

"(4) the Tri-Party Agreement between the Department, the Environmental Protection Agency, and the Washington State Department of Ecology.

"(c) VOLUNTARY COMPLIANCE.—Notwithstanding subsection (b), the Secretary may, in his discretion, comply with provisions of laws preempted by this section to the extent the Secretary determines appropriate, practicable, and cost-effective. The Secretary shall include a list of any such provisions of law in the environmental management plan submitted to Congress under this Act.

"(d) COMPLIANCE WITH NEPA.—Compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for the federal actions specified in the environmental management plan, alternatives to the specified actions, and the environmental impacts thereof for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Submission of the environmental management plan in accordance with the Act shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act and no further consideration shall be required.

#### "SEC. 9. LIABILITY.

"(a) CIVIL PENALTIES AND FINES.—The second sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a), relating to civil and administrative penalties and fines) is repealed.

"(b) WAIVER OF SOVEREIGN IMMUNITY.—The third sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a), relating to the waiver of immunity by the United States) is repealed.

"(c) CRIMINAL LIABILITY.—The seventh sentence of section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)) is amended—

"(1) by striking—

'An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.'; and

"(2) by inserting the following—

'No department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law.'

"(d) CONFORMING AMENDMENTS.—(1) Section 6001(c) of the Solid Waste Disposal Act (42 U.S.C. 6961(c), relating to state use of penalties and fines collected from the United States) is repealed.

"(2) Section 102(c) of the Federal Facility Compliance Act (42 U.S.C. 6961 note, relating to effective dates) is repealed.

"(e) ENVIRONMENTAL DAMAGES.—Notwithstanding section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) or any other provision of law, the United States shall not be liable for any environmental response costs, natural resource loss, or other damages arising out of federal activities at the Hanford Reservation."

#### NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL  
RESOURCES

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Oversight and Investiga-

tions of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, June 7, 1995, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing will be to examine the historical evolution of the National Environmental Policy Act of 1969, how it is being applied now in several situations, and what options are available to improve Federal decision-making consistent with the objectives of that statute.

For further information concerning the hearing, please contact James P. Beirne, senior counsel to the committee, at (202) 224-2564.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 15, 1995, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 871, a bill to provide for the management and disposition of the Hanford Reservation, to provide for environmental management activities at the reservation, and for other purposes.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call David Garman at (202) 224-7933 or Judy Brown at (202) 224-7556.

#### ADDITIONAL STATEMENTS

##### DEFENSE BUDGET ISSUES

• Mr. GRASSLEY. Mr. President, the unmatched disbursement problem at the Pentagon has been simmering on a back burner for years.

All of a sudden, it is on the front burner, and it is boiling.

The issue is so bothersome right now because it undermines the credibility of the defense budget numbers and the case for pumping up the defense budget.

There is another article on it in the Washington Post on Tuesday.

This one zeros right in on the main problem: the lack of accountability at the Pentagon.

I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, May 23, 1995]

THE PENTAGON'S ACCOUNTABILITY PROBLEM

(By Coleman McCarthy)

Speaking of welfare abuse—and who isn't—have you heard about the \$13 billion the government handed out over the past decade but doesn't know where it went or to whom? Then there's the \$6 billion spent in excess of what Congress authorized.

The welfare recipients who have taken this money and run—or lazed about or bought Cadillacs, as it is derisively said of poor people—are in a category of their own. They are military contractors. Their welfare agency is the largest of them all, the Department of Defense, which has a defense against enemies great and small except the one within: fiscal stupidity and indifference.

Some of the details of this welfare abuse were revealed May 16 before the Senate Armed Services subcommittee on readiness. It wasn't much of a hearing: just a half-day of testimony from a Pentagon undersecretary and the head of the General Accounting Office, a few senators and not much in the national media that evening or the next day.

