my family a long time, and I want it to go forward for my family and others into the future.

I'll continue to take care of my land and send my money to Washington, but I'll feel like I've been treated badly. I've been planting and growing trees for 50 years now, and I've been through forest fires and tornadoes and droughts and ice storms, but the new tax laws are the biggest mess I've ever seen and the most discouraging to tree farmers. If the trend continues, we will eventually do all the work and take all the risks and then send all the money to Washington.

You mention that a bargain was stuck on taxes less than two years ago and that the bargain should not be broken. The deal you speak of is no bargain. It broke an implied commitment made to forest landowners more than 40 years ago, when the tax rates for long-term investments were lowered.

The more than 4 million Americans who own important tracts of forest land are unfairly treated under the new rules. These are ordinary folks, who sometimes wait a lifetime for some income from their forests. Many of them established their forests more than 40 years ago under that first "bargain" struck with Congress. The agreement at that time recognized that private forestry operations were risky, long-term investments, deserving of lower rate taxation of capital gains. There was also recognition that tax policy sets land-use policy and that if the nation approved of the conservation of private forests, a tax system that encouraged long-term investments would "put our money where our mouth was."

I think we landowners have kept our side of the long-term commitment. Although some forests certainly aren't as well cared for as I would like to see, overall we have planted billions of trees and constantly improved the application of forestry to the land. Most of us have done this work because we care about the land, but it sure helped to know that we got to keep some of our gains after years of work.

You use a lot of trees in putting out your paper, but your editorial ignored what it takes to grow those trees. Look outside Washington and the law books if you want to know what the system does.

—C.M. STRIPLING.●

RULES OF COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. BURDICK. Mr. President, in accordance with the Rules of the Senate, I submit for the RECORD the Committee Rules of the Committee on Environment and Public Works.

The rules follow:

RULES OF PROCEDURE OF THE COMMITTEE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the committee shall be the first and third Thursday of each month at 10:00 A.M. except that if there be no business before the committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the chairman, after consultation with the ranking minority member. Subcommittee meetings shall be called by the chairman of the respective subcommittee, after consultation with the ranking minority member. Notice of a meeting and the agenda of business to be discussed by the committee will be provided to all members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking minority member. Such 24-hour notice may be waived in an emergency by the chairman, with the concurrence of the ranking minority member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of rule XXVI of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. *Presiding Officer.*—(a) The chairman shall preside at all meetings and hearings of the committee except that in the absence of the chairman the ranking majority member who is present at the meeting shall preside.

(b) Subcommittee chairmen shall preside at all meetings and hearings of their respective subcommittees, except that in the absence of the subcommittee chairman, the ranking majority member of the subcommittee who is present at the meeting shall preside.

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any member of the committee may preside over the conduct of a hearing.

Rule 5. *Quorums*—(a) Except as provided in subsections (b) and (d) five members, two of whom shall be members of the minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the subcommittees shall be a simple majority of the membership of the subcommittees with at least one minority member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the committee or any subcommittees. Any member who is unable to attend the meeting may submit a vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent committee member has been informed of the matter on which the vote is being recorded and has affirmatively requested that such vote be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the direction of the chairman, after consultation with the ranking minority member, members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote*—Whenever the committee, by rollcall vote, reports any measure or matter, or acts upon any measure or amendments thereto, the report of the committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee.

Rule 8. *Announcement of Hearing.*—The committee, or any subcommittee thereof, shall make public announcement and provide notice to members of the date, place, time and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the committee chairman, or subcommittee chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin such hearing at an earlier date, in which even not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.* (a) Each witness who is scheduled to testify at any hearing of the committee, or any subcommittee thereof, shall file a written statement of proposed testimony not later than noon of the last business day preceeding the day on which such witness is scheduled to appear. At the time of appearance, each witness shall supply for the use of the committee or subcommittee, 25 copies of any prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal Government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness confine any oral presentation to a summary of a written statement.

Rule 10. *Regularly Established Subcommittees.*—The committee shall have five regularly established Subcommittees as follows:

Subcommittee on Environmental Protection.

Subcommittee on Nuclear Regulation.

Subcommittee on Water Resources, Transportation and Infrastructure.

Subcommittee on Hazardous Wastes and Toxic Substances.

Subcommittee on Superfund and Environmental Oversight.

Rule 11. *Subcommittee Membership.*—Following consultation with the Majority Members and the Ranking Minority Member of the Committee, the chairman shall announce selections for membership of the subcommittees referred to in Rule 10.

Rule 12. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency. In accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

Rule 13. *Project approvals.*—(a) Whenever the committee authorizes a project, under Public Law 89-298, Rivers and Habors Act of 1965, Public Law 83-566, Watershed Protection and Flood Prevention Act, or Public Law 86-249, Public Buildings Act of 1959, as amended, the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(b) Proponents of committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, or former Justices of the United States Supreme Court over 70 years of age.