If \$19 billion in lost or untracked tax money had been dispensed by the Department of Education on mismanaged reading programs or if this were \$19 billion that vaporized in the Medicare or food stamp bureaucracy, no hearing room would have been large enough to hold the media and outraged public, no time limit on hearings would have been imposed and no senator's publicist would have passed up the chance to paper Washington with the boss's deploring of bureaucrats, welfare cheats and, for sure, liberals.

But this was the Pentagon—the Department of Giveaways—and its dollar-mates, military contractors and their rent-a-general execs. Both givers and takers are on permanent dispensations from standards of competence, accountability and honesty that apply elsewhere.

At the hearings, Charles A. Bowsher of the GAO ran through what he called the Pentagon's "serious problem of not being able to properly match disbursements with obligations." Pentagon overpayments, flawed contracts, duplicative business practices, shoddy or no record-keeping and multiple payroll systems have meant that the money might as well have been thrown out of airplanes for all anyone knew where it went.

On such a routine matter as travel, Bowsher reported that the Pentagon has "over 700 processing centers, 1,300 pages of regulations and some 40 steps to get travel approval and reimbursement. The result: DOD spent over 30 percent of each travel dollar on administrative cost. By contrast, companies with the best travel processes have one disbursing center . . . and 10 or fewer process steps. These companies spend as little as 1 percent of their travel dollar on administrative costs."

According to John Hamre, the Pentagon undersecretary and comptroller, each month the Pentagon deals with 2.5 million invoices and 10 million paychecks. He spun: "It isn't that we have wicked people trying to screw up, it's that we have a system that's so error-prone that good people working hard are going to make mistakes."

In the past 18 months, the hard-working good folk at the Pentagon have miscalculated Hamre's paycheck six times.

Because no wicked people are involved in the missing billions, no mention was made of firings, much less possible indictments. On the issue of "problem disbursements," Hamre was the model of managerial thoughtfulness. It is too late or too burdensome to go back and see what or who went awry: "I decided to suspend, on a one-time basis, the requirement to research old transactions." To DOD's contractor buddies, the message, unlike the money, was not lost: Relax, we're good people, you're good people. It was "the system."

Hamre reassured Congress that the era of reform is here: "The department has refined and advanced its blueprint to eliminate its long-standing financial management problems."

Sure. In his 1989 book "The Pentagonists: An Insider's View of Waste, Mismanagement, and Fraud in Defense Spending," A. Ernest Fitzgerald wrote that the military's rote reaction to scandal is to promise reform, pledge self-policing and spout Caspar Weinberger's favorite cliché about the "few bad apples in any barrel." And then go back to writing checks.

Down the hall on the same day from the hearing on the missing billions was another Senate Armed Services panel reaching for its appropriations pen—debating a \$60 billion contract to build 30 attack submarines for the Navy. To attack who? Russia.

It was a day of symmetry: one Senate committee looking for phantom money and another pondering a phantom enemy.

Mr. GRASSLEY. Billions of dollars in DOD checks can't be hooked up to authorizing documents, but "no mention is made of firings or possible indictments," the article says.

The Pentagon will promise reform, pledge self-policing, and get right back to writing bad checks.

This is what worries me, Mr. President.

Some of my colleagues would like to give the Pentagon some extra money, so the Pentagon bureaucrats can write more bad checks.

This is the very problem I spoke about on the floor last Friday.

Last Friday I came to the floor to express concern about a new policy being pushed by the Comptroller at the Department of Defense [DOD], Mr. John Hamre.

Mr. Hamre is proposing to write off billions of dollars of unmatchable disbursements.

Unmatchable disbursements are payments which he claims cannot be linked to supporting documentation.

In my mind, Mr. President, the plan would set a dangerous precedent and underscores the continuing lack of effective internal financial controls at the Pentagon.

My speech last Friday merely expressed concerns and raised questions about the new policy.

Well, at the conclusion of my statement, my friend from Arizona, Senator MCCAIN, and my friend from Maine, Senator COHEN, launched an unwarranted attack on what I had said.

I feel as though their criticism was misdirected. It misinterpreted and mischaracterized what I had said.

Unfortunately, I was participating in the Canada-United States Interparliamentary Group meeting in Canada and had to run to catch an airplane.

I was unable to respond to their critical remarks on Friday.

I would like to do that now.

Mr. President, I would now like to clarify for Senator COHEN's understanding of what I actually said about the IRS. Had his recollection of what I said been clear, he would have known that he and I are in total agreement on the management flaws at IRS.

Senator COHEN seemed to think that I was holding up the IRS as some kind of model accounting bureau for Pentagon bureaucrats to copy.

That was not my point at all. Nothing could be further from the truth.

In fact, I am as frequent a critic of the way the IRS manages the peoples' money as he is.

What I was suggesting in my comments was that the plan to write off billions of dollars of unmatchable disbursements would be an insult to the taxpayers.

This is what I said:

This money was taken out of the pockets of hard working American taxpayers, and the Pentagon bureaucrats say it is just too much trouble to find out how their money was spent.

Could you imagine how the IRS would treat a citizen who claimed to have no documentation for \$100,000 of income? The IRS would say: We know you got the money. You pay the tax. Period. End of discussion.

We should hold the Pentagon bureaucrats to the same standard that the IRS holds the taxpayers to. The DOD should have to play by the same rules imposed on the taxpayers.

We should tell the Pentagon bureaucrats: We know you received \$10 billion in appropriations. Now, how did you spend it? No extra money until we get the answer.

Mr. President, this is the point I was trying to make.

The IRS is relentless and thorough in collecting tax money from the people.

I want the Pentagon bureaucrats to be just as relentless and just as thorough in controlling and accounting for the expenditure of the peoples' money as the IRS is in collecting it.

I would now like to turn to Senator MCCAIN's remarks.

I take strong exception to what was said by the Senator from Arizona.

Mr. MCCAIN suggested that I "enjoy savaging" the Pentagon for shortcomings and deficiencies but never offer "viable solutions." First of all, I do not remember ever making a critique of DOD's management without offering a solution, contrary to my friend's flippant remark.

On Friday, I made two very specific recommendations for handling the new policy.

I would like to restate those two recommendations. I said:

We in the Congress should not approve this plan until two stringent conditions are met:

Number 1: Those responsible must be held accountable for what has happened; Heads must roll.

Number 2: A new DOD policy should be put in place that specifies: Effective January 1, 1996, all DOD disbursements must be matched with obligations and supporting accounting records before a payment is made.

Mr. President, as I said on Friday, these two recommendations will help to strengthen and reinforce section 8137 of the fiscal year 1995 DOD Appropriations Act—Public Law 103-335. Senator STEVENS acknowledged my proposed solution in a hearing on this issue May 23 before his Defense Subcommittee.

Section 8137 was a carefully crafted piece of legislation designed to correct the unmatched disbursement problem at the Pentagon.

It was a phased approach I developed in close cooperation with the DOD Comptroller, Mr. Hamre.

Section 8137 specifies that by July 1, 1995, a disbursement in excess of \$5 million must be matched with appropriate accounting documents before the payment is made.

Then, under the law, the mandatory matching threshold is lowered to \$1 million on October 1, 1995.

My amendment was adopted by the Senate on August 11, 1994.

The next day I received a warm, handwritten thank you note from Mr. Hamre. I would like to read it. I quote:

I would like to thank you for sponsoring the amendment requiring DOD to match disbursements with accounting records prior to actual disbursement of funds. I especially appreciate your willingness to work with me to adopt your amendment to ensure we could implement it in the least disruptive manner. You will be very proud of the long-term benefit it will produce in our business practices.

Mr. President, to my friend from Arizona, I say: I have been working hard to fix this problem. I do not claim to have the answer but I am searching for it.

And the recommendations I made on Friday are the logical next step to the phased approach contained in section 8137 of the law.

They would lower the threshold to zero, effective January 1, 1996.