Rule 15. *Building Prospectuses.*—(a) The committee shall act on all prospectuses for construction (including construction of buildings for lease by the government), alternation and repair, or acquisition submitted by the General Services Administration in accordance with section 7(a) of the Public Buildings Act of 1959, as amended, and such action shall be completed by the date of May 15 during the same session in which such prospectuses are submitted to Congress. The committee may consider prospectuses submitted for alterations or repairs necessitated by emergency building conditions at any time during the same session of the Congress in which they are submitted. Prospectuses rejected by majority vote of the committee or not contained in any bill reported to the Senate shall be returned to the GSA and must then be resubmitted in order to be considered for action by the committee during the next session of the Congress.

(b) Reports of building project surveys submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, shall not be considered by the committee as being prospectuses subject to approval by committee resolution in accordance with section 7(a) of that Act. Projects described in such survey reports shall be considered for committee action only if they are submitted as prospectuses in accordance with section 7(a) and they shall be subject to the provisions of subsection (a) of this rule.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the committee, or any subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the chairman through the staff director. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or staff on the dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended, or suspended by a majority of the Committee Membership.●

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL 9:15 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:15 a.m. tomorrow.

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

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow the call of the calendar be waived and that no motions or resolutions over under the rule come over.

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

REDUCTION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 5 minutes each tomorrow.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the order, there be a period for morning business not to extend beyond the hour of 9:30 a.m., and that Senators be permitted to speak therein.

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

ORDER OF BUSINESS

Mr. BYRD. Mr. President, at 9:30 a.m. tomorrow, the uranium enrichment bill would automatically come down, would it?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. The pending question at that time would be on the amendment in the second degree to the Johnston amendment?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. There is a maximum of how much time on that amendment?

The PRESIDING OFFICER. There is a maximum of 3 hours under the time agreement.

Mr. BYRD. Three hours. So this would mean there would be a rollcall vote, in all likelihood, no later than, say, 12 o'clock, 12:30, or thereabouts.

Mr. President, I ask unanimous consent that upon the disposition of S. 2097, the uranium enrichment bill, the Senate proceed to the consideration of Calendar Order No. 595, S. 1886, the bill to modernize and reform the regulation of financial services.

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

EXPIRATION OF MORNING HOUR ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the morning hour be deemed to have expired on tomorrow.

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

THE ASSISTANT REPUBLICAN LEADER

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader for his fine cooperation in moving the program of the Senate along. I am very much appreciative of his assistance. This could not be done without such cooperation. And I value his cooperation, and feel myself fortunate that I have had such a splendid gentleman to work with in these last several days and weeks and months.

Mr. President, unless the distinguished Senator from Wyoming has something else or my friend from Oregon, I do not have anything else.

EXPIRATION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair would inform the Members that under the unanimous-consent agreement morning business has expired.

Mr. BYRD. Mr. President, I yield the floor.

THE SENATE'S SHORTEST LEGISLATIVE DAY

Mr. SIMPSON. Mr. President, I thank the majority leader.

Let me say that we just moments ago had the shortest legislative day in the history of the U.S. Senate—1 second. What we were doing, so all should be aware, is that the constitutional amendment on campaign spending, which is going to be controversial, is on the calendar now at the desk. That was the purpose of that. The majority leader fully within his appropriate right has shared all of that information with the leadership on this side of the aisle, and has indicated previously that we will deal with that issue. And this is obviously the intent, and all should be well aware that it now resides at the place on the calendar, and at the desk.

SENATOR ROBERT DOLE

Mr. SIMPSON. Let me say, Mr. President, to the majority leader, that our colleague, the colleague of us all, ROBERT DOLE, has announced today that he is wrapping up his campaign. And it will be good to have him back and embrace him among our membership.

It has been a very special privilege for me to be the acting leader of our party. I have enjoyed that very much. And I am going to give my complete loyalty to BOB DOLE. He will be winding up his activities this week, and after the Easter recess will be here in his full capacity as the minority leader and the Republican leader of the U.S. Senate. He made a very moving series of remarks today.

And I ask that those remarks be placed in the RECORD.

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

DOLE WRAPS UP '88 CAMPAIGN

Nearly five months ago, I went home to Russell, Kansas, to declare my candidacy for the "highest office" the American people can bestow. It was only natural that I should begin my campaign for the Presidency on main street, among those from whom I have always drawn my strength and identity.

Today, here I am—bloodied but unbowed, as the poet says—reminding you that there was a special reason this year for those of us on the Republican side to walk, or in my case, to run the extra mile. That reason is the national interest. The Nation is entering a period in which there are great dangers and great challenges.

THE RACE

I entered this race convinced that to solve our problems and realize our potential, America requires strong leadership—the kind forged in the crucible of governance—. The kind that is sensitive to how ordinary people live, and attuned to their extraordinary possibilities.

I ran for my party's nomination because I was determined to lead a dialog on issues that matter. Issues that I care passionately about, involving the national defense and fiscal integrity of this country—profoundly interrelated issues I feared would get lost in the shuffle. I wanted these issues to be a part of a crucial dialog about this country's future.

It matters if we have this hostile Soviet client state the Sandinistas are building in our back yard. It matters if we have this monster deficit looming up like a tidal wave in our future. And it matters how we deal with these issues—whether we mortgage our future to them, or whether we make sure that the "buck stops here" and future generations don't have to pay up because of our cowardice.

I AM A FIGHTER

My campaign has been an appeal for all Republicans to recognize and celebrate the diversity of America. No party can govern that is not truly representative of this Nation of nations. No president can succeed who promises competence but withholds compassion. I seek a party as strong in its commitment to equal rights as it is to military and economic pre-eminence. For the defense of American freedom, whether at home or abroad, is ultimately indivisible—its success depends on a house united, and leadership with the will to win.

My friends know that I am a fighter. I don't like to lose. I make no apology for that. It is simply the way I am. They also know I am an optimist. If I weren't, I wouldn't be standing here today. I have been beaten before, and no doubt will be again. But I have never been defeated, and never will be.

END OF THE ROAD

My wife, Elizabeth, and my daughter, Robin, are beside me today, as they have been throughout this campaign. We have become even closer because of this journey. I will always be grateful for their love and support.

Bill Brock and Bob Ellsworth and Joe Fogg; my colleagues in the House and Senate; staff members and countless volunteers both here and across the country have made this campaign a labor of love, and my thanks seem hardly enough: More than one and a half million Americans have honored me with their support in primaries and caucuses, and for that I will always be humble.

But one thing you learn how to do pretty well in our business is to count. You come to trust your instincts to tell you when it's over. In my heart, I know that that time is now.

I congratulate George Bush and wish him well in November. The bottom line is keeping the White House Republican.

So today, I have come to the end of one road. But the journey is far from over. When people ask me why I ran for President, I will say because I wanted to make a difference, and that desire will remain with me for as long as I live.

Ronald Reagan has made an historic difference for America: He has set us on a new course to renewed prosperity, greater security, and more hope and opportunity for each and every American. But there is much more work to do.

So I return to the Senate as the Republican leader, eager to engage there the issues that confront America and ready to do all I can to elect Republicans in November—and doing all I can for our nominee, George Bush.

THE MAJORITY LEADER

Mr. SIMPSON. I would say to the majority leader that indeed I have enjoyed the opportunity of working with him. It has been a special privilege. I have come to know him even better. I learned much about him before but it was a great pleasure to do business with him. And I enjoyed it thoroughly, in his office or on the floor. And the purpose of the U.S. Senate is to

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legislate. And the purpose of a minority is to help legislate.

There were only two remarkable stalling points which nearly tore the drainpan out of the machine but once we passed those two points we did our business.

I would say that I have no listing of the business done in the last 5 or 6 weeks. But I think it is called heavy legislative activity except for S. 2. Then, of course, there was the issue that was laid to rest—at least, hopefully, for some time—today.

Other than that, I thought there was excellent progress. It was a pleasure to work with the majority leader. At no time did he fail to keep his word with me. We shared a great deal of remarkable insights about our colleagues on both sides of the aisle, which is what you have to do if you are going to get business done, like, "I can't do anything about it," and, "There is nothing I can do to accommodate you." Then you become flexible and do your work.

He shared those things with me. It was a delightful and pleasant experience. I certainly enjoy my role as assistant leader of the party and will be doing that again when our leader will return, I think, in renewed energy, to do the same things that I have been trying to do in these last weeks, now that that remarkable quest has ended for him.

I congratulate him, and I think we all do. It takes special people to do this, to seek this office, and we know them on both sides of the aisle, people who do it and who have returned to the bosom of the Senate, bruised. Yes, indeed, you cannot help but be bruised when you go through that. But there are many of them, and you admire them, that they are willing to put themselves out into the fray, as Teddy Roosevelt said, better than those timid souls who do not know the vigor of the chase, and defeat to them is not really defeat because they were in the arena.

So I admire ROBERT DOLE very much and all those on both sides of the aisle who sought the Presidency from the U.S. Senate. They are a special breed, and they deserve our commendation. It takes special people to do it. It is something that does not burn in my bosom, because my sense of privacy in my own life would never allow me to even believe that that would be something to pursue.

So, with that, my sincere thanks to the majority leader for a delightful experience.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate—and I sense that there will not be—I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:15 tomorrow morning.

The motion was agreed to; and at 7:02 p.m. the Senate adjourned until tomorrow, Wednesday, March 30, 1988, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate March 29, 1988:

THE JUDICIARY

RANDALL R. RADER, OF VIRGINIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR THE TERM OF 15 YEARS VICE ROBERT M.M. SETO, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HOWARD G. CROWELL, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. EMMETT PAIGE, JR., [redacted], U.S. 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. BRUCE R. HARRIS, [redacted], U.S. 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. EDWIN S. LELAND, JR., [redacted], U.S. 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

LT. GEN. THURMAN D. RODGERS, [redacted], U.S. ARMY.