Let me also say to my friend from Arizona that my recommendations are fully consistent with current DOD policy.

To back up that point, I would like to quote from Mr. Hamre's letter of May 5, 1995, to Senator GLENN where the plan to write off unmatchable disbursements was first revealed to the public.

I quote from the Hamre letter: "We have adopted a policy that we will not disburse funds until we pre-match them to the accounting records."

That is recommendation No. 2 in Friday's speech.

Mr. President, I say to my friend from Arizona that I have been working diligently to fix the problem.

I have already helped to develop one viable solution and am working on another.

Right now, I am working with the Comptroller General, Chuck Bowsher, to find a more comprehensive solution to the Pentagon's accounting problems.

Mr. President, sometimes in the heat of debate, our arguments and proposed solutions fall on deaf ears.

I would caution my friend from Arizona to listen to the arguments before blindly dismissing them.

Unless that is done, the credibility of one's opposition is lost.

Mr. President, I would like to add one new idea to the discussion.

I do not believe the use of the word "writeoff" accurately describes what DOD is proposing to do.

Normally, the word "writeoff" is used to describe a procedure for canceling from accounts a legitimate business loss.

What Mr. Hamre is proposing to do is write off billions of dollars of unauthorized payments.

A payment that cannot be linked to supporting documentation is an unauthorized payment. It may not be legitimate.

Without documentation, we do not know how the money was used.

That is my concern, Mr. President.

Mr. President, Pentagon bureaucrats have an unblemished record of mismanaging the peoples' money.

Now, is it smart to give a bureaucratic institution like the Pentagon that cannot control and account for the use of public money more public money—as some of my colleagues propose?

DOD should not get any extra money until it cleans up the books.

More money is not the answer. Better management is.●

#### A TRIBUTE TO COMMAND SGT. MAJ. WILLIAM H. ACEBES ON HIS RETIREMENT FROM THE ARMY

● Mr. NUNN. Mr. President, today I want to congratulate Command Sgt. Maj. William H. Acebes on the occasion of his retirement from the U.S. Army.

Command Sergeant Major Acebes began his Army career 30 years ago when he completed basic training at Fort Polk, LA. I am pleased to note that he completed his advanced individual training in my home State of Georgia, at Fort Gordon. Since then, he has served in virtually every non-commissioned officer leadership position.

Overseas, Command Sergeant Major Acebes has served numerous tours of duty with United States Forces in both Europe and Asia. In Germany he was assigned to the Berlin Brigade and later, to the 1st Battalion, 10th Special Forces Group (Forward) at Bad Toelz. During the Vietnam war, he served with the 173rd Airborne Brigade and was an advisor with the United States Army Military Assistance Command. His most recent overseas assignment was in South Korea, where he was the command sergeant major of the 2nd Infantry Division.

Bill Acebes' stateside assignments have included serving as the first sergeant of Headquarters Company and the command sergeant major of the 1st Battalion (Ranger), 75th Ranger Regiment. Also, he served as the battalion command sergeant major for the 1st Battalion, 64th Armor Regiment, 2d Brigade, 24th Infantry Division, at Fort Stewart, Georgia. Since 1992, he has served as the U.S. Army Infantry Center Command Sergeant Major at Fort Benning, GA.

During his 30-year Army career, Bill Acebes has received numerous awards and decorations in recognition of his exemplary service to the United States. These awards and decorations include the Legion of Merit, the Bronze Star, the Meritorious Service Medal, the Army Commendation Medal, the Army Achievement Medal, and the Vietnam Cross of Gallantry.

I know of no soldier who sought more tough, demanding assignments than Bill Acebes. I also know of no soldier who has spent more time with the infantry—with infantry soldiers and families, than Bill Acebes. Whenever our country called, over a 30-year period, Command Sergeant Major Acebes answered. His leadership and talents will be missed.

Mr. President, I ask our colleagues to join me in thanking Command Sergeant Major William H. Acebes for his distinguished service to the Army and people of the United States.●

#### COMMERCIAL SPENT NUCLEAR FUEL STORAGE

● Mr. HOLLINGS. Mr. President, I would like to commend the Senator from Alaska [Mr. MURKOWSKI] for the statement yesterday on the need to develop a timely solution for the management of spent nuclear fuel from the Nation's 109 commercial nuclear power plants.

As the new chairman of the Energy Committee, Senator MURKOWSKI has already assumed a leading role in examining America's policy on high-level radioactive waste management and I appreciate the chairman's ongoing commitment to change that policy to ensure that we continue to make progress in a program so vital to the national interest.

Mr. President, the United States has struggled to fashion a workable policy on high-level radioactive waste disposal since the Congress passed the Nuclear Waste Policy Act of 1982.

In 1987, President Ronald Reagan signed amendments to that act to direct the Department of Energy to study Yucca Mountain in Nevada as a likely repository site. A cadre of world-class scientists have been conducting first-of-a-kind experiments at Yucca Mountain to determine if the site is suitable for the ultimate disposition of spent nuclear fuel from civilian nuclear reactors as well as defense high-level radioactive waste.

Electric consumers have committed \$11 billion since 1983 to finance these studies, a total that includes \$563 million collected from consumers of nuclear electricity generated in South Carolina. Unfortunately, the year 2010 is the earliest possible date that a repository might be ready to accept spent fuel.

In the meantime, nuclear power plants across the country are running out of capacity to store spent fuel. By 1998, 26 plants will have exhausted existing capacity to store spent fuel, including the Oconee and Robinson plants in South Carolina.

In addition to designating Yucca Mountain, the Nuclear Waste Policy Act made the Federal Government responsible for taking title to spent nuclear fuel beginning in 1998.

In order to meet its obligations, therefore, the Federal Government must now develop a temporary storage

facility for spent fuel from the Nation's nuclear power plants. In just 3 years DOE is scheduled to assume responsibility for the spent nuclear fuel from commercial nuclear power plants. It must begin planning now to build and operate a facility to fulfill that obligation.

Legislation introduced in both the Senate and House would develop an integrated approach to spent fuel management, including the construction and operation of a single Federal facility to store spent fuel until a permanent solution is available. Legislation in both Chambers identifies the sensible location for such a storage facility—the Nevada test site.

This Federal facility is the most logical location for such an interim site. It borders Yucca Mountain, a remote, unpopulated, and arid location in the Nevada Desert. Moreover, the site is on land that has been dedicated to underground nuclear testing for more than 40 years, and thus appropriately dedicated to a project like this one.

Building a central storage facility at the Nevada test site does not prejudice the question of whether Yucca Mountain is suitable, but there are tremendous advantages to locating it there. Among the most appealing is ease of transportation of the spent fuel from storage facility to repository.

Building a central storage facility that is operating by 1998 and a repository by 2010 will save electric consumers \$5 billion over the life cycle of the waste management program. These cost savings will be further enhanced, primarily through ease of transportation, if the storage facility is located near the repository site.

Mr. President, the time has come to address the problems that have plagued the Department of Energy's nuclear waste management program. We can take the first step this year by authorizing and using funds already contributed by electricity consumers to develop a central storage facility in Nevada.●

#### DESECRATION OF THE U.S. FLAG

● Mr. HEFLIN. Mr. President, I am pleased to submit for the RECORD the memorializing resolutions from the States of Washington, Hawaii, and Oregon calling on the Congress to pass an amendment to the Constitution that protects the United States flag from desecration. I think these resolutions are a wonderful reminder that the movement and support for an amendment to protect the flag begin at the grassroots level. Up to this point, 49 States have passed memorializing resolutions in support of a flag protection amendment. I ask unanimous consent that the texts of these resolutions be printed in the RECORD.

STATE OF WASHINGTON: SENATE JOINT MEMORIAL 8006

Whereas, Although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn