United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, THURSDAY, JULY 25, 1996 No. 111—Part II

Senate

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. BIDEN addressed the Chair.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I yield to the Senator from Vermont.

AMENDMENT NO. 5018

Mr. LEAHY. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Georgia has 10 minutes and 38 seconds, and the Senator from Vermont has 15 minutes and 29 seconds.

Mr. LEAHY. Mr. President, I assume the time will not start until we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the Senator from Delaware told me he wants 2 minutes, and I yield that to him.

Mr. BIDEN. Mr. President, I am not going to speak to the merits of the legislation. I see my friend from Iowa is in the Chamber. I was going to remain silent on this, but because of the constant partisan references to the President not caring about it, I just want the Record to show one thing. This administration since it came into office has asked for $801 million for this very purpose, and my good friend from Iowa knows the Republican Congress gave him $540 million.

Now, I find it fascinating the Senator from Iowa stands up and berates the administration for its lack of interest, and the Senator from Kansas stands up and says there is no reason we should give this much money because it is better used other places. There is some merit to her argument, but the irony, I just want the Record to show, is that fiscal year 1994 is the only year the President asked for less than the Congress gave him. He asked for 148; he got 170. In 1995, he asked for 227; the Congress gave him 105. In 1996, he asked for 213; the Congress gave him 115. And in 1997, he asked for 213, and the Congress up to now has given him, the proposal is 160, and now our friend from Georgia is getting in line with the President of the United States and getting their act together in asking what the President asked for.

So, I cannot let it go. I am trying not to respond to everything that occurs here. But the fact is, $801 million asked by the President for this function; $540 million thus far granted by the Congress. If this succeeds, and I will support them to raise it up to the President's level of $213 million, from $160 million, that $540 million will move up in the commensurate amount. I thank the Chair and yield the floor.

Mr. GRASSLEY. Mr. President, I appreciate the remarks of the distinguished Senator from Delaware in support of full funding for the international drug program. I would remind him, however, that the cuts to the international program began in 1993 when the Democratic-controlled Congress cut the INL program by 30 percent. The President's requests in 1993 and 1994 were also well below the Bush-era budgets. Even if we vote for the $213 million today, our international narcotics budget will still be over $200 million below the 1992 level. I also remind the Senator that he has been one of the most outspoken critics of this administration drug programs. He has noted the failings. I hope he and others here will join in voting to put this program back on track.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I think one thing should unite all of us, and I think it does. What unites the Senator from Georgia, Mr. COVERDELL, myself, and everybody else in here is that we are opposed to international drug trafficking.

Back when I was a prosecutor we did not have the problem we have now, but I used to throw people in jail for drug trafficking. None of us needs to stand up and say that we declare our opposition to drug traffic.

What bothers me about the Coverdell amendment is that it cuts funds in the bill for international environmental, humanitarian, and development programs. It is going to cut UNICEF by at least $5 million, probably $10 million, potentially as much as $17 million.

I even heard about an organization called Olympic Aid Atlanta, an initiative out of Atlanta, GA, to generate money to help children affected by conflict in 14 countries through UNICEF. They are going to get cut, in all likelihood, because we transfer the funds to counter narcotics.

This amendment is virtually identical to one offered a couple of years ago. That was defeated 57 to 38 in a bipartisan vote. Anybody who doubts what we do, we have spent over $1 billion, that is $1,000 million, on the international narcotics program in the past 6 years. That is only one set of many, many sources on funding to combat drugs overseas. The House version of this year's State, Justice, Commerce appropriation bill has $75 million more for the narcotics programs than the President requested.

We should ask whether we have actually accomplished much since 1987. We did have the predictions we would stop drugs at the source. The amount of coca under cultivation has actually increased. It was 175,000 hectares in 1987; it is 214,000 in 1995. The amount of cocaine produced has gone up. We spent $1 billion—actually a lot more than $1 billion, but the flow of cocaine continues unabated. We destroy one coca field, another gets planted. We arrest

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

Printed on recycled paper containing 100% post consumer waste

one drug trafficker, another takes his place. We find one corrupt official in one of these countries, three more come in. And the market drives it. We all know that.

We are not going to give up. But let us be realistic. Until we stop the demand in this country, this is going to continue. This bill increases—the bill that we have before us, without the amendment by the distinguished Senator from Georgia—increases funding for counternarcotics 39 percent above current levels, the largest increase of any program in this bill. This would increase it another 33 percent. That is a 85 percent increase in 1 year.

Look what we are doing. At the same time our AID budget is going down—AID had to fire 200 employees last week, people with 10, 20 years experience dedicated to this country—the amount of money we know keeps going up. Look how the money has gone up, up, up, up, up—but narcotics do not go down. That is why, yes, work at what we might do, but we are not going to make any change in this by cutting $25 million from the U.N. Environment Program and UNICEF and the World Food Program, the Convention on Endangered Species, to name a few. Some of these programs were cut 50 percent last year.

But, when we end up cutting $5 million to $17 million out of UNICEF to pay for this, or money out of AID's development programs that are already cut 22 percent last year, to cut them another $28 million—I do not agree with this.

The President has requested a lot. But the President requested $12.8 billion for foreign assistance. Our allocation was $12.2 billion. We are already $600 million below what the President requested. If we had another half-billion dollars we could afford this. Unless we want to cut UNICEF, unless we want to cut our contribution to KEDO by half, and our other international development programs, then we cannot afford it. That is the argument we made 2 years ago and we cut it down.

I look at this bill. The first time in 22 years we are already cutting UNICEF. How much more do we want to cut it?

This bill underfunds our contributions to the Korea Economic Development Organization by half. I know the distinguished Senator from Connecticut, Senator LIEBERMAN, along with Senators NUNN, HATFIELD, THOMAS, DASCHLE, LUGAR, SIMON, and myself, are going to try to provide authority for more. But assuming that authority passes, if the Coverdell amendment is agreed to the money is not there. If we do not pay our share of KEDO, then the Secretary of Defense says the risk of the North Koreans breaking the nuclear freeze would rise significantly.

As I said, I fought drug traffic for over 8 years as a prosecutor. I voted for billions of dollars to fight drugs both here and overseas. I know of no Member of this body on either side who does not abhor the drug traffic in this country, what it is doing to our children and to so many others. But we provide a sharp increase for counternarcotics programs in this bill, and if we cut out KEDO, and put North Korea back onto their nuclear program, is that increasing our security? I think, keep the hundreds of millions of dollars we are spending on narcotics, but do not cut these other things that also affect our security. We increase amounts for drugs by cutting UNICEF or cutting international health programs, programs to clean up toxic waste? Let us remember, also where some of this money goes. Some of these funds, unfortunately, go to the Colombian Army or Bolivian police or Peruvian police. They are not going to fight drugs.

We are already giving them a 39 percent increase. Let us accept the fact we want to stop drugs. Let us accept the fact we will do everything possible. But let us not create other problems by cutting UNICEF and KEDO and everything else.

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

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I yield up to 4 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, this amendment, offered by Senator COVERDELL and other Senators including myself, would fully fund the President's International Narcotics Control Account request of $213 million for drug interdiction and eradication efforts. Funds would come from the International Organizations and Program accounts, which are $31 million over the President's request, and from Development Assistance.

Mr. President, Mr. Matthew Robinson, writing in Investors Business Daily, has brought out certain points which I think are very important. He says:

> The Drug Enforcement Agency has lost 227 agents from September '92 to September '95.
>
> Clinton issued an executive order reducing military interdiction efforts, including the elimination of 1,000 antidrug positions.
>
> He shortened mandatory minimum sentences for drug traffickers.
>
> He tried to slash the staff of the Office of National Drug Control Policy by 80% to 25 from 146. Congress has restored funding for some of those slots.
>
> In his '95 budget, he proposed cutting funds for the U.S. Customs Service, the DEA, the Federal Bureau of Investigation, the Immigration and Naturalization Service and the U.S. Coast Guard. The result would have meant 621 fewer agents. Congress again restored some of this funding.
>
> The drug effort has suffered on another level, critics say. The first is in the actual fight against street drugs. Interdiction efforts have suffered under Clinton, drug warriors say.
>
> The military's budget for drug enforcement grew from $4.9 million in '82 to more than $1 billion in '92. It was cut back under Clinton to $700 million in '95.

Mr. President, this amendment should be agreed to. We need to do more in controlling this drug situation, and I urge the Senate to adopt this amendment. I think it will be very helpful.

I thank the able Senator.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. KYL. Mr. President, given the poor record of the Clinton administration on drug enforcement it ought to be enough to simply note that this amendment is needed to bring funding up to the level requested by President Clinton. In an Investors Business Daily article recently, they began by saying:

> In the war on drugs, a bipartisan chorus of critics charges that President Clinton has been AWOL—absent without leadership.

They quote Representative CHARLES RANGEL, a Democrat from New York, who says:

> I have never, never, never seen a President who cares less about this issue.

Representative MAXINE WATERS a Democrat from California says, ''There is no war on drugs.''

The article goes on to note that President Clinton cut the Drug Enforcement Agency by 227 agents; that he issued an Executive order reducing military interdiction efforts, including the elimination of 1,000 antidrug positions; that he shortened mandatory minimum sentences for drug traffickers; that he tried to slash the staff of the Office of National Drug Control Policy by 80 percent, to only 25 people down from 146; and that in his 1995 budget he proposed cutting funds for the Customs Service, the DEA, Federal Bureau of Investigation, INS, and Coast Guard, all of which would result in fewer agents for drug interdiction.

The point here is if the administration has requested the additional amount of money, surely the Congress ought to support it, given the fact that the administration has not exactly been a stalwart supporter of the drug interdiction efforts.

Certainly no one cares more about kids than the Senator from Kansas does. There is simply a difference of opinion of how to proceed here. She makes the point this is significantly more funding than last year, and that's right and that's the point.

Under President Bush, the funding was going up. Under President Clinton, the funding has gone down precipitously. We need to begin to restore that funding so that we will have an adequate effort in regard to this interdiction effort. That is why we should support the amendment of the Senator from Georgia. The funding in this effort needs to be increased. As Senator GRASSLEY said, this is something we have to do for the kids.

Mr. JEFFORDS. Mr. President, I share the concern of my friend, the Senator from Georgia, about the urgency of improving the effectiveness of our anti-narcotics efforts. The threat of international drug trafficking is

very real and our efforts to combat it must become more effective. I agree with many of the Senator from Georgia's criticisms of the current program and believe that significant improvements must be made in the results of our anti-drug program.

The bill before us provides a 40 percent increase in funding for these programs, reflecting the committee's concern that there must be a strong response to the escalation of narcotics trafficking. This is a significant increase that will allow considerable expansion of U.S. efforts abroad.

Yet, the amendment before us would shift an additional $53 million to the counter-drug account. These funds would come from a $25 million cut in the International Operations and Programs account and a $28 million cut in development assistance. Unlike the international narcotics control programs, both the international organizations and programs account and development assistance have sustained significant reductions in the past years. In particular, the international organizations account was sharply reduced for fiscal year 1996, forced cuts in our contributions to organizations such as the United Nations Development Program, the World Food Program, the United Nations Environmental Program and many other worthwhile international organizations.

Development assistance has also been reduced in the past years. This includes funds for Africa, for sustainable development programs to increase world food production, to reduce environmental devastation. This account also funds child survival and disease programs, international debt restructuring and micro enterprise programs—all very worthwhile programs. The problems that these programs seek to solve are equally deserving of our attention, and in many instances, eventually would pose grave problems for the United States if they are ignored.

Mr. President, it is indeed a difficult task to balance the competing priorities of this legislation, all of them very valid in their own right. However, I urge my colleagues to resist this temptation to alter the careful balance that has been struck by the committee.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY. Parliamentary inquiry, Mr. President. How much time is remaining on this side?

The PRESIDING OFFICER. The Senator from Vermont has 6 minutes 10 seconds. The Senator from Georgia has 5 minutes 40 seconds.

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

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I reiterate, none of us are in favor of drug trafficking. I suspect none of us are in favor of the millions, many millions, of dollars we spend on foreign interdiction that goes into the pockets of corrupt officials either.

But I will say, with the huge increase in counternarcotics money that is in here already, let's not even go beyond that and do it by cutting UNICEF and cutting Korean economic development and other things that are also in our best interest.

Several Senators addressed the Chair.

Mr. BIDEN. Will the Senator yield me 1 minute?

Mr. LEAHY. I yield the Senator from Delaware 1 minute.

Mr. BIDEN. Mr. President, I heard again, this time from our friend from Arizona, about the President's flagging effort on drugs and Bush up, Clinton down. Let's get the record straight.

There was over $300 million more requested by the President for this very function than the Congress is willing to give him. The Republican Congress in the Senate last year cut the FBI by $112 million, cut the drug task force by $19 million, cut the number of prosecutors by $19 million. Let's stop this.

I think it makes sense to do what the Senator from Georgia wants to do. Let's do it and stop this partisan malarkey. The facts do not sustain the assertions.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COVERDELL. Mr. President, I yield up to 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let's face it, since this administration has taken over, there has not been a war on drugs, not a real effort on drugs. They cut the drug czar's office. They have cut interdiction. They have cut facilities in the transit zones. They have not put the moneys where the moneys should go. They are not effectively spending them, and I have accused the President of being AWOL on drugs, or absent without leadership on drugs.

I don't think many Democrats or Republicans disagree with that statement. The fact is they have been AWOL on drugs, and there is a cavalier attitude down at the White House: ''So what. Don't all young people use drugs?''

My gosh, all young people don't use drugs, and there are a lot of people who have repented and are now fighting the battle side by side with us. I commend them for having done it. I recommend the people in the White House do the same thing.

I have been appalled by what has been happening. Our borders are a sieve. Now we have these drug lords coming in and buying up ranches at exorbitant prices. Ranchers are glad to get out of there because they feel intimidated. They feel they are being mocked. They feel that they are being overrun. They feel that they are going to be murdered. So why not sell out at exorbitant prices and get through it?

Let's be honest about it, Federal law enforcement has been under severe strain, just as the technical sophistication of drug trafficking syndicates is reaching new heights. A report prepared by the Judiciary Committee finds that the administration supply reduction policy is in utter disarray, with a 53-percent drop in our ability to interdict and push back drug shipments in the transit zone. The report also finds increases in the purity of drugs and the number of drug-related emergency room admissions of hard-core users.

If you look at it, it is a disgrace. I think what the distinguished Senator from Georgia is trying to do is right. He is trying to put money back in, put money where our mouths happen to be and start helping to bolster this administration to do what it should do to begin with.

I don't have faith in the administration doing what is right in the drug war, and I don't think others do. By gosh, I think we ought to support the amendment of the Senator from Georgia. I hope people will.

I ask unanimous consent that the introduction of a report we did in the Judiciary Committee, entitled ''Losing Ground Against Drugs,'' be printed in the RECORD.

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

LOSING GROUND AGAINST DRUGS (EXCERPT)

INTRODUCTION

Through the 1980s and into the early 1990s, the United States experienced dramatic and unprecedented reductions in casual drug use.

The number of Americans using illicit drugs plunged from 24.7 million in 1979 to 11.4 million in 1992. The so-called ''casual'' use of cocaine fell by 79 percent between 1985 and 1992, while montly cocaine use fell 55 percent between 1988 and 1992 alone—from 2.9 million to 1.3 million users.

On the surface, little appears to have changed since 1992. For the nation as a whole, drug use remains relatively flat. The vast majority of Americans still do not use illegal drugs.

Unfortunately, this appearance is dangerously misleading. Drug use has in fact experienced a dramatic resurgence among our youth, a disturbing trend that could quickly return the United States to the epidemic of drug use that characterized the decade of the 1970s.

Recent surveys, described in detail in this report, provide overwhelming evidence of a sharp and growing increase in drug use among young people:

The number of 12–17 year–olds using marijuana increased from 1.6 million in 1992 to 2.9 million in 1994. The category of ''recent marijuana use'' increased a staggering 200 percent among 14–15 year-olds over the same period.

Since 1992, there has been a 52 percent jump in the number of high-school seniors using drugs on a monthly basis, even as worrisome declines are noted in peer disapproval of drug use.

One in three high school seniors now smokes marijuana.

Young people are actually more likely to be aware of the health dangers of cigarettes than of the dangers of marijuana.

Nor have recent increases been confined to marijuana. At least three surveys note increased use of inhalants and other drugs such as cocaine and LSD.

Drug use by young people is alarming by any standard, but especially so since teen drug use is at the root of hard-core drug use by adults. According to surveys by the Center on Addiction and Substance Abuse, 12–17 year-olds who use marijuana are ''85 times more likely to graduate to cocaine than those who abstain from marijuana.'' Fully 60 percent of adolescents who use marijuana before age 15 will later use cocaine. Conversely, those who reach age 21 without ever having used drugs almost never try them later in life.

Described any other way, perhaps 820,000 of the new crop of youthful marijuana smokers will eventually try cocaine. Of these 820,000 who try cocaine, some 58,000 may end up as regular users and addicts.

The implications for public policy are clear. If such increases are allowed to continue for just two more years, America will be at risk of returning to the epidemic drug use of the 1970s. Should that happen, our ability to control health care costs, reform welfare, improve the academic performance of our school-age children, and defuse the projected ''crime bomb'' of youthful super-predator criminals, will all be seriously compromised.

With these thoughts in mind, I am pleased to present ''Losing Ground Against Drugs: A Report on Increasing Illicit Drug Use and National Drug Policy'' prepared at my direction by the majority staff of the United States Senate Committee on the Judiciary. This report examines trends in drug use and the Clinton Administration's sometimes uneven response to them, including the Administration's controversial policy of targeting chronic, hardcore drug users. The report also reviews the state of trends in use and availability. And, finally, it evaluates the performance over the past three years of our nation's criminal justice and interdiction systems.

The report finds federal law enforcement under severe strain just as the technical sophistication of drug trafficking syndicates is reaching new heights. It finds that the Administration's supply reduction policy is in utter disarray, with a 53 percent drop in our ability to interdict and push back drug shipments in the transit zone. The report also finds increases in the purity of drugs and the number of drug-related emergency room admissions of hard-core users.

Federal drug policy is at a crossroads. Ineffectual leadership and failed federal policies have combined with ambiguous cultural messages to generate changing attitudes among our young people and sharp increases in youthful drug use.

The American people recognize these problems and are increasingly concerned: A Gallup poll released December 12, 1995 shows that 94 percent of Americans view illegal drug use as either a ''crisis'' or a ''very serious problem.'' Their concern, which I share, underscores the danger of compromising our struggle against the drug trade. I look forward to addressing the issues raised in this report in future hearings of the United States Senate Committee on the Judiciary.

Several Senators addressed the Chair.

Mr. BIDEN. Will the Senator yield me 30 seconds?

Mr. LEAHY. I yield myself first 1 minute.

Mr. President, I heard his ad hominem attack on the Clinton administration. I have always found the best prosecutions are those that don't become prosecutions but rise above partisanship.

I point out that the Clinton administration has appointed General McCaffrey as drug czar. For the first time, certainly since I have been here, I have seen somebody who really can be a drug czar.

Maybe people have different attitudes. I know the Speaker of the House, who is about my age, implies that all people during the time he was growing up in his age category used drugs, himself included. Mr. President, I never did. I believe perhaps because at that age I was out prosecuting people using drugs. I have never had any desire to. I have never used them.

Let's stop these ad hominem things. If Senators want to say whether they prefer using them or not, fine, but this administration has fought, as other administrations have fought, Republican and Democrat, to stop drug usage.

But let us also acknowledge something, and this is the fact that everybody, Republican and Democrat, has to stand up and admit: simply throwing the money at the drug problem does not make it go away. Whether it is the Speaker of the House saying everybody of that age used drugs or not, that does not make it go away. It is going to take a lot more than simply throwing money at this drug problem to make it go away.

I yield 30 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, I know this is asking a lot, but let's just examine the logic of what is being said here. My friend from Utah stands up and says, ''Restore what we need to restore. Make the President do what he should do.''

What are we doing? The Senator from Georgia is restoring the request of the President. What are these guys talking about? The President is the one who asked for the money the Senator from Georgia says he should get. Now my friend from Utah says, ''Now what we must do is restore this war on drugs.''

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

Mr. BIDEN. So has the logic in this place.

Mr. LEAHY. Mr. President, I say to the Senator, I will be happy to yield the time back and go to a vote, so some people can go home and go to bed.

Mr. COVERDELL. I will use some of my time. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 3 minutes; the Senator from Vermont has 2 minutes.

Mr. COVERDELL. Mr. President, there is an incongruity here between myself and the Senator from Vermont. I just heard the Senator from Vermont say, ''You don't throw money at the drug program,'' and then the Senator from Delaware. So, you are suggesting the President is throwing money away?

This is the President's request, and to the Senator from Delaware, when it is fulfilled, it is still only up to half what it was in 1992. It is moving in the right direction. It is not a dollar more.

Now the Senator from Vermont has also suggested that, by moving this money to this international narcotics fund, it is cutting international organizations and programs. That is simply not so. The money we took from international organizations and programs is from the surplus that was over the President's request. So all I have done is taken that additional money over and above the President's request and moved it over to fulfill the President's request, which seems eminently logical to me given the condition of the drug epidemic in the United States, given the fact that this is a Presidential request, and given the fact that we are simply removing money from a surplus that the President did not request.

I have to say, given the condition of children in our country, I think the President is right on this one. I am perplexed that the other side of the aisle would be trying to thwart the President's own objectives here.

Mr. President, I do yield back whatever time is remaining.

The PRESIDING OFFICER. The Senator yields back his remaining time. The Senator from Vermont is recognized for 2 minutes.

Mr. LEAHY. Mr. President, I will take the same amount of time as the Senator from Georgia just did.

There is no surplus. UNICEF has already been cut $10 million and will be cut more under this. The Korean Economic Development Organization, KEDO, is not funded. We are going to try to have the authorization for it, but it will not be funded. Our own Secretary of Defense tells us, if it is not, we face very, very serious problems in North Korea.

The fact of the matter is, there is no surplus. This money has to come from somewhere. It will come from further cuts in UNICEF. It will come from the inability to fund KEDO. It will come from a number of those other areas.

Mr. President, I understand that in an election year nobody wants to somehow seem to be weak on drugs. I understand that even if we, no matter how much we demonstrate so much of this money has, in all administrations, gone into the pockets of corrupt individuals, no matter how much we want to say we have other security interests, too, like avoiding nuclear capabilities in North Korea, that somehow having already raised substantially the amount of money in this budget for narcotics way above anything else, we may even raise it more. Let us just go vote. I yield back my time.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be 10 minutes equally divided on the Brown amendment prior to the vote.

AMENDMENT NO. 5058, AS FURTHER MODIFIED

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Senator BROWN be allowed to modify his amendment to reflect the compromise reached by the Senators from Georgia and Delaware.

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

Mr. McCONNELL. I send the modification to the desk.

The amendment, as further modified, is as follows:

On page 198, between lines 17 and 18, insert the following:

TITLE ____—NATO ENLARGEMENT FACILITATION ACT OF 1996

SEC. ___01. SHORT TITLE.

This title may be cited as the ''NATO Enlargement Facilitation Act of 1996''.

SEC. ___02. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

(6) NATO has enlarged its membership on 3 different occasions since 1949.

(7) Congress supports the admission of qualified new members to NATO and the European Union at an early date and has sought to facilitate the admission of qualified new members into NATO.

(8) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe should be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making available the resources necessary to supplement efforts prospective new members are themselves undertaking.

(9) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the Washington Treaty.

(10) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

(11) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

(12) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

(13) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the North Atlantic Treaty would contribute to international peace and enhance the security of the region. Countries which have become democracies and established market economies, which practice good neighborly relations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the North Atlantic Treaty.

(14) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

(15) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine means to strengthen the sovereignty and enhance the security of U.N. recognized countries in that region.

(16) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(17) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(18) The Congress of the United States finds in particular that Poland, Hungary, the Czech Republic, and Slovenia have made significant progress toward achieving the stated criteria and should be eligible for the additional assistance described in this bill.

(19) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

(20) The process of NATO enlargement entails the agreement of the governments of all NATO members in accordance with Article 10 of the Washington Treaty.

Some NATO members, such as Spain and Norway, do not allow the deployment of nuclear weapons on their territory although they are accorded the full collective security guarantees provided by article V of the Washington Treaty. There is no prior requirement for the stationing of nuclear weapons on the territory of new NATO members, particularly in the current security climate, however NATO retains the right to alter its security posture at any time as circumstances warrant.

SEC. ___03. UNITED STATES POLICY.

It is the policy of the United States—

(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership; and

(3) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

SEC. ___04. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.

It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine—

(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members to the NATO Alliance.

SEC. ___05. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA, AND LITHUANIA.

In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

SEC. ___06. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 and shall be deemed to have been so designated pursuant to section 203(d) of such Act: Poland, Hungary, the Czech Republic, and Slovenia.

(b) DESIGNATION OF OTHER COUNTRIES.—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

(1) have expressed a clear desire to join NATO;

(2) have begun an individualized dialogue with NATO in preparation for accession;

(3) are strategically significant to an effective NATO defense; and

(4) meet the other criteria outlined in section 203(d) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note).

(c) RULE OF CONSTRUCTION.—Subsection (a) does not preclude the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. ___07. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—There are authorized to be appropriated $60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994.

(b) AVAILABILITY.—Of the funds authorized to be appropriated by subsection (a)—

(1) not less than $20,000,000 shall be available for the subsidy cost, as defined in section 502(5) of the Credit Reform Act of 1990, of direct loans pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the ''Foreign Military Financing Program'');

(2) not less than $30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the ''Foreign Military Financing Program''); and

(3) not more than $10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

(c) RULE OF CONSTRUCTION.—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

SEC. ___08. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.

(a) IN GENERAL.—Funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(1) the procurement of items in support of these programs; and

(2) the transfer of such items to countries participating in these programs, which may include Poland, Hungary, the Czech Republic, Slovenia, Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Moldova, Ukraine, and Albania.

(b) FUNDS DESCRIBED.—Funds described in this subsection are funds that are available—

(1) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

SEC. ___09. EXCESS DEFENSE ARTICLES.

(a) PRIORITY DELIVERY.—Notwithstanding any other provision of law, the provision and delivery of excess defense articles under the authority of section 203(c) (1) and (2) of the NATO Participation Act of 1994 and section 516 of the Foreign Assistance Act of 1961 shall be given priority to the maximum extent feasible over the provision and delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1640).

(b) COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

SEC. ___10. MODERNIZATION OF DEFENSE CAPABILITY.

The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, Slovenia, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994, by exploring with such countries options for the sale or lease to such countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

SEC. ___11. TERMINATION OF ELIGIBILITY.

Section 203(f) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(f) TERMINATION OF ELIGIBILITY.—(1) The eligibility of a country designated under subsection (d) for the program established in subsection (a) shall terminate 30 days after the President makes a certification under paragraph (2) unless, within the 30-day period, the Congress enacts a joint resolution disapproving the termination of eligibility.

''(2) Whenever the President determines that the government of a country designated under subsection (d)—

''(A) no longer meets the criteria set forth in subsection (d)(2)(A);

''(B) is hostile to the NATO Alliance; or

''(C) poses a national security threat to the United States,

then the President shall so certify to the appropriate congressional committees.

''(3) Nothing in this title affects the eligibility of countries to participate under other provisions of law in programs described in this Act.''.

SEC. ___12. AMENDMENTS TO THE NATO PARTICIPATION ACT.

(a) CONFORMING AMENDMENT.—The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended in sections 203(a), 203(d)(1), and 203(d)(2) by striking ''countries emerging from communist domination'' each place it appears and inserting ''emerging democracies in Central and Eastern Europe''.

(b) DEFINITIONS.—The NATO Participation Act of 1994 (title II of Public Law 103–446; 22 U.S.C. 1928 note) is amended by adding at the end the following new section:

''SEC. 206. DEFINITIONS.

''The term 'emerging democracies in Central and Eastern Europe' includes, but is not limited to, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, and Ukraine.''.

SEC. ___13. DEFINITIONS.

As used in this title:

(1) EMERGING DEMOCRACIES IN CENTRAL AND EASTERN EUROPE.—The term ''emerging democracies in Central and Eastern Europe'' includes, but is not limited to, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, and Ukraine.

(2) NATO.—The term ''NATO'' means the North Atlantic Treaty Organization.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Chair recognizes the Senator from Colorado.

Mr. BROWN. Let me thank the Senator from Kentucky for his kindness. We have worked out the concerns of the distinguished Senator from Delaware and the Senator from Georgia as well as worked out the issue raised by the Senator from Illinois. This measure is an important and historic measure because it fulfills our commitment for a community of freedom, a commitment for embracing freedom in central Europe. This is one more step forward towards ensuring the security of northern Europe and a continuation, I think, of our effort to ensure that the blessings of democracy and freedom are not lost in central Europe. Madam President, I think the concerns of other Members have been worked out.

I might mention I think Senator MIKULSKI does have a concern she wants to articulate. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I rise today to support the modifications to the amendment by the Senator from Colorado, the NATO Enlargement Facilitation Act of 1996. Mr. President, my principal modification is straightforward: it adds the Republic of Slovenia to the current list of three countries that Congress finds as having made significant progress toward achieving the stated NATO membership criteria and are therefore eligible for additional assistance described in the bill.

Mr. President, Slovenia should join Poland, the Czech Republic, and Hungary on this list for the following reasons:

First, Slovenia's progress in meeting the NATO membership criteria has been second to none, and probably the very best in Central Europe.

Second, Slovenia would provide the essential land-bridge linking current NATO member Italy and likely future NATO member Hungary.

Third, Slovenia is the only country in the area that has recently proven its military tenacity and, hence, its ability to contribute to the security of NATO, having successfully defeated the invasion attempt of the Yugoslav National Army in 1991.

Mr. President, in offering this amendment I want to underscore that I have not yet made up my mind about how I will vote on the NATO candidacy of any individual country. The answers to the questions posed by the senior Senator from Georgia in this amendment to the Defense authorization bill for fiscal year 1997 will help form my opinion on NATO enlargement in general. How well applicant countries fulfill Alliance membership criteria will, of course, be a determining factor in my ultimate vote on individual candidacies.

I do believe, however, that the amendment to the Foreign Operations appropriations bill currently offered by the Senator from Colorado is a prudent one, in that it seeks in a modest way to assist a small group of countries who have made the greatest progress toward meeting the NATO membership criteria. My amendment simply recognizes the fact that Slovenia indisputably belongs in that small group.

Mr. President, Slovenia is a small country of 2 million citizens in the far northwestern corner of the former Yugoslavia. Without fanfare and without the publicity that has accompanied change elsewhere behind the former Iron Curtain, Slovenia has rapidly created a solid democracy and a prosperous market economy. Its Western European-style coalition government is a model of stability. Economically, Slovenia now can boast of a per capita GNP approaching ten-thousand U.S. dollars, by far the highest of any country wishing to join NATO.

Moreover, Slovenia has put its nose to the grindstone, strenuously attempting to fulfill the membership criteria that the Alliance has announced. What has been the result?

Mr. President, no less an authority than U.S. Secretary of Defense William Perry flatly stated last year that of all the countries of Central and Eastern Europe ''Slovenia has made perhaps the greatest progress in the transition to democracy, the transition to a market economy, and the smooth turnover of the military to civilian control.'' That, I would submit, is no small praise.

Slovenia's geographical location also argues strongly for its inclusion in the likely first group of new NATO members. Wedged between the northern Adriatic Sea and the Alps, it connects Italy, a charter member of NATO, with Hungary, which appears in the bill's list of preferred applicants and, solely on the basis of its accomplishment, would likely be in the first group admitted to the Alliance. Without Slovenia in the Alliance, however, Hungary would not be contiguous with NATO territory, a situation which could harm its chances for admission in the first group.

It must be added that this spring Italy and Slovenia settled a long-standing dispute over property rights, thereby clearing the way for Slovenia to sign an Association Agreement with the European Union and further cementing its ties to Western Europe.

Finally, Mr. President, little Slovenia—alone among NATO applicants—has proven that it can defend itself and be a net contributor to the security of the Western Alliance. After declaring its independence from the crumbling Yugoslavia in the spring of 1991, Slovenia had to face an invasion by the Serbian-led Yugoslav National Army or J.N.A. For ten days Slovenia stunned the world by routing the better armed and numerically superior invaders, until they withdrew, tacitly acknowledging Slovene independence.

So, Mr. President, by any standard Slovenia deserves to be included with Poland, the Czech Republic, and Hungary in the list of countries that are eligible for targeted United States transition assistance.

I would close with two brief observations. First, including Slovenia in this group would not only constitute recognition of its remarkable political, economic, and military record over the past 5 years; it would also serve to destroy the unfortunate stereotype emerging from the dreadful Balkan warfare that all South Slavs are incorrigibly violent people who cannot cooperate to improve their situation.

Finally, adding Slovenia to the bill's preferred list would lend more credibility to Congress's response to the NATO enlargement process. It would demonstrate that we are clearly focused on strengthening NATO and not, as some assert, only responding to interest-group politics. There are, to be sure, Slovene-Americans who undoubtedly have a special desire for Slovenia to join NATO, but they have not been especially active on Capitol Hill. There are undoubtedly Delawareans of Slovene descent, but to the best of my knowledge I have never been approached by any of them in regard to this issue.

Mr. President, because of its outstanding criteria-based accomplishments, its geostrategically important location, and its proven military record, Slovenia deserves to join Poland, the Czech Republic, and Hungary as eligible for additional transition assistance for NATO membership. I urge my colleagues to vote for the Brown Amendment as modified.

I thank the chair and yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise very briefly to thank the Senator from Colorado, the distinguished occupant of the chair, for the extraordinary leadership he has shown in conceiving this proposal and shepherding it now to the point where it can be adopted by the Senate. It has been my honor to work with him on this as a cosponsor.

History is a term that is used probably too often around the Capitol, but to my way of thinking, this is a historic enactment that we are about to make because, in enacting this amendment, we are essentially saying more strongly than we ever have that the Congress of the United States is prepared to welcome into NATO, but more broadly into the community of democracies of market economies, those nations that suffered under the yoke of Communist tyranny for so long during the cold war and are now free and working their way toward being eligible for membership in NATO.

This measure, in concrete terms, not only expresses that policy, but puts some money behind that policy in offering to those nations that are most ready to enter NATO some wherewithal to help make that happen. To my way of thinking, what we are doing here tonight is, in some measure, ratifying and hoping to make permanent the victory that freedom won in the cold war.

For all that time in the cold war, we spoke often of those people who were suffering in the ''captive nations.'' The people of those nations, including, may I say, the people of Russia, fought and dreamed and worked and finally achieved their freedom. Now these countries of central and Eastern Europe who want to get into NATO are really saying to us they want to cast their lot for the future, not just with the West but with what the West means, which is freedom, the values of democracy.

They are also accepting an obligation therein, which is the great task that NATO has achieved. NATO has not just been a defensive alliance; it has been an institution in which the countries of Europe could work to reconcile their own conflicts, work to avoid the old balance-of-power relationships that too often led to war.

As we reach out and embrace these new countries that have attained their freedom and want to enter NATO, I do not think we are doing anything here that should or would threaten Russia. What we are doing is creating stability among the nations of Europe, Western, Central, and Eastern, and guaranteeing as best we can for those millions of people who live within those countries the basic human and economic rights with which we in our own formative documents have said each person is endowed with by our Creator.

So it is a great step forward, and I thank all our colleagues who have helped to make it happen. I thank the Chair particularly, and I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I commend my colleague from Colorado for his leadership on this. The reality is this is a step forward for stability in central Europe. Two other provisions in here I think are significant. That is, we open the door to the possibility at some future time for Armenia and some of the other Newly Independent States there. The second thing; in Russia and in Belarus and in a few of the countries, there is a fear of nuclear weapons being established at their doorstep. The resolution points out that Spain and Norway, who are current members of NATO, do not have nuclear weapons and still are members of NATO.

My hope is that stations of nuclear weapons which have no military significance can be avoided. I think it will diminish fears, in Russia particularly.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I am proud to join my colleagues in supporting and cosponsoring this amendment to enlarge NATO. I support NATO enlargement because I do believe it will make Europe more stable and secure. It will mean that the new democracies of central and Eastern Europe will share the burden of European security. It could mean that future generations of Americans might not be sent to Europe to fight for Europe.

Mr. President, a word about Poland. As an American of Polish heritage, I know that the Polish people did not choose to live behind the Iron Curtain. In 1939, when Poland was invaded by the Nazis, the West was silent and talked about peace, but it was appeasement. After the end of the war, they were forced by the Yalta agreement, by Potsdam and the very West itself, to put them behind the Iron Curtain.

During World War II, my great grandmother, who came to this country from Poland, had three pictures on her mantelpiece when I would go to her home. One of Pope Pius the XII, our spiritual leader, the other of my Uncle Joe who was on the police force, and President Roosevelt, because she believed that President Roosevelt was good for America and the world.

After Yalta and Potsdam, my great grandmother turned Roosevelt's picture down on the mantel. She would not take him down because she was a Democrat, but she was pretty mad at Roosevelt, as were so many other people.

I cannot forget the history of this region. But my support for this amendment is not based on the past. It is based on the future, a future which these newly free and democratic countries will take their rightful place as members of Western Europe. That is where they want to be, with Western Europe. NATO did play an important role in securing the freedom of the world and ending the cold war. This has been an alliance that helped us win the cold war, a deterrent between the superpowers. It helped prevent confrontations between member states.

I know if NATO is to survive, it must adopt to the needs of the end of the cold war. NATO has evolved since 1949 and this is the next important step in NATO enlargement. How many times have we talked burden sharing in Europe? These countries are ready to do it. Thousands of troops from Poland, Hungary, the Czech Republic, the Baltics, Ukraine, and others are there to help secure peace. They are not asking for a handout. They are asking for a chance to be part of NATO. This amendment puts Poland, Hungary, and the Czech Republic into NATO where it runs them up where they belong.

Some people believe we will offend Russia by expanding NATO. Maybe we will. And my response to that is, so what? So what if we offend Russia? We must delink the future of Poland, Hungary and the Czech Republic from what Russia thinks.

I was offended when Russia invaded Hungary in 1956. I was offended when they forced Poland behind the Iron Curtain and made them an involuntary Communist nation. I was offended by what the Russians did around the world for over 50 years. So, now, I want to support this amendment to enlarge NATO, to secure Europe in a better way, and I hope, after we take this vote tonight, that I can go back to my great grandmother's home and put not only Roosevelt's picture back up, but HANK BROWN and so many other people here.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, the amendment offered by the distinguished Senator from Colorado [Mr. BROWN] is an important step for the countries of Central and Eastern Europe who seek to ensure their security and sovereignty as full members of the NATO Alliance.

As an original cosponsor of this legislation when it was introduced in June—the last foreign policy initiative authored by Senator Dole before he left the Senate—I am pleased to be a cosponsor of Senator BROWN's amendment.

This legislation serves to correct the terrible injustice perpetrated at Yalta half a century ago, when for reasons of political expediency artificial divisions were imposed on Europe, subjecting countries with democratic traditions similar to those in Western Europe to decades of communist domination. In the years since the Iron Curtain was lifted from the European continent, many countries in Central and Eastern Europe have made dramatic progress in resurrecting their democratic histories and instituting reform measures that solidify their commitment to the democratic ideals espoused by members of the NATO Alliance.

I firmly believe that enlarging NATO to include those countries which are capable of contributing to the Alliance is in the interests of the United States. Our country knows too well the danger of allowing a security vacuum to persist in this region and should work actively to encourage closer ties between the countries in Central and Eastern Europe and the West. Since they regained their freedom, many countries in this region have worked diligently to implement the democratic and free market reform measures which were essential to reversing years of ill founded communist policies. The Brown amendment establishes a program that will assist these countries as they prepare for the rights and responsibilities of full NATO membership.

The Brown amendment recognizes that Poland, the Czech Republic, and Hungary and Slovenia have made the most progress in implementing important reform measures such as establishing a free market economy, instituting civilian control over the military, and introducing the rule of law. These three countries are designated as eligible to receive the NATO transition assistance already appropriated in this bill. Let us show our friends in Central and Eastern Europe that we will never again abandon them to the forces of dictatorship and tyranny and that we will work side by side in partnership to create a lasting free and democratic Europe.

I urge my colleagues to support the Brown amendment.

THE NATO ENLARGEMENT FACILITATION ACT OF 1996

Mr. ROTH. Mr. President, I have long supported NATO, and the extension of membership in this transatlantic institution to the new democracies of Central and Eastern Europe. And today I wish to express my support for the NATO Enlargement Facilitation Act of 1996—extremely important legislation which I also cosponsor.

This bill is designed specifically to support and foster the careful, gradual extension of NATO membership to the nations of Central and Eastern Europe. Once passed, this bill will direct tangible assistance to the efforts of Poland, the Czech Republic, and Hungary to join the Alliance. These nations are the best prepared in their region for the responsibilities and burdens of NATO membership.

Let me also emphasize that it is the intent of the authors of this bill to ensure that the entry of Poland, Hungary, and the Czech Republic into the Alliance is part of an inclusive and ongoing process of NATO enlargement.

NATO enlargement does not have to, and should not be allowed to, create any new divisions in Europe. Hence, our bill explicitly states that the United States should continue and expand upon its support for full and active participation of all Central and Eastern European countries in activities appropriate for qualifying for NATO membership.

This legislation clearly outlines a vision of NATO enlargement, an on-going process that will reach out to all the nations of Central and Eastern Europe as they become capable of making a net contribution to the Alliance's overall interests, capabilities, and security.

Extending the Alliance's membership to Poland, the Czech Republic and Hungary, will help transform Central and Eastern Europe into a cornerstone of enduring peace and stability in post-cold war Europe. NATO enlargement is in America's interests for many reasons. Principal among these include the following:

First, it is absolutely necessary to consolidate and secure an enduring and stable peace in Europe. This is a continent where America has vital interests and it is a continent that, historically speaking, has been besieged by violent and brutal wars. NATO enlargement will project security into a region that has long suffered as a security vacuum in European affairs. History has repeatedly shown us that the strategic vulnerability of Central and Eastern Europe has produced catastrophic consequences—consequences that drew the United States twice this century into world war.

The most effective way to address this security vacuum in Central and Eastern Europe is by integrating these nations into NATO and the other institutions that constitute the transatlantic community of nations.

Second, NATO enlargement will help facilitate this integration, both politically and economically. NATO enlargement is a key step to extending to the entire continent of Europe the zone of peace, democracy, and prosperity that now includes North America and Western Europe. Passage of our NATO enlargement legislation will demonstrate America's commitment to consolidating an enlarged Europe. This will give more incentive to all the nations of the region to continue their political and economic reforms by demonstrating that these reforms do result in tangible geo-political gains.

By projecting and reinforcing stability in Central and Eastern Europe, NATO enlargement will consolidate the context necessary for this region's nations to focus on internal political and economic reform. Mr. President, security is not an alternative to reform, but it is essential for reform to occur.

Third, two great powers, Germany and Russia, are now undergoing very complex and sensitive transformations. Their futures will be significantly shaped by the future of Central and Eastern Europe. Extending NATO membership to nations of this region will reinforce the positive evolutions of these two great powers.

In the case of Germany, NATO enlargement will further lock German interests into a transatlantic security structure and thereby further consolidate the extremely positive role Bonn now plays in European affairs.

The extension of NATO membership to Central and East European nations will also be of great benefit to Russia. By enhancing and reinforcing stability and peace in Central and Eastern Europe, NATO enlargement will make unrealistic the calls by Russia's extremists for the revitalization of the former Soviet Union or the Westward expansion of Russian hegemony. Greater stability along Russia frontiers will also enable Moscow to direct more of its energy toward the internal challenges of political and economic reform.

This point is too often forgotten in this debate. There has been too strong a tendency in US policy to overreact to outdated Russian sensitivities. This overreaction comes at the expense of strategic realities and objectives central to the interests of the Alliance, as well as to the United States.

Let me add, Mr. President, that Russian opposition to NATO enlargement is withering and appears to be in the process of being replaced by a more enlightened understanding of the motivations behind NATO enlargement. I would like my colleagues to note an interview in today's Financial Times with General Alexander Lebed, who declared that Russia does not oppose NATO enlargement. Lebed was recently appointed by Russian President Yeltsin as Secretary of Russia's National Security Council. Lebed also finished third in the first round of the Russian presidential elections. Thus, his statement reflects positively on both the attitudes of the Russian public and official Russian policy toward NATO enlargement.

Mr. President, I would also like to note that this NATO enlargement legislation reflects the attitudes of many of our parliamentary counterparts in Europe. The North Atlantic Assembly, a gathering of legislators from the sixteen nations of NATO, adopted at the end of 1994, my resolution calling for the extension of membership in the Alliance to Poland, the Czech Republic, and Hungary.

Mr. President, America's defense and security must be structured to shape a strategic landscape that enhances economic, political, and military stability all across Europe. Careful and gradual extension of NATO membership to nations of Central and Eastern Europe is a critical step toward this end. This is in our national interest. It is action long overdue, and it is the intent of the NATO Enlargement Facilitation Act of 1996.

For these reasons, I call upon my colleagues in the Senate, as well as President Clinton and his Administration, to embrace this legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia [Mr. COVERDELL].

The yeas and nays have been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that following the conclusion of these two votes, the only remaining amendments in order to H.R. 3540 be a managers' amendment and an amendment to be offered by Senator SIMPSON, relative to refugees, on which there be 30 minutes to be equally divided in the usual form, with no second-degree amendments in order or amendments to the language proposed to be stricken; and an amendment by Senator LIEBERMAN with a second-degree amendment in order by Senator MURKOWSKI, and possibly one by Senator MCCONNELL; following the conclusion of the debate with respect to the amendments listed above, the amendments be laid aside, the votes to occur at 9:30 a.m. on Friday, with 2 minutes for debate prior to each stacked vote on or in relation to the Simpson amendment, to be followed by votes with respect to the other amendments, to be followed immediately by third reading and final passage of H.R. 3540.

Mr. FORD. Reserving the right to object, do I understand the floor leader, then, that we will have two more votes this evening, the debate, and then stack the votes until 9:30 in the morning, and then final passage?

Mr. McCONNELL. That is right.

Mr. FORD. Two votes tonight?

Mr. McCONNELL. That is correct.

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

Mr. McCONNELL. In light of this agreement, there will be no further rollcall votes this evening after two back-to-back votes to shortly begin, with the first votes tomorrow to begin at 9:30 a.m.

VOTE ON AMENDMENT NO. 5018

The PRESIDING OFFICER. The question is on agreeing to amendment No. 5018 offered by the Senator from Georgia Mr. [COVERDELL].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Maine [Mr. COHEN] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''nay.''

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

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

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—51

Abraham	Faircloth	McCain
Ashcroft	Frahm	McConnell
Baucus	Frist	Murkowski
Bennett	Gorton	Nickles
Biden	Graham	Pressler
Bond	Gramm	Roth
Brown	Grams	Santorum
Burns	Grassley	Shelby
Campbell	Gregg	Simpson
Chafee	Hatch	Smith
Coats	Helms	Snowe
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Mack	Warner

NAYS—46

Akaka	Harkin	Mikulski
Bingaman	Heflin	Moseley-Braun
Boxer	Hollings	Moynihan
Bradley	Inouye	Murray
Breaux	Jeffords	Nunn
Bryan	Johnston	Pell
Bumpers	Kassebaum	Pryor
Byrd	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Feingold	Leahy	Wellstone
Feinstein	Levin	Wyden
Ford	Lieberman	
Glenn	Lugar	

NOT VOTING—3

Cohen	Exon	Hatfield

The amendment (No. 5018) was agreed to.

Mr. SANTORUM. Mr. President, I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 5058

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 5058 offered by the Senator from Colorado [Mr. BROWN]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Maine [Mr. COHEN] and the Senator from Oregon [Mr. HATFIELD] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''nay.''

Mr. FORD. I announce that the Senator from Nebraska [Mr. EXON] is necessarily absent.

The result was announced—yeas 81, nays 16, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—81

Abraham	Frahm	McCain
Akaka	Frist	McConnell
Ashcroft	Glenn	Mikulski
Baucus	Gorton	Moseley-Braun
Bennett	Graham	Moynihan
Biden	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Brown	Gregg	Pressler
Bryan	Hatch	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Conrad	Kassebaum	Sarbanes
Coverdell	Kempthorne	Shelby
Craig	Kennedy	Simon
D'Amato	Kerry	Simpson
Daschle	Kohl	Smith
DeWine	Kyl	Snowe
Dodd	Lautenberg	Specter
Domenici	Levin	Stevens
Faircloth	Lieberman	Thompson
Feingold	Lott	Thurmond
Feinstein	Lugar	Warner
Ford	Mack	Wellstone

NAYS—16

Bingaman	Harkin	Nunn
Bradley	Hutchison	Pell
Breaux	Jeffords	Thomas
Bumpers	Johnston	Wyden
Chafee	Kerrey	
Dorgan	Leahy	

NOT VOTING—3

Cohen	Exon	Hatfield

The amendment (No. 5058), as further modified, was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 5084 THROUGH 5087, EN BLOC, AND AMENDMENT NO. 5082, AS MODIFIED

Mr. McCONNELL. Mr. President, there are five amendments that have been cleared on both sides; an amendment by Senator COCHRAN on IFAD, a McConnell-Leahy-Lautenberg amendment on MEDEVAC, a Leahy narcotics amendment, a Pell amendment on the environment, and a modification to amendment No. 5082. I send those to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes amendments numbered 5084 through 5087, en bloc, and amendment No. 5082, as modified.

Mr. McCONNELL. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments (Nos. 5084 through 5087), en bloc, and Amendment (No. 5082), as modified are as follows:

AMENDMENT NO. 5084

On page 107, line 11, strike ''up to $30,000,000'' and insert in lieu thereof the following: ''$17,500,000''.

Mr. COCHRAN. Mr. President, I have proposed this amendment because I have concluded this is the only way to ensure that the administration responds to the will of Congress regarding the International Fund for Agricultural Development [IFAD].

Last year, the Congress authorized U.S. participation in the fourth replenishment of IFAD resources. Since that time, Senators and Representatives have written to the Administrator of the U.S. Agency for International Development encouraging him to exercise the authority we provided and make a generous contribution to the fourth replenishment. The Administrator of USAID has not complied with these requests.

While other countries have agreed to the fourth replenishment, the United States has delayed, and this delay is threatening IFAD's managerial reforms and undermining U.S. leadership in the organization.

It is my objective to secure effective U.S. participation in the fourth replenishment. The United States has been the lead sponsor of IFAD, a tightly managed organization that focuses on rural poverty in developing nations by making loans directly to poor farmers. These small retail loans help combat poverty, especially among women and children, create internal stability, and help build markets for U.S. exports.

Despite wide support and the earlier stated intention of the administration to participate in the fourth replenishment, it has not yet announced its pledge. As the Nation that led in the creation and funding of IFAD, part of the U.S. responsibility is to announce our level of financial support which, in turn, helps determine the pledge amounts of other developed nations. In this way, our contribution is leveraged and brings additional resources from other developed countries, funds that are spent, not on overhead or administration, but on local projects where this money has substantial impact.

The funding in my amendment does not add to the total cost of the bill. It is a mandated transfer of bilateral assistance funds, either provided in this bill or unspent from appropriations made in prior years. The amounts to be transferred are to come from the funds the Congress provides for USAID, an agency well-suited for this task. Indeed, USAID has spoken eloquently in support on IFAD and has helped build it into a model of effective assistance. Unfortunately, however, USAID has not spent one nickel on IFAD for fiscal year 1996.

Congress cannot allow indecisiveness to undo the achievements of two decades of U.S. participation in IFAD. Senators and Representatives—on both sides of the aisle—clearly support IFAD and have called on USAID to continue funding this respected agency. Our only recourse now is to mandate participation in the fourth replenishment.

I urge Senators to support the amendment.

AMENDMENT NO. 5085

SEC. . SHORT TITLE.

This title may be cited as the ''Bank for Economic Cooperation and Development in the Middle East and North Africa Act''.

SEC. . ACCEPTANCE OF MEMBERSHIP.

The President is hereby authorized to accept membership for the United States in the Bank for Economic Cooperation and Development in the Middle East and North Africa (in this title referred to as the ''Bank'') provided for by the agreement establishing the Bank (in this title referred to as the ''Agreement''), signed on May 31, 1996.

SEC. . GOVERNOR AND ALTERNATE GOVERNOR.

(a) APPOINTMENT.—At the inaugural meeting of the Board of Governors of the Bank, the Governor and the alternate for the Governor of the International Bank for Reconstruction and Development, appointed pursuant to section 3 of the Bretton Woods Agreements Act, shall serve ex-officio as a Governor and the alternate for the Governor, respectively, of the Bank. The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank and an alternate for the Governor.

(b) COMPENSATION.—Any person who serves as a Governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such service.

SEC. . APPLICABILITY OF CERTAIN PROVISIONS OF THE BRETTON WOODS AGREEMENTS ACT.

Section 4 of the Bretton Woods Agreements Act shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary Fund.

SEC. . FEDERAL RESERVE BANKS AS DEPOSITORIES.

Any Federal Reserve Bank which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

SEC. . SUBSCRIPTION OF STOCK.

(a) SUBSCRIPTION AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States to not more than 7,011,270 shares of the capital stock of the Bank.

(2) EFFECTIVENESS OF SUBSCRIPTION COMMITMENT.—Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of

the United States for shares described in subsection (a), there are authorized to be appropriated $1,050,007,800 without fiscal year limitation.

(c) LIMITATIONS ON OBLIGATION OF APPROPRIATED AMOUNTS FOR SHARES OF CAPITAL STOCK.—

(1) PAID-IN CAPITAL STOCK.—

(A) IN GENERAL.—Not more than $105,000,000 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of paid-in capital stock.

(B) FISCAL YEAR 1997.—Not more than $52,500,000 of the amounts appropriated pursuant to subsection (b) for fiscal year 1997 may be obligated for subscription to shares of paid-in capital stock.

(2) CALLABLE CAPITAL STOCK.—Not more than $787,505,852 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of callable capital stock.

(d) DISPOSITION OF NET INCOME DISTRIBUTIONS BY THE BANK.—Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

SEC. . JURISDICTION AND VENUE OF CIVIL ACTIONS BY OR AGAINST THE BANK.

(a) JURISDICTION.—The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(b) VENUE.—For purposes of section 1391(b) of title 28, United States Code, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

SEC. . EFFECTIVENESS OF AGREEMENT.

The Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement.

SEC. . EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED.

(a) EXEMPTION FROM SECURITIES LAWS; REPORTS TO SECURITIES AND EXCHANGE COMMISSION.—Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with borrowing of funds, or the guarantee of securities as to both principal and interest, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION; REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, may suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

SEC. . TECHNICAL AMENDMENTS.

(a) ANNUAL REPORT REQUIRED ON PARTICIPATION OF THE UNITED STATES IN THE BANK.—Section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) is amended by inserting ''Bank for Economic Cooperation and Development in the Middle East and North Africa,'' after ''Inter-American Development Bank''.

(b) EXEMPTION FROM LIMITATIONS AND RESTRICTIONS ON POWER OF NATIONAL BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE BANK.—The 7th sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by inserting ''Bank for Economic Cooperation and Development in the Middle East and North Africa'', after ''the Inter-American Development Bank''.

(c) BENEFITS FOR UNITED STATES CITIZEN-REPRESENTATIVES TO THE BANK.—Section 51 of Public Law 91–599 (22 U.S.C. 276c–2) is amended by inserting ''the Bank for Economic Cooperation and Development in the Middle East and North Africa,'' after ''the Inter-American Development Bank,''.

Amend the title so as to read as follows: ''A Bill to authorize United States contributions to the International Development Association and to a capital increase of the African Development Bank, to authorize the participation of the United States in the Bank for Economic Cooperation and Development in the Middle East and North Africa, and for other purposes.''

AMENDMENT NO. 5086

On page 114, line 24 insert the following before the period at the end thereof: '': *Provided further,* That of the funds appropriated under this heading by prior appropriations Acts, $36,000,000 of unobligated and unearmarked funds shall be transferred to and consolidated with funds appropriated by this Act under the heading ''International Organizations and Programs''.

AMENDMENT NO. 5087

(Purpose: To express the sense of the Senate that the United States Government should encourage other governments to draft and participate in regional treaties aimed at avoiding any adverse impacts on the physical environment or environmental interests of other nations or a global commons area, through the preparation of Environmental Impact Assessments, where appropriate)

On page 198, between lines 17 and 18, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) Environmental Impact Assessments as a national instrument are undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority;

(2) in 1978 the Senate adopted Senate Resolution 49, calling on the United States Government to seek the agreement of other governments to a proposed global treaty requiring the preparation of Environmental Impact Assessments for any major project, action, or continuing activity that may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area;

(3) subsequent to the adoption of Senate Resolution 49 in 1978, the United Nations Environment Programme Governing Council adopted Goals and Principles on Environmental Impact Assessment calling on governments to undertake comprehensive Environmental Impact Assessments in cases in which the extent, nature, or location of a proposed activity is such that the activity is likely to significantly affect the environment; and

(4) on October 7, 1992, the Senate gave its advice and consent to the Protocol on Environmental Protection to the Antarctic Treaty, which obligates parties to the Antarctic Treaty to require Environmental Impact Assessment procedures for proposed activities in Antarctica.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should encourage the governments of other nations to engage in analysis of activities that may cause adverse impacts on the environment of other nations or a global commons area; and

(2) such addition analysis can recommend alternatives that will permit such activities to be carried out in environmentally sound ways to avoid or minimize any adverse environmental effects, through requirements for Environmental Impact Assessments where appropriate.

Mr. PELL. Mr. President, I am very pleased that the Senate adopted my amendment on environmental impact assessment in a transboundary context. I want to thank the bill's managers, in particular, for their assistance in making Senate action possible. I also want to thank Senator MURKOWSKI for his willingness to work with me on this issue.

Mr. President, my amendment is simple. It expresses the sense of the Senate that the U.S. Government should encourage other nations to carry out environmental impact assessments for activities that will have transboundary impacts. In other words, if countries are going to carry out activities with significant cross-border environmental impacts, the country undertaking the activity should, at a bare minimum, be aware of the consequences of its activities.

The amendment is an extension of my long interest in the protection of the global commons. In 1977, I introduced a resolution which called on the U.S. Government to seek the agreement of other governments to a proposed global treaty requiring the preparation of an international environmental assessment for any major project, action, or continuing activity which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interest of another nation or a global commons area. That resolution was adopted by the Senate in 1978. While my 1978 resolution initially called for a global treaty applying to activities worldwide, regional approaches may also be called for in some instances. We have seen such an approach used in the Convention on Environmental Impact Assessment in a Transboundary Context. The Convention was signed by the United States and members of the United Nations Economic Commission for Europe.

Mr. President, this amendment simply underscores the point that environmental impact assessments should be carried out when activities in one country are likely to affect adversely the environment of another country or the global commons.

What the United States and its allies have achieved, both in domestic law and in treaties, must now be duplicated

by other states, so that the use of environmental impact assessment truly becomes a standard precautionary measure.

Mr. President, this amendment acknowledges the efforts that have already been made and encourages the U.S. Government to continue efforts to promote environmental impact assessments as a tool in environmental protection. I thank my colleagues for their support of this amendment.

AMENDMENT NO. 5082, AS MODIFIED

On page 120, line 21, before the period insert the following: ": *Provided further,* That of the amount appropriated under this heading, $5,000,000 shall be available only for a land and resource management institute to identify nuclear contamination at Chernobyl.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 5084 through 5087), en bloc, and amendment (No. 5082), as modified, were agreed to.

Mr. McCONNELL. I move to reconsider the votes.

Mr. LEVIN. I move to lay those motions on the table.

The motions to lay on the table were agreed to.

Mr. McCONNELL. Mr. President, Senator SIMPSON is on the floor and ready to proceed.

Mr. SIMPSON. I thank the manager, indeed, for his patience and courtesy.

AMENDMENT NO. 5088

(Purpose: To strike the provision which extends reduced refugee standards for certain groups)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 5088.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 196, strike lines 14 through 26.

Mr. SIMPSON. Mr. President, this amendment will strike a very ill-defined section of this bill on page 196, which would give no one any indication as to what it is because it leaves us simply in the section numbers and subsection numbers.

The amendment would strike that provision in this bill, one whose title is Section 576, "Extension Of Certain Adjudication Provisions." It does not accurately capture its full importance in any way.

My colleagues may be unaware of this provision's significance. And the committee report provides precious little guidance. The report says only that this provision "amends current law to extend for another year the authority to adjust the status of certain aliens."

This provision, Mr. President, has far more serious consequences than its title indicates. It is the continuation of what was known originally as the Lautenberg amendment, a very well-founded amendment in 1989. I commended my friend then, and I have always enjoyed working with Senator LAUTENBERG. It is now a provision which has distorted, in these times in 1996, has distorted our refugee system and permitted the entry of frauds and criminals into the United States.

This provision is an abuse in its present form, an abuse of the refugee act.

I hope my colleagues will join me in sweeping away this cold war provision, this relic, in restoring credibility to U.S. refugee admissions. Let me review it with you very briefly. Under the Refugee Act of 1980—I know this amendment will probably get trashed by a vote of 80–20, but it will be in the RECORD—we know that we cannot continue to make presumptive status of "refugeeness" when we should be doing it on a case-by-case basis. That is what the law provided, the 1980 law.

You have a situation today where if you are presumed to be a refugee, you are taking a precious number from someone who is a real refugee, someone fleeing persecution based upon race, religion, or national origin. Under the Refugee Act of 1980 and under the U.N. Convention and Protocol, a "refugee" is someone with a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion. This is the international definition, and the U.S. adopted it in 1980 under the able leadership of Senator TED KENNEDY. Determination of whether an individual is a refugee is to be made on a case-by-case basis. It is the law.

Under the so-called Lautenberg amendment, with the best of intentions and the sincerest of motives, persons in the former Soviet Union qualify as a refugee just by being a member of a particular group. For Jews and Evangelical Christians in the former Soviet Union, and others, Ukrainian, Orthodox, a refugee applicant need only "assert" the fear of persecution and "assert" a credible basis for concern about the "possibility" of such persecution.

Mr. President, 50,000 Americans receive refugee status under this standard each year, and the total number of refugees as set by the United States is 92,000. In other words, admission to the United States as a refugee, and all of the protection and the financial assistance which accompanies such a status, is made on the basis of two assertions that do not in themselves involve any test of credibility at all. Every other refugee applicant is required to establish his or her identity for eligibility to establish that. Those who benefit from this special treatment need only to assert their eligibility.

About 80 percent of these special refugee admissions go to Jewish applicants, with the balance to Evangelicals. Not surprisingly, there has been a wave of dubious conversions reported in the latter group, Evangelicals especially, among Pentecostals. There are church members who say they did not know this person was a Pentecostal, but they were near enough to the church and they learned what to say at the interview. In fact, a leader of a Pentecostal group in Russia told the INS that many who claim to be so are not Pentecostals at all.

According to this church leader, most of the applicants simply have family members who are Pentecostal, and these applicants use their familiarity with the religion to pass themselves off as category members.

According to interim cables which I will have printed in the RECORD from the Immigration and Naturalization Service, less than—I hope you hear this in this debate—less than one-half of 1 percent of those who apply under the Lautenberg standards would meet the worldwide definition of refugee. Nevertheless, 91 percent of these applicants were approved under the reduced guidelines.

In the most recent human rights reports from the State Department to the Committee on Foreign Relations, the U.S. State Department found in Russia "the Constitution provides for freedom of religion, and the Government respects this right in practice." The report continues that "although Jews and Muslims continue to encounter prejudice," and indeed they do, "they have not been inhibited by the Government in the free practice of their religion."

Does anyone here doubt that there is no prejudice in the former Soviet Union? Of course not. There is tremendous prejudice in the former Soviet Union, please hear that. It is also a fact that there is prejudice in this country. I do not dispute that fact either, and no one else can, but simple prejudice does not make a person here or in the former Soviet Union a refugee. Refugees are persons fleeing official political persecution. They are not fleeing discrimination.

Now my colleagues should know that the categories under the Lautenberg amendment, which receive a special lower adjudication standard, was established in 1989 when there was a clear history of religious persecution by the Communist Soviet State apparatus. This is no longer the case. The Soviet Union is gone. Russia is an ally. This foreign aid bill we are debating tonight provides $640 million in aid to this country. How can we possibly decide that up to 50,000 of the precious numbers of 90,000-plus are refugees? This program does great violence to the Refugee Act of 1980.

The inspector general of the State Department just completed a thorough audit of the refugee admissions program. I want to share some of the findings in the January 1996 report.

INS officers told State Department investigators that the so-called Lautenberg designations have changed the U.S. refugee admissions program into a ''side-door immigration program.'' You see, if you bring a refugee to this country, the United States of America pays the bill, pays the transportation, pays for the support system after they come here. But if you immigrate, you pay it. Hear that—if you bring a sponsored immigrant to the United States, you pay; you, personally, pay for their transportation; you, personally, say they will not become a public charge, and people obviously would prefer to come in under refugee status.

Evidence is mounting, mounting, and this has been echoed by Moscow-based groups working with the former Soviet refugees, that this is a ''side-door immigration program.'' Undoubtedly, most of these people, the evidence is mounting, showing that most of these people are not refugees. The State Department reports that there more than 42,000 people—at least it will be in the RECORD; if nobody is paying attention, it will not make that much difference—there are more than 42,000 people who have received refugee status but who have not yet left the former Soviet Union. More than half of those individuals have remained for more than a year.

How can you be a real refugee and not get out? The inspector general reports that many of these folks are holding refugee status as an insurance policy against future upheaval in the former Soviet Union, or simply waiting for an opportunity to leave.

I want to acknowledge that many fine immigrants enter under the Lautenberg provisions. Many are well-educated and become productive members of the Nation and citizens, but these are not refugees, and individuals who are not refugees should not receive special refugee benefits. We should stop pretending these individuals are fleeing any type of State-sponsored persecution. They may be fleeing prejudice. That does not qualify you as a refugee.

Unfortunately, the program has also become rife with fraud, a direct result of the lowered standards. Let me read an internal INS cable from Moscow:

> Category fraud is relatively easy to perpetuate as the Washington Processing Center requires no written documentation to corroborate a category claim. Applicants who claim they are Jewish by nationality arrive at their interview with a passport showing Russian nationality and a birth certificate showing both parents are Russian. The claim is then made that one maternal grandmother was Jewish. Such an assertion, while not very credible, is unverifiable. Blank and fraudulent documents are readily accessible. Only blatant cases of fraud can be denied outright, otherwise parole must be offered.

The INS claim points out that not only are refugee claims of dubious quality—that is, few of the applicants have actually experienced persecution—but applicants do not even satisfy the category selected for special treatment. In other words, the applicants are not even Jewish or Evangelical Christians or Pentecostals or Orthodox Ukraine.

The program has become an international disgrace. A State Department report mentions a satirical play performed in Moscow based on an applicant deceiving the INS adjudicators.

An INS cable from 1993 says, ''Many reliable sources have told us of a cottage industry which has sprung up which gives refugee applicants classes on how to successfully pass their INS interview.''

This amendment has the most pernicious effect—and I know there is not a person in this Chamber that would want this to happen, but it does—this amendment denies real refugees the opportunity for a safe haven in our country. This provision has established a multiyear commitment on behalf of the special categories—in other words, the pipeline is clogged—and has guaranteed that more than half of our fiscal year 1996 refugee numbers are going to people who are not really fleeing persecution. Our flexibility to respond to other refugee crises —in Liberia, in Burundi, in Bosnia—is sorely and cruelly limited by this commitment. ''Cruelly'' is a word I intended to use. So the INS officials go on to say, ''The irony is that there are plenty of cases from the former Soviet Union which could qualify [as a refugee] under worldwide standards, however these cases stand little chance of being scheduled [for an interview] as they do not fit into one of the Lautenberg categories.''

I believe that we should keep an INS refugee team in Moscow. I will vote for that every time. Please hear that. I am not advocating that we cut back on admission of real refugees, but these adjudicators should be considering the claims of all residents on a case-by-case basis. That is the law.

These lowered standards and fraud also have another effect. This Lautenberg provision has created an attractive avenue for Russian organized crime figures to secure entry into the United States.

Let me read from the FBI's white paper on Russian organized crime. The FBI discusses the Lautenberg process and says:

> Many of these immigrants claimed that their reason for leaving the Soviet Union was predominantly to escape religious persecution. Not all of these crimes can be considered to be accurate. The ranks of these emigres included intellectuals, professionals, and others from the middle and lower classes of Soviet society, who only claimed religious persecution, but had not actually experienced it. It has been estimated by American law enforcement authorities that roughly 2,000 of these immigrants were criminals who continued their criminal occupations in the United States.

So the FBI has identified the Lautenberg program as a point of entry for some members of the ''Russian Mafia'' into this country. But we do not need to stop there. Try the Senate. The Permanent Subcommittee on Investigations of the Senate Government Affairs Committee has just completed a 6-month inquiry into Russian organized crime in the United States. At their hearing on May 15, the subcommittee heard testimony from a member of the Russian Mafia, who testified anonymously, behind the screen, for his own protection. He is in the clink now.

During meetings with Investigations Subcommittee staff members, that individual, a member of a Russian crime ring in the United States, said the Lautenberg refugee program was used all the time by Russian Mafia members to enter our Nation. If we don't pay attention to our own Senate investigations, Mr. President, just who are we going to listen to?

The time has come to let this program end. We must not continue to let domestic, selfish interests corrupt our refugee program, to the detriment of real refugees. We will never have more refugees maybe than we will this year. We don't have the numbers to produce, and we presume then that we will give them to a country we are giving $640 million to tonight, and jeopardize the safety of our own citizens.

Let me share the recommendations of the State Department inspector general's report:

> We recommend . . . that Congress allow the Lautenberg amendment to expire in 1996.

It cannot be stated any more clearly than that, Mr. President. The independent auditor of the Department of State believes this must be done in order to bring our refugee programs out of the cold war and into today's reality. I agree with her. I hope my colleagues will agree also. I reserve the remainder of my time.

The PRESIDING OFFICER. All time of the Senator from Wyoming has expired.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, is there a time agreement?

The PRESIDING OFFICER. There is a time agreement. The time of the Senator from Wyoming has expired, and the Senator from New Jersey has 15 minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, one of the things that happens around here when people decide, like the distinguished occupant of the chair or the distinguished Senator from Wyoming, to retire is that we are going to miss some of the aspects of the relationships that exist. Nothing is more awakening or stimulating than a good, solid disagreement and discussion with my friend from Wyoming.

He just happens to be wrong. The fact of the matter is that in this blanket criticism, he ignores several facts. Mr. President, I think it is important to understand my supporting a 1-year extension of the law which facilitates the granting of refugee status for certain historically persecuted groups in the former Soviet Union and Indochina.

The law expires at the end of fiscal year 1996 and is extended for 1 year in this bill. It has been renewed several times. As a matter of fact, the last time was in 1994, and that vote was decided by an 85–15 outcome. So we are looking at the same situation, very frankly.

Existing law formally recognizes that historic experiences of certain persecuted religious minorities in the former Soviet Union and Indochina and a pattern of arbitrary denials of refugee status to members of these minorities entitles them to a relaxed standard of proof in determinations about whether they are refugees.

The law lowers the evidentiary standard required to qualify for refugee status for Jews and Evangelical Christians from the former Soviet Union, certain Ukrainians, and certain categories of Indochinese. Once a refugee applicant proves that he or she is a member of one of those groups, he or she has to demonstrate a ''credible basis for concern'' about the possibility of persecution. Refugee applicants normally must prove a ''well-founded'' fear of persecution.

Why is the extension necessary? my friend from Wyoming challenges. Because the popularity, as we see it now, of ultranationalists and the resurgence of the Communists in the former Soviet Union has created a climate of tension, fear, and even violence against Jews, despite the fact that anti-Semitism is no longer formally state-sponsored.

In this climate, the law has provided a useful escape valve for historically persecuted individuals in the former Soviet Union where the situation for Jews remains tenuous. Allowing the law to lapse under these conditions would be a mistake.

How pervasive is anti-Semitism? According to Sergei Sirotkin, former Deputy Chairman of the Commission on Human Rights under the President of the Russian Federation, ''Xenophobia and anti-Semitism in Russia are not just a reality but a growing and spreading reality.''

In testimony before the House Subcommittee on International Operations and Human Rights of the Committee on International Relations, Sirotkin claimed that approximately 150 periodicals that propagate ideas of fascism, extreme nationalism, xenophobia, and anti-Semitism exist and that between 1992 and 1995 the number of these publications tripled.

In his testimony, Sirotkin cited a newspaper with national circulation called the Day which wrote: ''The Jews are not a nation but a sect of degenerates.'' Even worse was the response from Moscow's Deputy Public Prosecutor who, according to Sirotkin, said the statement did not contain anything insulting to Jews.

It's not only publications that espouse anti-Semitism. Political leaders in Russia contribute to the climate of fear as well.

Gennady Zyuganov, the Communist Party candidate for President, left little to the imagination about his view of Jews when he wrote in his book ''Beyond the Horizon'': ''The Jewish diaspora holds the controlling interest in the entire economic life of Western civilization.''

Jews find no comfort in the sentiment espoused by Liberal Democratic Party of Russia leader, Zhirinovsky, who has said ''for anti-Semitism to disappear, all Jews must move to Israel.''

Nor do they have faith that Alexander Lebed, President Yeltsin's new National Security Adviser, will play a constructive role in working to stem the tide of anti-Semitism in Russia.

As my colleagues are well aware, Mr. Lebed recently stated that Russia has only three established, traditional religions—Orthodox Christianity, Islam, and Buddhism, obviously excluding the religion of the country's large Jewish population. He denigrated the Mormon Church in the worst and the ugliest terms.

Mr. President, the fears of Russian Jews are evident in the stories refugees tell me and others after they arrive in this country.

They say the government is unwilling and unable to protect Jews from humiliation and persecution. They say they are in danger of being exposed to violence or persecution simply because they are Jews.

One Russian refugee who testified before the House International Relations Committee said:

> Even now, in Russia, Jews must have ''nationality—JEW'' written on their passports, job applications, birth certificates, and school documents.

This refugee went on to say:

> But worst of all is that the Government in Russia is absolutely incapable of protecting Jews from the never-ending persecution and violence. They do not possess the mechanism for enforcing the laws which they already have, the laws which formally protect human rights. The laws are not functioning.

Unfortunately, Mr. President, anti-Semitism is pervasive outside of Russia as well.

According to Paul Goble, a well-respected expert on Soviet minorities:

> The threat of anti-Semitism in the post-Soviet States is greater today than it has been at any time in the last decade. The inability of governments to enforce their own laws or follow up on their own promises, the worsening economic situation throughout the region that is leading to a search for scapegoats, and an increasing number of politicians and officials who see anti-Semitism as a useful tool to advance their causes all contribute to this threat.

Leaders in some of these States recognize that a problem exists, In fact, during a radio interview last year, Lithuania's President acknowledged that popular ant-Semitism still exists in Lithuania.

Unfortunately, however, sometimes it is the leaders who are part of the problem. Belarus' President Lukashenko recently said, ''Not all of Hitler's actions were bad; one can learn from him methods of governing a country * * *''

That is a pretty friendly environment to exist in. If that does not frighten the pants off somebody, then nothing will.

If these statements are not persuasive, listen to the words of a refugee from Uzbekistan. Her pseudonym is Raisa Kagan, and she also testified before the Congress in February:

> For more than two years, me and my family were subjected to anti-Semitic harassment and persecution which escalated into violence that put our lives at risk.

Ms. Kagan tells a harrowing tale of persecution beginning with verbal attacks:

> They called me ''dirty Jew'' and said such things as, ''It was a good time when Hitler burned Jews and hung them on the trees.''

After being threatened on many occasions, Ms. Kagan reports:

> She repeatedly requested protection for myself and my family from these attacks, but no official investigation was made and no steps were taken to safeguard my family.

In the months that followed, two members of her family were attacked and beaten by Uzbeks; her barn, garage, and house were set on fire by arsonists; and she was eventually fired from her job as a department head of a company for which she had worked for 20 years, with the explanation that ''only Uzbek nationals may head a department.''

Her conclusion is poignant:

> Thousands of Jewish families in Uzbekistan can report the same shameless, severe and terrible violations of their civil rights. If you are unfortunate enough to be Jew you often feel that your dignity is trampled with cynicism. To be Jewish in Uzbekistan today means to be unprotected, rightless, and robbed. But the most terrible is to be humiliated until you feel like a non-entity.

Clearly, Mr. President, now is not the time to allow the law to expire. The conditions which led to the change in the law in 1989 have intensified, anti-Semitism is pervasive, and the protections the law provides to historically persecuted individuals in the former Soviet Union are needed more than ever before.

Additionally, Mr. President, the law is important to implement a new program of Resettlement Opportunities for Vietnamese Refugees. In April 1996, the administration announced a program of Resettlement Opportunities for Vietnam Refugees [ROVR] to provide INS status adjudications for qualified Vietnamese boat people returning from the camps of Southeast Asia to Vietnam.

The program will provide resettlement for those Vietnamese with close ties to the United States or who have suffered significant persecution under the Communist regime. The program is also intended to minimize violence in the camps as the Vietnamese refugee program comes to an end and to help to bring this long and successful humanitarian program to an appropriate and honorable conclusion.

INS adjudication standards for ROVR are based on the criteria found in this law and will play a critical role in the implementation of the program.

Mr. President, to respond to a couple of the assertions made by my friend from Wyoming, first of all, he uses the inspector general's reference as a determination of whether or not the policy is right. That is not the inspector general's area. The program has to be determined or reviewed by them.

Mr. President, we heard all of the criticisms about the weaknesses of the system for permitting those who were not supposed to be coming to enter the country. Then, Mr. President, the Senator from Wyoming has long been involved with immigration programs, and he ought to insist that INS do its job and make sure that those criminals do not get in here. There is no presumption here that permits criminals to come in under this refugee status. It is very clearly demarcated in the law. It says that those who may be excluded are on the basis of criminal and related grounds, and describes what they are—as refugees under the Immigration and Naturalization Act. It is very clear. They are not supposed to permit them.

If INS is doing a bad job then they ought to do a better job, and the same thing is true of the quality of the citizens who come here. Yes. We are going to make mistakes and some are going to sneak through the apparatus, and there will be some of those who are engaged in illicit activities. We do not want them here. But I know scientists and physicians and even attorneys who have come to this country who make it. I say even attorneys because it is quite a transition from Russia—I am not talking about my attorney friends—from the language there to our language here. They make important contributions to establish themselves. I have been with cab drivers. I have seen them buy their cabs, get to work, and make a contribution.

So we can point out those furors that have been made, and they have been made. We ought to tighten up the process, and not thereby denigrate the whole class of refugees who are coming here.

Negotiations with the Vietnamese on the program have been slow and many details remain unclear. Many believe that persons, otherwise well qualified, will not have been able to apply under the program by the time the law is set to expire at the end of fiscal year 1996.

It is important that the program deadline and the law be extended so that all persons eligible to apply under the program's criteria will be given equal access to this initiative and can be adjudicated uniformly.

Mr. President, this 1 year extension has the support of the administration.

In a hearing in the Commerce, Justice, State Appropriations Subcommittee, Secretary Christopher said the following in response to my question about the administration's position on the provision: ''Senator we think that the law has served an important purpose, particularly permitting immigration from Russia and the other nations of the former Soviet Union, to ensure that they have an opportunity to leave.

There has been some sense that perhaps that law had served its purpose or run its course, but we are supporting another year's extension of that law to ensure that it completes its purpose. So we are supportive of that and we admire you for what you did in leading the way in earlier years to a much needed provision.''

Mr. President, in addition to making sure that people are treated humanely and democratically in societies with which we have close connections, it is a confirmation of the belief that in the United States we uphold the status of the individuals to practice their religions, and to be able to conduct themselves as they see fit without fear of harassment or persecution.

Once again, I think that we are going to vote on this, I understand, tomorrow.

The 1 year extension also has the support of the U.S. Catholic Conference, the Hebrew Immigrant Aid Society, the American Jewish Committee, the National Jewish Community Relations Advisory Council, the Union of Councils, the National Conference on Soviet Jewry, and the Council of Jewish Federations.

I ask unanimous consent that letters from these organizations in support of an extension be included in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. LAUTENBERG. Mr. President, I will close.

Mr. President, I want to be clear that this extension will not increase the annual refugee ceiling for admissions to the United States. Those numbers are determined through a consultation process between the administration and the Congress.

My friend from Wyoming said that we absorb refugees, and he describes them as legitimate refugees. If someone has to worry about their kids being picked on and beaten up in the streets and not be allowed to conduct their education as they see fit, to me that constitutes someone who ought to have a chance to conduct their lives in another place.

I think that when all is said and done that we will see that this bill has served the United States very well, that we have gotten productive citizens—citizens who make a contribution. And if we have some errors in the way we conduct the programs, then let us fix the errors in our own house, and I hope that my colleagues will support the continuation of this law for the next year.

Mr. President, I want to be clear that this extension will not increase the annual refugee ceiling for admissions to the United States. Those numbers are determined through a consultation process between the administration and the Congress. The provision simply facilitates refugee designation.

Mr. President, this law was originally approved by the Senate by a vote of 97 to 0 in 1989 and became law as part of the fiscal year 1990 Foreign Operations Appropriations Acts. It was extended in the fiscal year 1991 and fiscal year 1992 Foreign Operations Appropriations Acts, and the fiscal year 1994–1995 Foreign Relations Authorization Act. I urge my colleagues to support this extension.

EXHIBIT 1

U.S. CATHOLIC CONFERENCE,
MIGRATION AND REFUGEE SERVICES,
Washington, DC, June 18, 1996.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the deep appreciation of the U.S. Catholic Conference for the initiative which you took many years ago to author a provision of refugee law which recognizes that the historic experiences of certain persecuted religious minorities in the former Soviet Union and other groups in Indochina, and a pattern of arbitrary denials of refugee status to members of these groups, entitles them to a relaxed standard of proof in determinations about their refugee status. We strongly support the extension of this provision for one additional year.

While it is a fact that the former Soviet Union has collapsed and the persecution of Jews and other religious minorities is no longer official policy, the situation in Russia continues to present major problems for these minorities and, given the fact that democratic society is still only tenuously established in the countries of the former Soviet Union, it would be much too early to draw back from this important program. Indeed, recent developments which appear to make the departure of such persons from Russia more difficult is a sign of the importance of giving priority attention to this group for the time being.

This provision is also of importance in the implementation of a new program of Resettlement Opportunities for Vietnamese Refugees (ROVR). This program will provide INS status adjudication for persons returning to Vietnam from the camps of Southeast Asia, who have close ties with the United States or who can otherwise demonstrate persecution by the Vietnamese government. This program will offer both a final opportunity for some of those boat people in groups long given priority in the U.S. Refugee Program (USRP) and help to minimize violence during this final phase of the Indochinese refugee program, which has been so successful over the years, and help to bring it to an honorable end.

The INS adjudication standards for this final effort are based on the criteria in this provision of law and, thus, will be critical in an appropriate implementation of ROVR. Negotiations with the Vietnamese on ROVR have been very slow and many details remain unclear. For example, no agreement has yet been reached on how to process those boat people who return to Vietnam without having seen a caseworker in the first asylum country before departing in order to fill out their ROVR applications. Several thousand persons already have been returned without having had an opportunity to apply for ROVR and undoubtedly there will be more. Thus, it seems certain that many persons, otherwise well qualified, will not have been able to apply for ROVR by the time of the

expiration of this provision of law at the end of FY 1996, and it will be extremely important that the ROVR deadline and this provision of law be extended so that all persons eligible to apply under the ROVR criteria are given equal access to this initiative and can be adjudicated uniformly.

We understand that the FY 1997 Foreign Operations appropriations bill in the House of Representatives did not contain an extension of this provision of refugee law, but that the report language in that bill did contain a reference to the possibility that such an extension might be contained in the Senate bill and instructed House conferees to recede to the Senate on this issue if that were the case. We urge that such a one-year extension be included in the Senate Foreign Operations Appropriations bill.

Thank you again for your assistance in bringing this important program to a peaceful and fitting end.

Sincerely,

JOHN SWENSON,
Executive Director.

THE HEBREW IMMIGRANT AID SOCIETY,
New York, NY, June 14, 1996.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: Thank you very much for your efforts to include a one-year extension of the Lautenberg Amendment in the FY1997 Foreign Operations Bill. HIAS fully supports extending the Amendment because of the threats currently faced by Jewry in the former Soviet Union (FSU).

As you know, the Lautenberg Amendment requires that the INS take into account the history of persecution of certain minorities, including Jews in the FSU and Vietnamese political refugees, when adjudicating refugee applications from such groups.

On February 27, 1996, the House Subcommittee on International Operations and Human Rights held a hearing on the persecution of Jews worldwide. This hearing illustrated that those conditions in the FSU which necessitated the passage of the Lautenberg Amendment in 1989 have intensified in recent months.

The testimony of former Parliament member Alla Gerber and expert on Soviet nationalities Paul Goble described anti-Semitism in the FSU as being ''privatized'' after the dissolution of the USSR. Recent emigres from the FSU testified that they fled the land of their birth because the authorities there were unwilling and unable to protect them from rising anti-Semitism. Indeed, many politicians, including leading Russian Presidential candidates Zyugonov and Zhirinovsky, and Belarus President Lukashenko, exploit such popular sentiment by blaming ''the Jew'' for all that ails their respective nations. The attached news accounts of recent events in the FSU re-enforce the concerns raised at the hearing.

The hearing made it clear that now is not the time to allow the Lautenberg Amendment to expire.

Once again, HIAS greatly appreciates your efforts to include a one-year extension of the Lautenberg Amendment on the FY 1997 Foreign Operations Authorization bill.

Very truly yours,

MARTIN A. WEMICK,
Executive Vice-President.

THE AMERICAN JEWISH COMMITTEE,
OFFICE OF GOVERNMENT AND INTERNATIONAL AFFAIRS,
Washington, DC, July 11, 1996.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Lautenberg Amendment has provided refugee status for hundreds of thousands of Jews, Pentecostals, Catholics, and others fleeing persecution in the former Soviet Union and Indochina. The provision will expire on September 30, 1996. The American Jewish Committee urges you to support the reauthorizing language included in the FY 1997 Foreign Operations Appropriations Act.

The Lautenberg Amendment offers fair and crucial protection to the numerous groups facing continuing persecution in these countries. The law provides that the INS consider the historical context of persecution when reviewing refugee applications. No special privileges or increased admissions ceilings are created.

The fall of the Soviet Union has neither ended Russian anti-Semitism nor diminished the need for the Lautenberg Amendment. Troubling statements by prominent Russian politicians, the closing of Jewish Agency offices in Russia, and the recent disturbing remarks by General Alexander Lebed on the status of religious minorities continued to demonstrate the precarious place of Jews in the former Soviet Union. Another indication of this uncertainty was the Russian government's refusal to issue a visa to David A. Harris, Executive Director of AJC, to attend a conference cosponsored by AJC in St. Petersburg earlier this month on the future of Jews in the former Soviet Union.

The threat of violence and persecution remains a present danger for the Jews of the former Soviet Union. Currently, 100,000 Jewish men, women, and children are seeking asylum under the Lautenberg Amendment. It is imperative that these individuals remain able to receive refugee status in the United States.

On behalf of the officers and members of the American Jewish Committee, we hope that you will act to keep the doors of refuge open in America for those fleeing persecution in the former Soviet Union and Indochina. We urge your support for the reauthorization of the Lautenberg Amendment.

Sincerely,

JASON F. ISAACSON,
Director.

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL,
New York, NY, June 18, 1996.

Senator FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the National Jewish Community Relations Advisory Council (NJCRAC), I am writing to thank you for your continuing efforts to extend the Lautenberg Amendment for an additional year by including it in the Foreign Operations Appropriations bill for FY 1997. The NJCRAC is the American Jewish community's network of 13 national and 117 local public affairs organizations. Our member agencies work with government representatives, the media, and a wide array of religious, ethnic and civic organizations to address a broad range of public policy concerns.

Over the years, we have devoted significant energy to work on behalf of refugees from the former Soviet Union. We are well aware of how critical the Lautenberg Amendment has been in that rescue effort. Moreover, the Lautenberg law has not only enabled thousands of applicants from the former Soviet Union to obtain refugee status but has also played a key role in allowing refugees from Indochina to come to the United States to begin new lives free of persecution and fear.

As you know, the situation for Jews in the former Soviet Union is tenuous. The popularity of Vladimir Zhirinovsky and other ultra-nationalists, along with the Communist resurgence, has created a climate of tension, fear and, at times even violence against Jews, despite the fact that there is no longer an official government sponsored anti-Semitic campaign. These modern circumstances, combined with the historic persecution of Jews and other religious minorities in the FSU, constitute for many a ''credible basis for concern'' which qualifies them for refugee status under the Lautenberg law. It is critically important that we retain this law and, with it, the ability to move people out of potentially dangerous circumstances.

Further, the continuation of the Lautenberg law remains crucial for Vietnamese applicants, who are to be adjudicated under the Administration's Resettlement Opportunities for Vietnam Refugees (ROVR) program. It seems highly unlikely that all refugees who are eligible to apply for consideration under ROVR will be able to register in time to be adjudicated under Lautenberg standards if the law expires at the end of this fiscal year. An additional year's extension will be critical to carrying out the intended purpose of the ROVR program and sustaining our commitment to refugees in Vietnam.

The Administration is supporting a one year extension of the Lautenberg law. The Congress approved such an extension within the State Department Authorization bill that was vetoed. It is our hope that the Congress will again pass an extension by including in it the Foreign Operations Appropriations bill. As you know, the House Foreign Operations Committee has included in its report language indicating that they would accede to the Senate if the Lautenberg provision were to be included in the Senate Foreign Operations Appropriations bill.

Thousands of refugees, Jews and non-Jews, owe their freedom to you for your leadership on this issue and the law that bears your name. We have been pleased to work with you and your staff to support your efforts each time the amendment has come before the Senate and the House for renewal or extension. We want you to know that you have our support and assistance this time as well.

Sincerely,

MICHAEL N. NEWMARK,
Chair, NJCRAC.

UNION OF COUNCILS,
Washington, DC, June 11, 1996.

Hon. FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Union of Councils for Soviet Jews (UCSJ) has long valued the leadership you have provided in the struggle to protect refugees in the former Soviet Union (FSU), and to promote human rights world-wide. We write today to enthusiastically endorse a one year extension of the Lautenberg Amendment; the central piece of United States legislation dedicated to saving Jews and other refugees from the FSU and Indochina.

The UCSJ, comprised of Soviet Jewry action councils in thirty American cities, 100,000 members, and human rights bureaus in five cities in the FSU, has for more than twenty-five years been the largest independent grass-roots human rights and Soviet Jewry organization in the world. The UCSJ is a leading authority on antisemitism and the general threat to Jews on the ground inside the FSU.

Since the Lautenberg Amendment was introduced in the Foreign Operations Appropriations Act of 1990, the UCSJ has strongly supported the law as a bold statement of the United States' foreign policy commitment to

human rights and democracy, and its humanitarian mission to provide safe-haven to endangered refugees. The Lautenberg Amendment declares that persecution of minorities is unacceptable as part of the transition towards democracy in the region. Additionally, the amendment has assisted tens of thousands of refugees from historically persecuted communities to find safety in the United States.

Today, conditions for Jews in the FSU are extremely precarious. A significant majority of members of the Russian Duma are from strongly antisemitic parties. The leading contender in the upcoming presidential election, Gennady Zyuganov, represents a coalition of nationalist, patriotic and communist parties. This coalition has a serious chance of winning the presidency, and poses a grave threat to the Jewish community.

Based on the UCSJ's monitoring of conditions in the FSU, we see antisemitism throughout the region, and an inability or unwillingness on the part of the authorities to protect Jews. The Jewish community faces a vibrant antisemitic publishing industry, vilification in street demonstrations, and vandalism of private and communal property. As Paul Gobel of Radio Liberty stated at a recent hearing before a House International Affairs subcommittee, ''The threat of antisemitism in the post-Soviet states is greater today than it has been at any time in the last decade.''

The Union of Councils for Soviet Jews firmly believes that it would not only be a human rights catastrophe if the Lautenberg Amendment was allowed to expire this year, but a serious foreign policy blunder. At a time when Russia is in danger of returning to communist or fascist rule, the United States should not signal that it believes that all is well for historically persecuted minorities.

The United States Congress has long been an ally of human rights and democracy activists and persecuted minority groups in the former Soviet Union. This noble tradition would be honored by an extension of the Lautenberg Amendment through the end of fiscal year 1997.

Sincerely,

PAMELA B. COHEN,
National President.
MICAH H. NAFTALIN,
National Director.

NATIONAL CONFERENCE ON SOVIET JEWRY,
Washington, DC, June 20, 1996.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the National Conference on Soviet Jewry, thank you for your successful effort to include a one-year extension of the Lautenberg Amendment in the FY1997 Foreign Operations Appropriations Bill. Given the volatile and dangerous environment confronting the Jewish minority in the former Soviet Union, the NCSJ continues to support the extension of the Amendment.

The rise of popular ant-Semitism throughout the former Soviet Union is a serious threat to the future well-being of Jews in these countries. Government authorities are unable and/or unwilling to adequately address this threat which causes many Jews to continue to suffer.

The NCSJ, in conjunction with other members of the organized American Jewish community, stands ready to assist you to ensure passage of this vital legislation.

Once again, our sincere thanks for everything you have done on behalf of the Jews of the former Soviet Union.

Sincerely,

MARK B. LEVIN,
Executive Director.

COUNCIL OF JEWISH FEDERATIONS,
Washington, DC, June 12, 1996.

Senator FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Council of Jewish Federations and the 200 local Jewish Federations within our national system, I am writing to thank you for your ongoing efforts to extend the Lautenberg Amendment for an additional year by including it in the Foreign Operations Appropriations bill for FY97. This critical law has assisted thousands of refugee applicants from the Former Soviet Union and Indochina to obtain refugee status and come to the U.S. to start a new life free of persecution, fear and constant harassment.

As you know, the situation for Jews in the FSU is tenuous at best. The popularity of Zhirinovsky and other ultra nationalists as well as the resurgence of the Communists creates a climate of tension, fear and often violence against Jews even if there is no longer an official government sponsored anti-Semitic campaign. These modern circumstances, combined with the historic persecution of Jews and other religious minorities in the FSU, constitute for many a ''credible basis for concern'' which qualifies them for refugee status under the Lautenberg law. The importance of retaining this law and the ability to move people out of a dangerous environment can not be overstated.

In addition, the continuation of the Lautenberg law remains crucial for Vietnamese who are to be adjudicated under the Administration's Resettlement Opportunities for Vietnam Refugees (ROVR) program. It seems highly unlikely that all refugees who are eligible to apply for consideration under ROVR will be able to register in time to be adjudicated under Lautenberg standards if the law expires at the end of this fiscal year. An additional year's extension will be critical to carrying out the intended purpose of the ROVR program and keeping our commitment to refugees in Vietnam.

The Administration is supporting a one year extension of the Lautenberg law. The Congress already passed such an extension in the State Department Authorization bill that was vetoed. It is our hope that the Congress will again pass an extension by including it in the Foreign Operations Appropriations bill. As you know, the House Foreign Operations Appropriations Committee has included in its report language that they would accede to the Senate if the Lautenberg provision were to be included in the Senate Foreign Operations Appropriations bill.

Thousands of refugee, Jews and non-Jews, owe their freedom to you for your leadership on this issue and the law that bears your name. We have been pleased to work with you and your staff to support your efforts each time it has been before the Senate and the House. You have our support and assistance again now.

Thank you for all you have done.

Sincerely,

MAYNARD WISHNER,
President, CJF.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 5078

(Purpose: To reallocate funds for the Korean Peninsula Energy Development Organization)

Mr. LIEBERMAN. I call up amendment number 5078 at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. LIEBERMAN) for himself, Mr. LEAHY, Mr. THOMAS, Mr. HATFIELD, Mr. SIMON, Mr. NUNN, Mr. DASCHLE, Mr. LUGAR, Mr. ROTH, Mr. LAUTENBERG, Mrs. FEINSTEIN, and Mr. INOUYE, proposes an amendment numbered 5078.

Mr. LIEBERMAN. 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 126, after line 7, insert the following: ''(INCLUDING TRANSFERS OF FUNDS)''.

On page 127, beginning on line 14, strike ''*Provided further,*'' and all that follows through the colon on page 128, line 6, and insert the following: ''*Provided further,* That, notwithstanding any prohibitions in this or any other Act on direct or indirect assistance to North Korea, not more than $25,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) only for heavy fuel oil costs and other expenses associated with the Agreed Framework, of which $13,000,000 shall be from funds appropriated under this heading and $12,000,000 may be transferred from funds appropriated by this Act under the headings 'International Organization and Programs', 'Foreign Military Financing Program', and 'Economic Support Fund':''.

On page 138, line 12, strike ''the Korean'' and all that follows through ''or'' on line 13.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the Lieberman underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 5089 TO AMENDMENT NO. 5078

(Purpose: To provide conditions for funding North Korea's implementation of the nuclear framework agreement)

Mr. MURKOWSKI. Mr. President, I offer a second-degree amendment, and send it 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 Alaska (Mr. MURKOWSKI) for himself, Mr. MCCAIN, and Mr. LIEBERMAN, proposes an amendment numbered 5089 to amendment numbered 5078.

Mr. MURKOWSKI. 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 2, line 9, of the matter proposed to be inserted, strike ''Fund'' and all that follows to the end period and insert the following: ''Fund: *Provided further,* That such funds may be obligated to KEDO only if, prior to

such obligation of funds, the President certifies and so reports to Congress that (1)(A) the United States is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute; (2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and (3) North Korea has not significantly diverted assistance provided by the United States for purposes for which such assistance was not intended: *Provided further,* That the President may waive the certification requirements of the preceding proviso if the President deems it necessary in the vital national security interests of the United States: *Provided further,* That no funds may be obligated for KEDO until 30 calendar days after the submission to Congress of the waiver permitted under the preceding proviso: *Provided further,* That before obligating any funds for KEDO, the President shall report to Congress on (1) the cooperation of North Korea in the process of returning to the United States the remains of United States military personnel who are listed as missing in action as a result of the Korean conflict (including conducting joint field activities with the United States); (2) violations of the military armistice agreement of 1953; (3) the actions which the United States is taking and plans to take to assure that North Korea is consistently taking steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula and engage in North-South dialogue; and

(4) all instances of non-compliance with the Agreed Framework between North Korea and the United States and the Confidential Minute, including diversion of heavy fuel oil:''.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Mr. President, I intend to support the second-degree amendment.

I ask unanimous consent that I be added as a cosponsor of the amendment.

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

Mr. LIEBERMAN. I thank the Chair.

Mr. President, speaking about the underlying amendment and the second-degree amendment, this deals with the underlying bill, the foreign operations appropriations bill, which proposed a relatively small contribution that the United States has agreed to make which is part of a very large agreement that holds great promise of stabilizing relations between North Korea and South Korea, North Korea and its other neighbors in Asia, The so-called agreed framework which was agreed to in October of 1994 has had extraordinary effect on what was beginning to be—sometimes our memories are short—a very threatening situation in which we had conclusive evidence that the North Koreans were building reactors that were capable of being used to build atomic weapons which, together with their massive ground forces, would threaten security in that region of the world.

Mr. President, let us remember as we begin this discussion that in 1993 the Defense Department issued the Bottom-Up Review, which set a standard for the American military that we had to be strong enough to deal with two major regional conflicts in the world at the same time. One potential MRC was clearly in the gulf region, the Middle East, and the other, in most people's contemplation, was on the Korean peninsula.

When we think about the fact that we sent a half million of our soldiers to the gulf region to deal with that conflict—and carry out so brilliantly Operation Desert Shield and Desert Storm—and that the potential for conflict on the Korean peninsula is in most people's minds of an equivalent size, we are talking about a very serious exposure for the United States in terms of our military personnel and also in costs to our Treasury.

After rising international concern about the potential diversion of North Korea's nuclear power to develop atomic weapons, a series of negotiations ensued which ended in the so-called agreed framework in October of 1994. The North Koreans took on certain obligations in return for which the United States and neighbors in that region, particularly South Korea and Japan, took on other obligations, which thus far all parties have proceeded in what would have to be called good faith to the great benefit of that region and the world, resulting in a de-escalation of tension and the potential for armed conflict there.

This agreement required, for instance, North Korea to freeze operation of its 5-megawatt reactor and halt construction at its 50-megawatt and 200-megawatt reactors. If the agreement were not in place, within a few short years these facilities would have been able to produce enough plutonium for the North Koreans to build dozens of weapons each year. The agreed framework also required North Korea to cease operations at its reprocessing facility and laboratory which reprocesses plutonium out of spent nuclear fuel, and to seal that facility.

I am pleased to say, Mr. President, that the International Atomic Energy Agency has confirmed that North Korea has taken all these steps to freeze their program. The IAEA is now working with North Korea to settle on specific measures needed to continue to monitor that freeze. The fact is that IAEA inspectors are maintaining a continuous presence—this is not just somebody's word and our best hopes, it is the continuing presence of international inspectors at the Yongbyon nuclear facility in North Korea. The framework was deliberately structured so the North Koreans would take the first steps, and we were able to verify compliance every step of the way.

Mr. President, over time, all of the facilities that are frozen will be dismantled. In addition, 8,000 spent fuel rods that now sit in a cooling pond at the Yongbyon nuclear facility will eventually be shipped out of North Korea. These rods alone contain enough plutonium to make five to six bombs. This is truly a remarkable agreement.

No one says that North Korea has become a Jeffersonian democracy. Far from it. It is a country which faces all sorts of instability, particularly the terrible condition of its economy, the inability actually to feed all its people. But in the midst of all that instability which could have caused literally conflagration on the Korean peninsula, this agreement has been concluded.

What is their return for this? The return for this is that we have agreed to provide a certain amount of money every year for the North Koreans to purchase heavy fuel oil to help to operate other power plants within their country, and we have agreed to assist them in building light water reactors which are much more nuclear-proliferation resistant, much less likely to be used to develop nuclear weapons than the other reactors that the North Koreans have.

The cost of the light water reactors will amount to more than $4 billion. The Republic of Korea, that is, South Korea, and Japan have accepted the lion's share of the financial burden for those light water reactors. The United States direct funding to the Korean Peninsula Energy Development Organization, known as KEDO, which was set up under the agreed framework to provide heavy fuel oil for the North Koreans and for other projects, is really a matter of us just assuming a fair share of our burden. We pledged to commit $25 million, which is less than half the total amount required for the heavy fuel oil purchases annually and which represents a very modest commitment when one considers the $4 billion cost for light water reactors that will be assumed primarily by the Republic of Korea and Japan.

Nonetheless, the foreign ops bill that is before us now cuts that amount of money down to $13 million, threatening the stability of the overall agreed framework, and leading to concern in Japan and South Korea about the steadfastness of the United States in fulfilling its obligations under this agreement—leading to some concern in those countries about whether they would fulfill their much larger responsibilities under these agreements, and holding the potential to again destabilize the Korean peninsula with great risk to those who live there and those of us who have a security interest there.

Mr. President, I want to simply quote here from a letter Secretary Perry wrote to Senator ROBERT C. BYRD on this question dated July 15, 1995. The Secretary says that without the full amount of U.S. support, $25 million—a lot of money as you look at it separately but a very small amount of money when you think of the amount of money we would have to spend if the

Koreas become destabilized and a conflict ensued. Secretary Perry said:

Without U.S. support for KEDO, the organization will face a significant funding shortfall for HFO. Should KEDO be unable to fulfill its obligation to deliver oil, the risk of the North breaking the nuclear freeze would rise significantly. Such a scenario greatly increases the risk of a direct confrontation with North Korea, with costs measured in lives and billions of dollars.

Mr. President, my underlying amendment would restore the amount of money in the bill from the $13 million up to $25 million, which is the amount the United States pledged to give annually to fund these purchases of heavy fuel oil and other expenses. It also makes clear—and Senator LEVIN, had he been here was going to ask this question—that the $25 million can be used not just for the heavy fuel oil and administrative expenses, but other expenses pursuant to the agreed framework between the parties in this matter.

The second-degree amendment which was worked on this evening by the distinguished Senator from Alaska [Mr. MURKOWSKI] and the Senator from Arizona [Mr. MCCAIN] and myself, sets some standards for the distribution of that $25 million. I will yield to the Senator from Alaska in a minute to describe that. It basically requires a certification procedure by the President and grants the President a waiver if he feels it is in the national security interest to do so before the $25 million is expended to KEDO.

I am pleased we have made such progress on this. I am honored that I have a distinguished group of cosponsors from both sides of the aisle for this amendment.

I thank the Chair, and I yield the floor.

Mr. NUNN. Mr. President, I rise in support of the Lieberman amendment of which I am an original cosponsor.

I believe it is useful to recall that in June 1994 North Korea decided to defuel its five megawatt research reactor, precipitating a crisis on the Korean Peninsula. Spent fuel contains essential fissile material for a nuclear arsenal and North Korea could have extracted enough plutonium to build five or six nuclear weapons.

As a result of the negotiation of the October 1994 Framework Agreement, North Korea agreed, among other things, to freeze and eventually dismantle its graphite moderated nuclear reactors and related facilities and to safely store and ultimately ship out of its territory the spent fuel from its five megawatt nuclear research reactor. The United States agreed to lead an international consortium to oversee the finance and construction of two 100-megawatt light water reactors and to provide 500,000 metric tons of heavy fuel oil annually until completion of the first light water reactor.

I am advised that North Korea has maintained the freeze on its nuclear facilities, that the IAEA has maintained a continuous presence in North Korea to verify and monitor the freeze, the canning of the more than 8,000 spent fuel rods is proceeding at a steady pace and North Korea has concluded a number of agreements with KEDO to facilitate the furnishing of the light water reactors, including a Protocol on Privileges and Immunities for KEDO personnel.

Mr. President, I believe it is in our national security interest to freeze and eventually dismantle North Korea's graphite-moderated reactors and related facilities. The United States has approximately 37,000 troops in and is committed by treaty to defend the Republic of Korea. As Secretary Perry has noted

Should KEDO be unable to fulfill its obligation to deliver oil, the risk of the North breaking the nuclear freeze would rise significantly. Such a scenario greatly increases the risk of direct confrontation with North Korea, with costs measured in lives and billions of dollars.

Under the arrangements worked out with our allies, South Korea and Japan have agreed to bear the financial burden for the provision of the light water nuclear reactors for North Korea. The cost will be more than $4 billion and by some estimates will approach $6 billion. The United States has agreed to fund less than one-half of the cost of providing heavy fuel oil annually to make up for the loss of electricity.

I am also advised that a number of countries have pledged monetary contributions and the European Union is on the verge of making a multi-year financial contribution commitment but that this commitment could be endangered if the United States didn't provide the $25 million this year.

Insummary, Mr. President, I believe that a $25 million contribution to KEDO for fiscal year 1997 is in our national security interest and I encouraged my colleagues to support the Lieberman amendment.

Mr. LEVIN. Mr. President, I support the Lieberman amendment to provide full funding for the Korean Peninsula Energy Organization, or KEDO. This amendment would provide the funding requested by the Administration needed to meet our obligations under an important agreement this country has with North Korea.

This agreement, known as the "Agreed Framework" has effectively frozen the North Korean nuclear weapon program. That is why we have such a strong stake in meeting our obligations under this agreement. If we want to continue to freeze and eventually dismantle the North Korean nuclear weapons program, we must uphold our end of the agreement. That means paying our small portion of the cost of the agreement.

Mr. President, the underlying bill would reduce the funds for implementing the Agreed Framework with North Korea from $25 million to $13 million. This level of funding—half the amount requested—would not permit the United States to meet its obligation under the Agreed Framework. If that were to happen, North Korea could renege on its commitments under that agreement and resume its nuclear weapons program.

This is a remarkable fact, Mr. President. For want of $12 million, we are apparently willing to risk North Korea's return to a nuclear weapons program that we all agree would be exceedingly dangerous for our security and for the security of the Asia-Pacific region, including South Korea and Japan.

In almost every debate on defense and security issues, we hear the list of so-called "rogue" nations, always including North Korea, that post a threat because of their work on ballistic missiless, on weapons of mass destruction, or as sponsors of terrorism. Why would we willingly undo a success story—the Agreed Framework that has frozen the Korean nuclear weapons program—and risk the grave dangers of North Korean nuclear weapons?

Indeed, it was the very threat of the North Korean nuclear weapons program that required us to negotiate the Agreed Framework. And had that negotiation not worked, the alternative appeared to be the likelihood of a military confrontation with North Korea, meaning war on the Korean Peninsula that would involve massive casualties to our forces stationed there and to the Korean population.

The agreement that is now in place is a great benefit to our security. Here is how the Diretor of Central Intelligence, John Deutch, described the results of the agreement in March of this year:

Under the terms of the 21 October 1994 Agreed Framework with the United States, North Korea agreed to freeze its plutonium production capability. Currently, P'yongyang has halted operation of the 5MW [Megawatt] reactor, ceased construction of two larger reactors, frozen activity at the plutonium recovery plant, and agreed to dismantle these facilities.

When I asked our senior military leaders if they believe the Agreed Framework is in our security interests, they have all answered with a resounding yes. Here is the discussion I had with General Shalikashvili, the Chairman of our Joint Chiefs of Staff in February 1995:

Senator LEVIN. In your personal view, do you believe that this agreement is in our national security interest and that if implemented it would be a positive outcome for us?

General SHALIKASHVILI. I very much believe so, particularly when I consider the alternatives that we were faced with back in the June timeframe or so when we were marching toward a potential confrontation.

In March of this year, I had the following exchange with General Gary Luck, then our commander in chief of U.S. Forces in Korea, and with Admiral Joseph Prueher, our commander in chief of the U.S. Pacific Command concerning the Agreed Framework:

Senator LEVIN. [Has] the nuclear weapons program of North Korea, in your judgment,

remained frozen since that agreement was reached?

General LUCK. Yes sir.

Admiral PRUEHER. Yes sir.

Senator LEVIN. And in your judgment, does that make a significant contribution to the security of that peninsula and to our security? [In other words], the fact that their nuclear program is frozen, is that important?

General LUCK. Oh, yes sir. Yes sir.

Admiral PRUEHER. Yes, sir, it is important.

Senator LEVIN. Now, if we had not reached that agreement and frozen the North Korean nuclear program, is it true that North Korea today would have enough plutonium to make several nuclear weapons, and could have several nuclear warheads already and more warheads in the pipeline?

General LUCK. [Sir, I am not an expert in that area, but certainly] that was the prediction before we entered into this agreement.

Senator LEVIN. As far as you know, is that an accurate statement?

General LUCK. As far as I know, it is, sir.

Admiral PRUEHER. And likewise, as far as I know.

Mr. President, Those are the typical comments of our senior military commanders on the importance of the Agreed Framework, and the fact that North Korea is complying with its terms.

The civilian leadership in the Defense Department also agrees with this assessment. I refer to an exchange between myself and Defense Secretary Bill Perry from March 5 of this year, and I ask that an excerpt of the transcript from a hearing of the Armed Services Committee be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, I oppose the bill's restrictions on funding for KEDO, and I urge my colleagues to support the Lieberman amendment.

EXHIBIT 1

LEVIN—PERRY ON NORTH KOREA NUCLEAR AGREED FRAMEWORK (EXCERPT)

Senator LEVIN. First I want to ask you about Korea. Last year you described the situation in North Korea with the so-called agreed framework that froze North Korea's nuclear weapons program, and explained that by freezing the program that we prevented North Korea from producing plutonium for weapons and from producing the weapons themselves. Has North Korea kept its nuclear weapons program frozen?

Secretary PERRY. Yes.

Senator LEVIN. And if we had not entered into that agreed framework, where would North Korea's nuclear program be today, and where could it be, say, in 3 years?

Secretary PERRY. Had we not entered that program, we believe that they would have, first of all, taken the material from their reactor, the spent fuel from their reactor, and reprocess it to get enough plutonium to make perhaps four or five or six bombs, and quite possibly they would have those bombs now; and that, secondly, they were constructing other reactors which, when they were completed, would give them the ability to get reactor fuel capable of making perhaps 10 to 12 bombs a year. All of those programs have been stopped. There is no such fuel being processed or generated today.

Senator LEVIN. And I take it that that clearly is in our security interest in a very major way?

Secretary PERRY. This was, to me, a fundamental issue. We were prepared to take very substantial actions that actually raised the risk of conflict in order to stop that program. We are able to do it through diplomacy, and we did not have to take those other actions, and this has been a matter of great significance.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI. Let me yield to the Senator from Wyoming who has a unanimous consent request.

AMENDMENT NO. 5088

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on my amendment when it is processed tomorrow morning.

The PRESIDING OFFICER. Without objection it will be in order to order the yeas and nays.

Is there a sufficient second? There appears to be sufficient second. The yeas and nays are ordered.

The yeas and nays were ordered

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 5078

Mr. MURKOWSKI. Mr. President, first let me acknowledge the statement by my friend from Connecticut, Senator LIEBERMAN, relative to his willingness to cosponsor my second-degree amendment and for the statement in support of the Lieberman amendment which specifically restores the administration's request for $25 million to support the Korea Peninsula Economic Development Organization. The significance of this is that, if the job is going to be done and done right, it is going to take a commitment. To suggest it is going to be done with half the amount of money is simply unrealistic. We might as well address reality. The administration is prepared to suggest, with the $25 million, it will be able to implement the agreed framework with North Korea.

I also want to recognize Senator MCCAIN, who joins with me, as well as Senator LIEBERMAN, in the second degree to the Lieberman amendment.

Mr. President, I believe I have asked for the yeas and nays. I will be very brief in my remarks, assuming I am correct, that we have requested the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have been requested only on the Lieberman amendment.

Mr. MURKOWSKI. It would be my intention to ask for a voice vote on my second-degree amendment to the underlying amendment, to the Lieberman amendment. Perhaps it would be in order to do that now. Then I can proceed with my statement.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5089) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, the Appropriations Committee proposed a cut of funding to $13 million. I do not think we are involved, here, in a bean-counting debate. The question is, what does it take to do the job?

If we go back to the initiation of the framework agreement, I think many of us were under the assumption that this would be an obligation pretty much underwritten by South Korea and Japan. That has not been the case. We have been involved and we continue to be involved. But my concern, in real terms, is that what we are talking about is a major foreign policy initiative, and that is how we deal with North Korea.

I said on previous occasions I do not think the agreed framework was the best way we could have negotiated it, but I am not going to judge the administration necessarily in hindsight. My objection to the agreement was that, in negotiating, we agreed basically not to inspect the two sites, the two storage sites, until after the first nuclear plant was about to be fueled. I think that was a mistake, but I am not going to go on at great length.

I am concerned the North Koreans live up to their commitments before the money starts flowing. The Murkowski-Lieberman-McCain amendments would condition the $25 million on the following. The first is Presidential certification that progress is really being made on the North-South relations. This is a condition of the agreed framework, but one that is obeyed in the breach, if you will. There have been significant exceptions to that. North Korea has flouted, in some instances, the armistice agreement and taken several actions in the past few months to increase tensions on the DMZ, by violating borders. The question is how does this decrease tensions? It clearly does not.

Cooperating fully on safe storage of all spent fuel—this is a requirement. Again, it is a condition of the agreed framework. Thus far, I think the cooperation has been relatively reassuring on that one.

No significant diversion of financial or other assistance—Senator MCCONNELL's provision deals with the important matter of the diversion of fuel oil. But I think it must go further. We have spent $8.2 million in food aid, even though there are conflicting reports about what North Korea does with the money. In fact, in the last 2 years we have spent over $50 million for North Korea in food value and other assistance.

So what we are talking about is full compliance with all the provisions of the agreed framework and the confidential part, which includes the timetable for compliance. This should be a no-brainer. If there are violations, the money should simply stop. They should understand that.

If, as the administration assures me, North Korea is fully cooperating with

the agreed framework and is moving towards advancement on other issues, these should be very, very easy certifications. It should not be any problem at all. Further, before any money is spent, the administration will report on whether North Korea is cooperating fully on activities to account for the MIA's, those missing in action, including the joint field activities.

A lot of Americans forget, because the emphasis has been on Vietnam where currently we have unidentified less than 2,300 MIA's, but that is not the case in North Korea. Mr. President, 8,177 service personnel are unaccounted for in the Korean conflict and at least 5,433 were lost north of the 38th Parallel. These are the forgotten men of the Korean war.

I am pleased that the first joint operation started on July 10. Another operation is scheduled for September. That is good news. It is a start. But it is absolutely crucial to my support for the KEDO funding. It is an issue I have spoken out on time and time again, and it is an issue I am glad to see the administration and negotiators have finally brought into the discussion process. When KEDO started, when the first negotiations were taking place, there was no mention, no condition of our support and assistance and their cooperation on the MIA's. It is through the efforts of Senator MCCAIN and a number of other Members of this body and Members of the House, to insert this mandate, that I think has brought an awakening to the administration.

The highest calling of Government is full accounting for those who have given so much. We can never properly repay that. We simply have to demand it. We know where those battle sites were. We know where those prison camps were, in the north. We know there are 5,433 that are unaccounted for and this is an opportunity to give that accounting to their relatives and loved ones.

Further, this would require a report on all instances of noncompliance with the agreed framework, including diversion of fuel oil. It is fair to say we have seen evidence of that in the past. So I think what we have here, thanks to my good friend and colleague, Senator LIEBERMAN, Senator MCCAIN, and others, is a message to the administration that is responsible, is forthright, that meets their monetary requirement, but, if you will, puts behind the agreement the faith and credit of the Congress in an accountability that is oftentimes difficult to find in a Government process such as we have before us.

Mr. MCCAIN. Mr. President, I am pleased to cosponsor this amendment with my colleague from Alaska, Senator MURKOWSKI, to impose additional conditions on U.S. funding for the implementation of the North Korean Nuclear Framework Agreement of 1994.

The bill before the Senate requires the President to certify that North Korea is using heavy fuel oil provided by the U.S. and other countries under the Framework Agreement only for purposes permitted under that agreement. I support that restriction.

The amendment offered by Senator MURKOWSKI and myself would add additional Presidential certification requirements to the existing language. These additional certifications are:

Progress is being made to establish a meaningful dialogue between North and South Korea;

North Korea is cooperating fully with the canning and safe storage of spent fuel from its nuclear reactors at Yongbyon;

North Korea is in compliance with all other provisions of the nuclear framework agreement, including maintaining a complete freeze on its nuclear program; and

None of the assistance provided to North Korea by the U.S. has been diverted to other than the intended purposes.

In addition, our amendment requires the President to provide a report to Congress on three important matters related to peace and stability on the Korean Peninsula. These are: Cooperation of North Korea with efforts to return the remains of those missing in action since the Korean conflict; violations of the military armistice agreement; and the Administration's plan for encouraging North-South dialogue.

The bill before the Senate provides $13 million to the Korean Peninsula Energy Development Organization, or KEDO, which is the organization charged with implementing the nuclear framework agreement of 1994 between the U.S. and North Korea. My colleague from Connecticut, Senator LIEBERMAN, is proposing an amendment to increase that amount to $25-million. The amendment offered by Senator MURKOWSKI and myself would ensure that this $25 million is not misused by the Communist regime in North Korea.

I continue to have serious reservations about the Nuclear Framework Agreement with North Korea. Under this deal, the North Koreans get free oil, the benefits of trade and diplomatic relations, two new nuclear reactors, and untold additional benefits, including tacit forgiveness of their blatant violation of the Nuclear Non-Proliferation Treaty. Most of these benefits accrue before North Korea incurs any real damage to its existing nuclear program. In short, the most charitable appraisal I can give this agreement is that it represents a tendered bribe to North Korea in exchange for a limit on its nuclear weapons program.

I continue to believe that the only part of the Framework Agreement that serves our national security interest is ensuring that the spent nuclear fuel rods in the cooling pond at Yongbyon are safely stored and safeguarded. We must ensure that North Korea cannot quickly and easily begin reprocessing this fuel, and we must also ensure against further degradation of their condition in the storage pond. The Department of Energy has taken the lead in this effort, and estimates that all the spent fuel will be safely canned and stored in North Korea by March of next year.

In support of this effort, the U.S. has already contributed about $25 million. Maintaining the nuclear fuel rods in safe storage will require about $2.5 to $5 million per year until it is removed from North Korea. In my view, these funds are well spent to take this dangerous material out of North Korean hands.

The U.S. has also contributed $5 million for heavy fuel oil for North Korea and another $22 million to the operations of KEDO. This bill, with the Lieberman amendment, would give another $25 million to KEDO for heavy fuel oil and administrative costs of implementing the agreement. These expenditures can be expected to continue at least at the level of $20–30 million per year for the next seven to ten years, while the provisions of the agreement are carried out. That is a cost to the U.S. taxpayer of somewhere between $200 and $300 million.

We in Congress have a responsibility to ensure that the U.S. taxpayer knows where his money is going. That is why Senator MURKOWSKI and I are proposing an amendment to restrict the use of the $25 million provided in this bill. Our amendment would ensure that the taxpayers' dollars will not be spent to prop up the failing economy and Communist regime in North Korea.

As I have often said, I believe the Framework Agreement will fail in time. I believe North Korea will renege on this agreement, just as they reneged on their freely accepted obligations under the Nuclear Non-Proliferation Treaty, and as they did 9 times during the 2 years of negotiations leading up to this deal. North Korea is currently in compliance with the framework agreement, and therefore, I do not believe the United States should kill the deal by failing to provide a minimal level of funding to implement its more positive aspects.

Mr. President, I will not oppose the Lieberman amendment to restore funding for KEDO to the requested level. However, I believe the American taxpayers should be assured that these millions will not be misused by North Korea. Therefore, I urge my colleagues to join Senator MURKOWSKI and me in ensuring these funds are expended only if certain reasonable conditions are met. I urge the adoption of the Murkowski-McCain amendment.

AMENDMENT NO. 5028

Mr. SPECTER. Mr. President, I voted against the Helms amendment because it would prohibit the United States government from making certain payments to the United Nations if the United Nations ''borrows funds from any international financial institution.'' It may be necessary for the United Nations to borrow such funds to keep operating for a wide variety of contingencies.

The amendment also prohibits the U.S. Government from making certain payments to the United Nations if the United Nations attempts to ''impose any taxation or fee on any United States persons.'' I would certainly support an amendment which only prohibited an attempt by the United Nations to impose a tax or fee on any United States persons because that would violate fundamental U.S. sovereignty.

Since this amendment goes beyond the tax or fee issue and prohibits borrowing, I opposed the amendment.

AMENDMENT NO. 5059

Mr. INOUYE. Mr. President, I rise today to thank the managers of the bill, Chairman MCCONNELL and Senator LEAHY for accepting the Inouye-D'Amato amendment expressing the Sense of the Senate that the German Government expand the criteria by which Holocaust survivors may qualify for compensation.

Time is of the essence. Most of the survivors are in their mid-to-late seventies. Each day of delay causes the survivors of one of the most gruesome atrocities mankind has ever witnessed to move a day closer to never recovering the compensation, albeit symbolic, they certainly deserve.

The German Government and the United States Conference on Jewish Material Claims Against Germany are about to engage in the yearly process of negotiating new categories by which survivors of the Holocaust are entitled to receive compensation.

I recognize that there is absolutely no amount of financial remuneration that can adequately compensate these survivors for the unimaginable suffering they experienced. However, in many cases, pensions of approximately $300 to $500 a month will make a significant difference in the lifestyle these survivors will experience in their golden years.

I would like to take a moment to share with my colleagues the type of hardship my constituent Mr. Armin Nagel experienced while interned at the Vapniarka camp in Romania.

Mr. Nagel was interned during World War II in Transnistria, in the Vapniarka concentration camp and in the Grosulovo ghetto just inside the Romanian border.

Vapniarka was a camp used primarily for Jews. In mid-September of 1942 over 1,000 Jews, of which about 400 were from the Tirgu Jiu camp, were transferred to Vapniarka by train through Tiraspol. They joined the 630 Jews from Bessarabia and Bucovina and about 50 to 60 Ukrainian inmates already interned there. In mid-October of 1943, 700 Jewish survivors were transferred from Vapniarka to the Grosulovo Ghetto and the Vapniarka camp was closed. While in Vapniarka, the inmates were severely beaten by their guards and by fellow Ukrainian inmates.

Based on survivors' testimonies, Raul Hilberg, in his book ''The Destruction of the European Jews,'' describes the food that the inmates received as follows:

> Vapniarka was the site of a unique Romanian nutritional policy. The inmates were regularly fed 400 grams of a kind of chick pea (tathyrus savitus) which Soviet agriculturists had been giving to hogs, cooked in water and salt and mixed with 200 grams of barley to which was added a 20-percent filler of straw. No other diet was allowed. The result of this diet manifested itself in muscular cramps, uncertain gait, arterial spasms in the legs, paralysis and incapacitation.

This is just one example of the type of terrible treatment the prisoners experienced at Vapniarka.

Mr. Nagel has been denied a pension by the German authorities because Vapniarka has been categorized as a labor camp. Today, Mr. Nagel is 76 years old and survives on a moderate income supplemented by Social Security. This enables him to meet his basic necessities of food, shelter and clothing. A pension of $300 to $500 a month will make the difference between making ends meet and being able to live a decent lifestyle during his golden years.

Through this resolution the Senate encourages the German Government to negotiate expediently and in good faith with the United States Conference on Jewish Material Claims Against Germany.

CLARIFICATION OF THE BAN ON AID TO AZERBAIJAN

Mr. COHEN. Mr. President, in 1992, war in the Caucasus led Congress to approve a ban on direct U.S. aid to the Government of Azerbaijan under what is known as ''section 907.'' Although section 907 was not intended to deny humanitarian aid to the war-ravaged population of Azerbaijan, it has done just that.

Mr. President, I rise to support the effort today to clarify section 907, making humanitarian aid to nearly 1 million in Azerbaijan easier to deliver.

This effort represents a true humanitarian action, while at the same time aiding the stabilization of the Caucasus, one of the hotspots of the former Soviet Union.

Section 907 currently prevent nongovernmental organizations [NGOs] receiving U.S. funding from dealing with the Government of Azerbaijan in carrying out humanitarian missions in the country.

In formerly Soviet Azerbaijan, the Government controls a large portion of the economy, so this restriction makes it very difficult for aid organizations to efficiently deliver much-needed help to the 900,000 refugees from the war with Armenia.

Some examples of the problems section 907 has created for the International Rescue Committee [IRC], Rescue International [RI] and CARE, independent relief agencies, are as follows:

International Rescue Committee [IRC] initially stored medical supplies in Azerbaijan under tarps on the street, because section 907 precluded renting Azerbaijan Government-owned warehouse space. When the Government allowed IRC to use the space rent free, IRC still had to store the supplies under tarps inside the warehouse because IRC was not permitted to pay to repair a leaking roof, since that would have been contact with the Government of Azerbaijan.

Relief International [RI] was unable to cooperate with a 1994 UNICEF child immunization program in Azerbaijan, despite major need for such a program, because UNICEF was working with Azerbaijan's Ministry of Health on the project.

This year, CARE withdrew a proposal to USAID to rehabilitate buildings and railroad cars as shelters for displaced Azerbaijanis, because the structures were government owned.

RI has been unable to do equal-value exchanges of pharmaceuticals with other non-American, nongovernmental organizations [NGOs] in Azerbaijan, a common practice in areas with scarce medical resources, because these other NGO's cooperate with the government.

Two thousand IRC-built latrines to prevent water-borne diseases among the refugee population cost twice what they should have, because a middleman had to be retained for purchasing supplies so as not to conduct business with the Government.

The extreme gravity of the humanitarian situation in the country was best illustrated in a recent cable to the State Department from the current United States Ambassador to Azerbaijan, Richard Kauzlarich. In the cable, the ambassador cited the horrifying preliminary results of a medical survey conducted by the Centers for Disease Control, UNICEF and the World Health Organization in Azerbaijan earlier this year:

Seventy percent of displaced children in Azerbaijan between the ages of 12 and 23 months suffer from anemia. This can cause irreversible problems in their mental development. Anemia is also widespread in the adult population.

Thirty percent of displaced children in Azerbaijan between the ages of 6 and 11 months suffer stunted growth caused by malnutrition; 11 percent of the elderly also suffer malnutrition.

Twenty-four percent of Azerbaijani displaced children suffer from diarrhea.

Seventeen percent of the displaced population suffer from iodine deficiency disorders (goiter).

The message in the ambassador's cable is clear—The United States must act now to clarify section 907 and try to stem the growing humanitarian crisis in Azerbaijan.

I ask unanimous consent that the text of the ambassador's cable and a 1994 report by USAID on the effects of the section 907 ban on Azerbaijan be printed in the RECORD.

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

(See exhibit 1.)

Mr. COHEN. Finally, Mr. President, action to clarify section 907 is in the U.S. national security interest. On a

strategic level, section 907 may force Azerbaijan back under the Russian yoke. A number of other ex-Soviet republics have been coerced into compromised relationships with Moscow, because they have been unable to build strong national institutions.

Azerbaijan has so far resisted Russian and Iranian pressure and is striving to maintain its sovereignty by developing its large oil reserves.

The suffering and privation aggravated by section 907, however, make the Azerbaijan's quest for sovereignty more difficult.

Mr. President, I know that the Azeri-Armenian conflict evokes deep passion in many of my colleagues, but the easing of the suffering of displaced civilians, children and refugees is not a political statement, it is a moral imperative.

The war in the Caucasus is now winding to a close on terms favorable to Armenia and the Armenian population of Nagorno-Karabakh. While a peace treaty has not yet been signed, both sides in the war have shown a desire to negotiate and turn their embattled countries to the task of rebuilding and recovery. Clarifying section 907 is essential to speed that process.

Mr. President, this issue presents us with a simple question: Does the United States want to act now to speed the process of recovery, rebuilding, and democratization, or do we want to stand by and allow want and isolation to doom Azerbaijan and the Caucasus as a whole to a future of instability, authoritarianism, conflict and subjugation to reactionaries in Moscow?

I commend Senator BYRD for his initiative in seeking to clarify the section 907 ban.

EXHIBIT 1

SUBJECT: A GENERATION LOST: ALARMING NEWS ABOUT THE HEALTH OF IDP CHILDREN

First, summary: The 900,000 refugees and internally displaced persons [IDPS] remain the world's forgotten tradegy. The tragedy must end now. According to the preliminary results of a CDC/UN health survey on the IDPS—they have health problems that are significantly worse than CDC anticipated. That the IDPS suffer from poor nutrition, lack of access to health care and chronic diarrhea among children was predictable. However, much more shocking were the CDC's findings of stunted growth in children, a high incidence of goiter and widespread anemia. Some of this could result in mental retardation for the worst affected children in the camps. This is not 1992. The authors of FSA 907 did not intend that the U.S. Government not respond to such suffering of little kids. On humanitarian grounds, the United States must act—even if it means some contact with the government public health service—to meet this long-ignored crisis. End summary.

Second, Ibrahim Parvanta of the Centers for Disease Control [CDC] met with the Ambassador on April 19 to discuss the preliminary results of CDC's aid-funded medical survey of IDPS in Azerbaijan. From March 27 through April 19, the World Health Organization [WHO], the Centers for Disease Control and Prevention [CDC] and UNICEF, in collaboration with Relief International [RI] and Medicines Sans Frontieres/Holland [MSF/H] conducted a nation-wide health and nutrition survey in Azerbaijan. The survey covered 55 districts with an estimated population of 620,000 IDPS and the non-IDP population of the country for comparison purposes. Because of section 907 of the Freedom Support Act, CDC's part of the survey could only focus on the IDP population, using PVO support. WHO/UNICEF focused on the general population with government of Azerbiajan support. Parvanta highlighted the following preliminary findings of the survey.

FOOD INSECURITY

Forty-nine percent of all IDP families and 29 percent of resident families surveyed, skipped meals during the week before the survey.

Members of 46 percent of IDP households and of 31 percent of resident households had not eaten meat during the preceding 2 weeks.

STUNTED GROWTH IN CHILDREN

Children in Azerbaijan suffer fromn chronic health and nutrition problems that lead to stunted growth. The long term functional implications on physical work capacity, intellectual development and overall health may be significant. Recurrent clinical and sub-clinical infections, as well as nutritional deficiencies (particularly micronutrients) may be responsible for this condition. Parvanta stressed that stunted growth was higher among IDP children aged 6–11 months (30.7%) than the same age group in resident population (21.3%).

HEALTH CARE: OUT OF REACH

Poor access to health care is currently a serious problem, particularly for IDPS in Azerbaijan. Most often, ill people who want treatment cannot afford it. (Despite a public health system which supposedly provides free medical care, Azeris must pay to obtain medical treatment.) Thirty-seven percent of people surveyed said that they did not seek medical treatment the last time someone in their family was sick. The main reason, specified in 68 percent of cases, was an inability to pay.

Twenty-four percent of IDP children and 16 percent of the resident children (ages 0 to 59 months) were reported to suffer from diarrhea.

Seventeen percent of the surveyed population were discovered to have iodine deficiency disorders (goiter). The prevalence of goiter varies considerably by region.

Seventy percent of IDP children 12 to 23 months old were reported to suffer from anemia. Parvanta said that this figure is far higher than they expected to find here. If iron deficiency is the main cause of anemia in Azerbaijan, then many children risk significant and potentially irreversible consequences to their mental development. Anemia is also a wide-spread problem for adults.

Third, Parvanta cautioned that CDC would have to further analyze the data before reaching final conclusions. The Ambassador asked whether the survey work had uncovered evidence of the WHO-reported malaria among IDPS. He said that they had not although this was yet not mosquito season. Noting that he has previously worked in Armenia, Parvanta added that living conditions are considerably worse for the IDPS in Azerbaijan than refugees in Armenia.

COMMENT

Fourth, we commend CDC for this evaluation of the state of health and nutrition of IDPs in Azerbaijan. The CDC's unexpected findings that young IDP children suffer from stunted growth, anemia and goiter are alarming. As previously reported, there are reports from WHO and others that malaria is a growing problem in southern Azerbaijan at the southern camps near Sabirabad and Imishli where 46,000 IDPs live in wretched conditions. We believe that the IDPs—especially children—are more susceptible to malaria due to their high levels of anemia and general poor health.

Fifth, we will not prejudge CDC's final conclusions. Nonetheless, we believe that malnutrition and miserable living conditions in camps, rail cars and decrepit public buildings have severely damaged an entire generation of IDP children. We need to rethink the possibility of targeting medical assistance to these IDP children. It will involve some contact with the government but the assistance would be provided through PVOs. The humanitarian need is there. The administration should go to the Congress and describe the suffering of Azerbaijan's IDPs and the importance of the United States doing something about this on humanitarian grounds. The authors of FSA 907 did not intend to prevent refugee children from receiving medical care and food supplements necessary to lead normal lives. There is a crying need for more help from western donors—including the United States—to provide basic health care for Azerbaijan's IDPs, the neediest people in the region.

THE IMPACT OF SECTION 907 OF THE FREEDOM SUPPORT ACT ON DELIVERY OF HUMANITARIAN ASSISTANCE TO AZERBAIJAN—OCTOBER 21, 1994

PURPOSE OF REPORT

The purpose of this report is to respond to language of the Senate Appropriations Committee report on the Fiscal Year 1995 foreign operations appropriations bill (Report No. 103–287, page 77) stating that:

''Within 60 days of enactment of this bill into law, the President shall report to the Congress of [sic] the impact of section 907 of the Freedom Support Act (Public Law, 102–511) on efforts by private voluntary organizations to provide humanitarian, refugee, and disaster assistance.''

This report provides background on humanitarian relief needs in Azerbaijan, a description of United States Government-funded PVO humanitarian assistance operations in Azerbaijan, and an assessment of the impact of Section 907 on these activities.

BACKGROUND

As a result of the conflict over the status of the Nagorno-Karabakh region, Azerbaijan has one of the world's worst refugee/internally displaced person (IDP) situations. The current estimated numbers in these two categories are:

Refugees (mostly from Armenia)	250,000
Internally Displaced Persons (IDP)	658,000
Total	908,000

Of the IDPs, 10% are currently living in organized camps, and the rest are either living with host families, in public buildings, government-provided shelters (sanatoria), hostels, unused railway wagons, or crude earth pits.

Some key facts regarding the condition of Azerbaijan's IDPs and refugees: hepatitis cases increased by 144% since January 1993; water-borne diseases among children are up 18% and salmonellosis is up 70% in the first eight months of 1994 compared to all of 1993; the leading cause of infant mortality and main reason for hospitalization is acute respiratory infections; drugs previously supplied by the former Soviet central system have decreased from 75% of the country's needs to 5%.

A substantial portion of Azerbaijan's territory, including most of the best agricultural land, is occupied by Nagorno-Karabakh Armenian forces, and there has been substantial damage to the infrastructure.

Budgetary insolvency has severely strained the ability of the social welfare system to continue to support over one million beneficiaries. Some 200 schools country-wide are occupied by refugees and IDPs (58,500 children are unable to attend school on a regular basis).

Of the total IDP/refugee population, those most in need—i.e. those who have few or no alternative sources of income—are estimated to number 430,000. Some of the families hosting the displaced, pensioners, orphans, handicapped and disabled people bring the total vulnerable population in need of assistance to 450,000.

UNITED STATES GOVERNMENT-FUNDED PVO PROGRAMS IN AZERBAIJAN

USG-funded humanitarian assistance programs in Azerbaijan are being implemented by several US PVOs. USAID-funded PVO activities are managed by Save the Children Federation (SCF) under an umbrella grant. SCF-managed programs are principally in the areas of food, health care, and shelter for refugees and IDPs. USDA is implementing several food assistance programs for refugees and IDPs through US PVOs under the Food for Progress program. USAID provides funds and food commodities for international organizations delivering relief in Azerbaijan. These resources are delivered to beneficiaries through PVOs.

IMPACT OF SECTION 907

The principal impact of Section 907 of the FREEDOM Support Act on delivery of humanitarian assistance by private voluntary organizations (PVOs) to those in need in Azerbaijan has been to complicate or preclude activities involving unavoidable contact or interaction with government-controlled enterprises, institutions, and facilities. In many cases where relief activities can be conducted in compliance with Section 907, the restrictions of that legislation have increased costs of operations and thereby reduced the scope and impact of the activities.

As the state domination of the entire economy inherited from the Soviet era has barely changed in Azerbaijan, Section 907 has had a substantial impact on delivery of humanitarian assistance. Following are examples of the impact of Section 907 to date.

MEDICAL SERVICES

Section 907 has blocked or complicated delivery of medical assistance to those in need by USG-funded PVOs. As Azerbaijan's public health system is entirely state-controlled, it is very difficult to implement some medical assistance projects without providing assistance through government instrumentalities.

To ensure that it was not violating Section 907, one PVO developed a limited, parallel health care program for the displaced alongside the government program, which is wasteful and contrary to good public health practice. This same PVO has also refrained from utilizing locally available medical personnel in its programs because they are all government employees, an obstacle that has severely limited the PVO's ability to reach those in need. Finally, many public health activities such as child immunization are by their very nature best conducted via the state health system, but because of Section 907 PVOs have felt they are unable to assist in these basic preventative programs.

USE OF STATE-OWNED INFRASTRUCTURE/ FACILITIES

As virtually all facilities and transportation equipment in Azerbaijan are state-owned, compliance with Section 907 has made use of basic infrastructure (warehouses, truck fleets, and other transportation and storage equipment) difficult.

One USG-funded PVO operating in Azerbaijan has, in an attempt to reduce contact with the state sector, invested great time and effort in trying to secure privately-owned warehouse space for storage of relief commodities. In the end there was no alternative to the state-owned facility. Once use of the state-owned facility was chosen, the issue of rent payment continued to complicate relations with the facility management, as the PVO believed Section 907 precluded compensation of any state-owned facilities for services.

Another issue has arisen in connection with one of the warehouses being used by this PVO—repairs to state-owned facilities. One of the warehouses in question has developed a leaky roof. Believing that Section 907 precluded use of PVO funds to make essential warehouse repairs to protect relief commodities in the warehouse, the PVO has covered the supplies with tarpaulins but fears that some damage to the commodities will result when seasonal rains arrive. In this case, the PVO's efforts to comply strictly with Section 907 resulted in wasted time, energy, and probably damaged relief commodities.

RELIEF-RELATED REHABILITATION OF PUBLIC BUILDINGS

The rehabilitation of public buildings being used as shelter by displaced persons in Azerbaijan was a priority need identified by one implementing USG-funded PVO. However, as the PVO believed that Section 907 precluded repairs (in this case winterization and sanitation upgrades) to state-owned buildings, the project was not implemented. As a large number of displaced persons and refugees are necessarily accommodated in public buildings not designed as residential structures, this aspect of Section 907 has had a major impact on delivery of assistance to those in need in Azerbaijan.

LOCAL PROCUREMENT OF GOODS AND SERVICES

In some cases PVOs have interpreted Section 907 in a manner that precluded local procurement of essential goods and services, or made such procurement more difficult and more costly. For example, one POV project involved improving access to safe water supplies by drilling wells. However, the only available company that could preform the work was state-owned, so the project was not implemented.

Because of the way they have interpreted Section 907, USG-funded PVOs trying to procure goods locally have made prolonged efforts to find privately owned vendors or suppliers. In many cases the privately owned suppliers are merely intermediaries who pass on state-produced goods at a higher price. In addition, exclusion of state-owned sources has made competitive bidding impractical, and probably resulted in higher costs.

AID TO TURKEY AND AZERBAIJAN

Mr. BYRD. Mr. President, I would like to engage the subcommittee leadership in a colloquy regarding our policy toward Turkey and the Caucasus in this bill. The importance of this strategic region for U.S. policy can hardly be overstated, and the bill as passed by the House has a number of very troublesome provisions.

Senator MCCONNELL, as I understand it, the House bill as it passed has several provisions that have the probability of damaging our relations with Turkey, our ally, and Azerbaijan, our friend to the east of Turkey in the Caucasus. The Turkey provision would link our aid to forced admissions by the Turkish government on historic events, admissions that are strongly repugnant to and rejected by Turkey. This is really a bilateral matter between Turkey and Armenia which should be worked out between those two states. As a result of that House provision, the ambassador from Turkey has asked us to retract our provision of economic aid. That is a sorry state of affairs. They would rather not have the aid if it is tied up in conditions that are onerous to the Turkish government and people. I do not blame the Turkish government for its reaction to this provision. I understand that the Committee has struck that House provision and I congratulate Senator MCCONNELL and Senator LEAHY for that. That is the responsible thing to do.

Mr. MCCONNELL. That is correct.

Mr. BYRD. On the matter of Azerbaijan, I understand that the House included a provision which would imply separate legal status to Nagorno-Karabagh, a region of Azerbaijan. The international community, through the Organization for Security and Cooperation in Europe has already recognized the current borders of Azerbaijan as constituting its territorial integrity. Thus, a separate legal status for Nagorno-Karabagh is opposed by the international community and is against the policy of the United States. I understand, again, that the subcommittee struck the provision.

Mr. MCCONNELL. That is correct.

Mr. BYRD. Further, humanitarian aid to Azerbaijan has been interrupted because of a policy adopted in 1992 to cut off U.S. aid to that nation as a result of its conflict with Armenia. In 1992, a war between Armenia and Azerbaijan led Congress to ban direct U.S. aid to Azerbaijan. This was included as Section 907 of the 1992 law called the Freedom Support Act, which was intended to provide economic and other aid to former Soviet republics to assist their transition to free and independent states with solid ties to the West and open markets for American business. As currently interpreted, Section 907 prevents U.S.-funded non-governmental organizations from dealing with Azerbaijan's government in carrying out humanitarian missions. In formerly-Soviet Azerbaijan, the government still controls a large portion of the economy, making it difficult, under Section 907, for aid organizations to deliver much-needed help to Azerbaijan's population, nearly a million of whom are displaced persons and refugees.

The findings of a recently released report on the refugee health crisis in Azerbaijan, by the U.S. Center for Disease Control, UNICEF and the World Health Organization cites serious difficulties in delivering vital medical supplies and other aid because Section 907's ban on direct U.S. aid has been broadly interpreted and used to restrict the delivery of such aid. This was never the intent of Section 907. Am I correct in this statement?

Mr. MCCONNELL. That is entirely correct, the section was never intended to restrict the delivery of humanitarian aid.

Mr. BYRD. The House has included a provision which would set up an artificial ratio of humanitarian aid relative to Azerbaijan and its region of Nagorno-Karabagh. Such ratios have no precedent in the delivery of humanitarian aid and are clearly unworkable. I understand the subcommittee has struck that provision.

Mr. MCCONNELL. That is, again, correct. Such an artificial mechanism in directing humanitarian aid has never been used and I do not know how it could be administered.

Mr. BYRD. It is in our interest to ensure that humanitarian aid get through to all needy people who are suffering as a result of the war. The chairman, in the action of the full committee, included language suggested by the ranking member and myself which clarified our intent that humanitarian aid be effectively delivered using the facilities of the government of Azerbaijan. If the facilities of that government are not used, much of the aid would not be able to be delivered, as I understand it. Further, I have a letter from the Department of State indicating the Administration agrees entirely with this policy and stating the intent of the Administration to revise its State Department guidelines in regard to that region in order to ensure there is no further ambiguity as to the delivery of food, medicines and the like into Azerbaijan with the assistance of government personnel and facilities there such as warehouses, clinics and other logistical support.

Mr. MCCONNELL. Yes I understand the guidelines will be issued promptly after the passage of this bill.

Mr. BYRD. There is still some concern on the part of the organizations that deliver the aid that a statutory provision recognizing this policy might be needed to ensure the aid can in fact be delivered as we intend. I have prepared such an amendment and it is cosponsored by Senators LEAHY, REID, JOHNSTON, JEFFORDS, INOUYE, COHEN, LUGAR, and MURKOWSKI. The language would directly reflect the report language already agreed to. However, I am willing to withhold that amendment if the chairman can assure me that he will defend the Senate position in conference and continue to resist the onerous House provisions I have referred to regarding Turkey and Azerbaijan. Lastly, I would ask that the language regarding the delivery of humanitarian aid that we included in the Senate committee report be included in the Statement of Managers of the Conference Report.

Mr. MCCONNELL. I appreciate the Senator's position. I fully intend to resist the House provisions he referred to and we are in complete agreement on what should be the nature of sound U.S. policy toward this region. I will support the Senate position in conference, and I am sure that I will have the support of the ranking member and all of our conferees on this matter. I thank the Senator for his interest in this important matter and in the fate of that region and U.S. interests there, which are vital.

Mr. BYRD. I thank the Senator. I ask unanimous consent that a copy of the letter which I referred to dated July 11, 1996 to me from Ms. Barbara Larkin, Acting Assistant Secretary of State for Legislative Affairs be printed in the RECORD.

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

U.S. DEPARTMENT OF STATE,
Washington, DC, July 11, 1996.

DEAR SENATOR BYRD: This letter is in response to your request for our views on language on assistance to Azerbaijan included in the report accompanying the FY 97 Senate Foreign Operations bill. You are aware of our long-standing position regarding aid to Azerbaijan.

As written, this language, as well as similar report language accompanying the House bill, is useful in clarifying congressional intent on interpretation of Section 907 of the FREEDOM Support Act insofar as the delivery of humanitarian assistance is concerned, and is consistent with our views in this regard. We understand this language to express the congressional view that Section 907 should not be interpreted to preclude nongovernmental and international organizations from using and repairing Government of Azerbaijan facilities or services to deliver humanitarian assistance to needy civilians, and that humanitarian supplies may be transferred to Government personnel for the purpose of distribution. Further, we understand that the Committee intends that needy civilians be permitted to receive assistance in growing their own food for sustenance, and are not precluded from selling the excess in the private sector. We understand that the Committee expects, as do we, private voluntary and international organizations to maintain effective monitoring procedures to assure appropriate supervision over supplies and recipients.

Consistent with current law and the FY 97 Appropriations process, we intend to revise the State Department and USAID guidelines regarding the provision of assistance to Azerbaijan to reflect this mutual understanding of Section 907's scope.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

AID TO AZERBAIJAN

Mr. MURKOWSKI. Mr. President, I rise today to speak in support of Senator BYRD's comments regarding aid to Azerbaijan in his colloquy with Senator MCCONNELL. I understand that Senator BYRD had intended to offer an amendment, which I cosponsored, to the foreign operations appropriations bill on this issue.

Mr. President, Azerbaijan is the only one of the fifteen former Soviet Republics to be denied assistance in the Freedom Support Act. Humanitarian aid to Azerbaijan has been denied as a result of its conflict with Armenia. Section 907 of the Freedom Support Act, as currently interpreted, prevents U.S.-funded nongovernmental organizations from dealing with Azerbaijan's government in carrying out humanitarian missions. Section 907 states, ''U.S. Assistance * * * may not be provided to the Government of Azerbaijan until the President determines, and so reports to Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.''

The need for humanitarian aid in Azerbaijan is great, and Section 907 makes it difficult for aid organizations to deliver the much-needed assistance to the people of Azerbaijan, nearly a million of whom are displaced persons and refugees. The U.S. Center for Disease Control, UNICEF and the World Health Organization have all cited serious difficulties in delivering vital medical supplies and other aid to Azerbaijan because of Section 907's ban on direct U.S. aid. However, this was never the real intent of Section 907. Report language which clarified the intent that humanitarian aid be delivered using the facilities of the government of Azerbaijan has been added to this bill. I understand that Senator BYRD agreed to withhold his amendment, which I co-sponsored, with the understanding that the chairman will defend the Senate position in conference and continue to resist the House provisions.

It is important to recognize the economic and strategic potential of Azerbaijan. The country, known as ''the Kuwait of the Caspian'' has proven oil reserves of three billion barrels. Experts has put the ultimate potential of the country as high as forty billion barrels of oil. Gas reserves of the country are 184 billion cubic meters on the discovered fields. In 1994, a consortium of Western oil companies signed an eight billion dollar production sharing agreement with the government of Azerbaijan. They have a thirty year contract to work on the Guneshli-Chirag-Azeri offshore fields. U.S. companies have a good opportunity now to establish a commercial relationships with Azerbaijan.

The strategic potential of Azerbaijan is also very important, and should be brought to the attention of policymakers. Russia, the United States, the European Union, Turkey and Iran all have a great interest in the geo-political and economic state of affairs in Caspian Sea Rim Region. Whether the pipeline from Baku to Novorossiisk will be able to be used, presents a stability question, since it passes through war-torn Chechnya. In addition, while U.S. oil company's have forty percent of the shares in one project and growing financial participation in other projects in the Caspian Rim, they have accepted Russia's leading role. Finally, Azerbaijan how has a secular muslim government, however, there is a Islamic fundamentalist influence that Azerbaijan has so far resisted, that is cause for concern. But Azerbaijan will not be able to develop, and reach its full potential if it is not able to receive the humanitarian assistance that it now needs from U.S. nongovernmental humanitarian organizations.

AMENDMENT NO. 5047

Mr. MCCAIN. Mr. President, Senator DOMINICI offered an amendment this evening to condition International Military Education and Training [IMET] assistance to Mexico on Mexican authorities apprehending and beginning prosecution of, or extraditing to the United States, drug traffickers.

I fully agree with the sentiment of the amendment. Stemming the flow of drugs into the United States is absolutely vital to the quality of life and future of our Nation. I believe that we should encourage Mexican authorities to do everything in their power to take action against drug traffickers. However, I also believe that denying them IMET assistance is not the proper way of going about it.

There are certainly other more beneficial ways to improve the level of cooperation between our two nations. We should not be in the business of threatening and coercing our friends.

The continuation of IMET assistance is important in its own right, unconnected to the level of cooperation we receive on the issue of drug trafficking. Exposing foreign militaries to U.S. military procedure and ethics promotes our values. It helps create among these militaries a respect for the democratic rule of law and civilian leadership. Over time, this assistance will foster a far more productive United States-Mexico relationship in the areas addressed by the amendment than will threatening sanctions

TURKEY

Mr. PRESSLER. Mr. President, I had intended today to offer a series of amendments regarding economic assistance to Turkey. These amendments would have been similar to the provisions included in the version of H.R. 3540 that was approved by the House of Representatives on May 22. Specifically, these provisions would cap economic support funds [ESF] at $25 million, and would lower that amount to $22 million if the Government of Turkey failed to acknowledge the tragic Armenian genocide that occurred from 1915 to 1923. The House also approved a provision that would restrict the President's authority to waive aid restrictions against those countries found violating the Humanitarian Aid Corridor Act.

I support all these provisions. I know a number of my colleagues in the Senate support them as well. However, the bill before us on the floor does not contain any restrictions on economic aid to Turkey. I would note that the bill would make the Humanitarian Corridor Act permanent, and I commend the distinguished chairman of the Foreign Operations Subcommittee, Senator MCCONNELL, for doing so.

As my colleagues well know, what we have before us today is a replay of last year's appropriations process. Last year, the House capped economic aid to Turkey at $21 million, and the Senate bill did not restrict economic assistance. The final bill capped economic aid to Turkey at $33.5 million. I believe that was a fair compromise.

Mr. President, the reasons why Congress felt compelled to cap aid to one of our allies are several. I will not go into detail on these reasons because the record, most recently updated in the rigorous House debate on these issues, is quite substantive. There are four key concerns: Repeated human rights violations, its refusal to comply with the Humanitarian Corridor Act and allow aid shipments to Armenia, its continued military occupation of Cyprus, and its abuse of the Kurdish minority. On the last point, I am concerned particularly with the use of American military equipment against the Kurds.

It's common practice for Congress to use foreign aid as leverage to achieve foreign policy and human rights goals. I have long advocated tougher restrictions on aid to Turkey to achieve a peaceful, free and united Cyprus. I have called on the President to suspend military sales to Turkey until it improves its human rights record. And I was a cosponsor of the Humanitarian Corridor Act.

I believe we sent a very strong signal to Turkey last year when we agreed to cap economic assistance and passed the Humanitarian Corridor Act. To retreat from that strong stand would send the wrong signal and remove a vital piece of leverage we need to make progress on the key issues I have raised.

As I said, I had intended to offer amendments to restrict economic assistance to Turkey. However, I believe that, if past is prologue, the best course of action to pursue is to work with the distinguished Senator from Kentucky, the distinguished Senator from Vermont, Senator LEAHY, and their counterparts in the House.

I see the distinguished chairman of the Foreign Operations Subcommittee on the floor. I would just urge that he take my concerns, the concerns of my colleagues and clearly, the concerns of the strong majority of our counterparts in the House into consideration as he moves to conference on this legislation.

Mr. MCCONNELL. I thank my friend from South Dakota. I appreciate his willingness to work with me to achieve an appropriate solution to the controversies surrounding economic assistance to Turkey. This is a very controversial issue. I know he has been an outspoken advocate of a free, united Cyprus for many years now. He can be assured that I will take his views into consideration as we go to conference on this bill.

Mr. PRESSLER. I thank my friend from Kentucky.

DEVELOPMENT FUND FOR AFRICA

Mr. FEINGOLD. Mr. President, as the Senate considers the foreign operations appropriations bill for fiscal 1997, I would like to share with my colleagues once again my thoughts on the importance of our foreign assistance program in Africa.

I am pleased to be an original cosponsor of the Simon-Kassebaum amendment which restores the designation of the Development Fund for Africa.

Mr. President, as the ranking Democrat of the Africa Subcommittee, I have become increasingly aware of how the 48 countries of sub-Saharan Africa represent important security concerns for the United States. As we head toward the 21st century—an era that will no doubt be marked by transnational concerns—Africa is becoming even more relevant to United States interests, our economic, political, humanitarian, and security concerns.

Long-term development assistance to African nations—whether through bilateral or multilateral channels—directly complements U.S. foreign policy goals and national security interests.

There are several examples of this complementarity.

First, we have an interest in a safe and healthy environment. The rapid spread of the Ebola virus demonstrated some of the vulnerabilities on the continent. Now, unfortunately, the rates of HIV and AIDS infections in Africa are the highest in the world, and they are continuing to rise rapidly. As we have seen, viruses do not need visas.

Second, we have an interest in expanding trade and investment ties with the African continent. U.S. exports to Africa expanded by 22.7 percent in 1995—this is nearly twice the growth rate of total U.S. exports worldwide. Already U.S. exports to Africa equal 54 percent more than our exports to the former Soviet Union. We export more to South Africa alone than to all of Eastern Europe combined.

Third, we have an interest in democracy. Well over half of African nations now can be considered democratic or have made substantial progress toward democracy. Many of these nations also are moving toward free-market economies.

Fourth, we have an interest in human resource development. Sub-Saharan Africa has the fastest growing and poorest population in the world. A substantial percentage of Africa's population is under 18 years of age. These children will soon grow to adulthood and I would hope there will be opportunities for them to engage in productive activities.

At the same time, Africa's infant and child mortality rates are 2 to 3 times higher than those in Latin America or Asia.

Finally, we have an interest in security. It is unfortunate, but Africa also is home to terrorist activity and to drug and arms trafficking.

Mr. President, a stable African continent serves American interests.

The Development Fund for Africa (DFA) was established nearly 10 years ago specifically to ensure a steady source of long-term development funds for Africa.

In the past 8 years, the DFA has contributed to substantial gains in health

care, education, small business development, democracy, and stability.

The DFA is about investing in development and not in crises. The types of challenges we face in Africa today are very complex and require long-term solutions. And this requires long-term investment.

By restoring the DFA account, we give the administration the opportunity to capitalize on that investment.

I will make a budgetary argument as well. My colleagues know that since my election to the Senate, I have been a consistent deficit hawk. So, I always look for areas where we can cut wasteful Government spending.

Mr. President, the Development Fund for Africa is not one of these areas. On the contrary, it is one of the most effective programs in our foreign assistance package. In fact, the Agency for International Development has based many of its reform initiatives on lessons learned through DFA programs.

As a result of DFA assistance, African farmers are growing more food, more children are attending primary school, and more informal sector entrepreneurs have access to credit than was possible 10 years ago.

And the United States has played a key role in helping several African countries experience dramatic drops in fertility through effective family planning and health care programs.

In sum, Mr. President, restoring DFA through the Simon-Kassebaum amendment represents a sound investment in our relationship with the continent of Africa. It does not call for any new money. It does not take funds away from any other region. But it does signal our continued interest in remaining engaged with Africa.

I would also note that passage of this amendment would be a fitting tribute for the Senator from Kansas and the Senator from Illinois. These two Senators, who long ago recognized the importance of remaining engaged with Africa, were instrumental in getting the DFA established in the first place. And both have demonstrated leadership on this issue throughout the years.

In honor of their hard work on this and other issues of concern to Africa, I urge my colleagues to pass this amendment.

MILITARY SALES TO INDONESIA

Mr. FEINGOLD. Mr. President, as the Senate considers the foreign operations appropriations bill, I would like to once again raise the issue of the human rights situation in Indonesia.

As my colleagues may remember, in 1994, the Senate adopted an amendment which I cosponsored with Senator LEAHY to the fiscal year 1995 foreign operations legislation. A similar amendment was adopted by the Foreign Relations Committee in the 1995 authorization bill. These provisions restricted the sale of light arms to Indonesia in light of concerns related to East Timor.

Last year, however, the State Department sent a letter to Senator LEAHY and myself outlining the Administration's policy toward arms transfers to Indonesia. The letter said—and I quote—''our current arms sales policy . . . prohibits the sale or licensing for export of small or light arms and crowd control items until the Secretary has determined that there has been significant progress on human rights in Indonesia, including in East Timor.'' In light of the Administration's willingness to continue voluntarily this prohibition on the sale of such items, we withheld offering statutory language on last year's appropriations bill.

Mr. President, we are now debating our foreign assistance program for a new fiscal year, and the situation in the East Timor continues to worsen. As every member of this body knows, Indonesia has sustained a brutal military occupation of East Timor since 1975. Every human rights organization in the world has criticized Indonesia's human rights record, particularly in East Timor. The State Department has consistently reported human rights violations by Indonesia's military, including in its most recent report.

Since the Indonesians invaded East Timor 20 years ago, more than 200,000 East Timorese—about a third of the population—have died. But the Indonesian strategy of trying to control East Timor through a combination of infrastructural development and tight internal security has failed to win acceptance of Indonesian rule. Many Timorese are still marginalized and oppressed in their own homeland. Last year the United Nations Special Rapporteur reported that he saw ''an atmosphere of fear and suspicion'' in East Timor and that people were afraid to talk to him about the human rights abuses they and their families had suffered.

Mr. President, East Timor made international headlines in 1991 when the military massacred, by conservative estimates, at least 100 East Timorese who were attending a funeral. The National Human Rights Commission in Jakarta now says it has evidence that the massacre was ''not a spontaneous reaction to a riotous mob, but rather a planned military operation designed to deal with a public expression of political dissent.''

And the tension in East Timor continues to intensify, influenced in part by the ongoing power struggles in Jakarta, the increased resentment of the presence of Indonesian military officers and vigilante groups, and the immigrant settlers brought in by Indonesia to consolidate their occupation of the island.

In sum, I want to make it clear that Indonesia did virtually nothing in 1995 to improve its human rights record. A change in United States policy regarding the sale of military equipment is therefore unwarranted.

The State Department and independent human rights organizations all report continued abuse of basic human rights in the East Timor including arbitrary arrests and detentions, curbs on freedom of expression and association, and the use of torture and summary killings of civilians.

Early last year, several riots and demonstrations in East Timor were broken up violently by the Indonesian military. On January 12, 1995, outside of Dili, the capital, six East Timorese civilians were shot and killed by Indonesian troops. In September, riots broke out in Maliana and in Dili that were motivated by intense religious and ethnic tensions.

The situation has deteriorated sharply in recent months. Just last month—on June 10, 1996—graffiti drawn on a picture of the Virgin Mary in the town of Baucau provoked riots during which Indonesian security forces opened fire and at least 150 people were arrested.

This incident reflects what Human Rights Watch/Asia describes as ''an emerging pattern of provocative acts of religious desecrations or insult, followed by mass protests, followed by a crackdown by security forces.'' In fact, the Baucau riots represent the third such incident in East Timor in less than one year.

Mr. President, I am deeply concerned that—despite the fact that the Government of Indonesia allowed for a visit to East Timor of the U.N. High Commissioner for Human Rights, Jose Ayala Lasso, in December 1995, and despite the fact that the Government opened an office of the National Commission on Human Rights in Dili . . . despite some of these positive developments—the Government of Indonesia continues to engage in extrajudicial executions and killings and the systematic use of torture.

And the Indonesians have engaged in these activities despite the country's great economic success of the past few years. Mr. President, I would like to dispel any myths among my colleagues that Indonesia's progress on the economic front has led to any progress in its human rights record.

So, we have seen no progress in human rights in Indonesia. I had intended to propose an amendment which codifies the U.S. position on human rights and arms sales to Indonesia. In the past, I have advocated a much more comprehensive arms ban, which I wish we could pass. But a ban on small arms and crowd control weapons emphasizes a very important policy goal—that the United States is stepping away from responsibility for human rights abuses in Indonesia, and particularly in East Timor. As I have said before in this body, it is especially important that we establish this linkage between arms sales and human rights.

In the meantime, however, the administration has once again provided us with written assurances that the existing ban on light arms sales to Indonesia will remain in effect. With that understanding, I will refrain, again, from efforts to codify this provision.

Mr. President, the administration's policy sends a clear message to the

leaders of Indonesia that the United States will not be associated with nor will it tolerate their campaign of repression against the people of East Timor.

We do not want to support human rights abuses in East Timor. We do not want weapons manufactured in the United States involved in massacres of peaceful protestors or in interrogations of activists that oppose the Indonesian armed forces. We do not want U.S. arms used to kill and torture the people of East Timor.

Mr. President, I am pleased that the administration is continuing this policy. I ask unanimous consent that the text of the letter be printed in the RECORD.

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

U.S. DEPARTMENT OF STATE,
Washington, DC., July 25, 1996.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SEN. FEINGOLD: The Administration shares your concern about reports of human rights abuses in Indonesia. We continue to raise our concerns in meetings with Indonesian officials, and Secretary Christopher made a point of meeting with human rights activists during his visit to Jakarta this week.

We understand you may be considering an amendment to the Foreign Operations Appropriations bill that would further restrict the types of defense items that can be sold or licensed for export to Indonesia. While we support your objective, we believe this amendment is unnecessary. The Administration's policy already prohibits the sale of small arms, crowd control equipment, and armored personnel carriers, which we all agree should not be sold or transferred to Indonesia until there is significant improvement in the human rights situation there. This policy has been effective, and the Administration will continue to abide by the policy.

We hope this information is responsive to your concerns. Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

RUSSIAN FAR EAST AND AMERICAN-RUSSIAN CENTER

Mr. MURKOWSKI. Mr. President, I rise today in support of language in the Senate report for the foreign operations appropriations bill underlining the importance of the work of the United States West Coast-Russian Far East Ad Hoc Working Group, and of the American-Russian Center in Anchorage, AK.

Mr. President, the Gore-Chernomyrdin Commission's United States West Coast-Russian Far East Ad Hoc Working Group, under the leadership of Jan Kalicki, the Counselor to the Department of Commerce, is doing an outstanding job of developing a bilateral framework that will lead to increased trade and investment between the Russian Far East and west coast States. The first meeting of the working group was held in Seattle, WA, in June 1995. In an example of the importance of Alaska's relationship with the Russian Far East, the second meeting of the working group was held in Anchorage, AK, in March 1996. It was a very productive and successful event. I encourage all Senators from west coast States to become involved in the work of the group and to encourage businesses in their states to do so as well. The next meeting of the working group will take place in Khabarovsk, in the Russian Far East, from September 22 to 24, 1996.

I have seen first-hand the growth in business activity between the States of the west coast and the Russian Far East. The economic reform efforts taking place in the Russian Far East, in such cities as Vladivostok and Khabarovsk are significant. For example, Vladivostok, once a closed city, now has a stock exchange. Economic reform will also progress as development of the oil and natural gas fields on the continental shelf north and northeast of Sakhalin Island. The oil development is being led by two major international oil consortiums with U.S. partners. They have already announced that they will start designing projects on Sakhalin Island worth $30 billion. Alaskans and citizens of other west coast States will be involved in that development. There are also gold, diamond, timber, and fisheries industries in the region. The Russian Far East's resources could provide the engine for growth, through its export revenues, for the economic restructuring of all of Russia.

I have promoted ties between Alaska and the Russian Far East. In 1989 I helped make possible, and traveled on the groundbreaking first flight from Nome to Providenya. From that initial step, relations between Alaska and the Russian Far East have gone very far, very fast. The working group is doing an outstanding job of setting priorities and coordinating joint efforts to move forward on projects and programs that will benefit both Russians and west coast States by building and increasing business ties between the two regions. The projects of the working group will bring about greater private sector development in the Russian Far East. The group has already proven to be an essential and integral part of the economic reform effort currently underway in Russia.

In addition to my support for the working group, I would also like to take this opportunity to express my support for the American-Russian Center in Anchorage, AK. The Senate has wisely funded it in the foreign operations appropriations bill at the amount of $2,500,000 for its operation and training programs. The center has played an important role in the growth of business and exchanges between Alaska and the Russian Far East. The purpose of the center is to provide business training and technical assistance to the Russian Far East. It has training facilities in Yakutsk, Khabarovsk, Magadan, and Sakhalin Island. They have provided these communities with communications facilities, small business training, advanced interships with American business, and technical assistance since 1993.

Continued funding of the American-Russian Center is ultimately cost-saving to the American taxpayer. The center is seeking to become self-sufficient by 1998. At present, local Russian industries and governments are supporting 70 percent of the cost for training Russian personnel in the United States, and they have pledged 100 percent support by 1997. The operation of these centers by the American-Russian Center will play an important role in the future of market development and democracy building in the Russian Far East.

MICRO CREDIT

Mr. GORTON. Mr. President, micro enterprise loans help people become self-sufficient and lift themselves out of poverty. Micro credit programs extend small loans to the poor for self-employment projects that generate income. These programs generally offer various services and resources as well as credit for self-employment. Micro credit has shown its ability to fight poverty and its importance to poor people around the world. Approximately 8 million needy people who live in developing countries are helped by Micro credit programs.

Micro credit programs have also been useful in developed countries, where many thousands of people receive targeted loan funds and specialized counseling that help them with preparing for self-employment. According to a recent Catholic Relief Service evaluation, ''97% of the members from two established banks in Thailand found their income had increased by between $40 and $200 per year.''

As Results, a non-governmental organization concerned with issues of world poverty, points out in a recent draft of its Micro credit Summit Deceleration: ''Increasingly, Micro credit it being linked programmatically to savings plans that either require or strongly encourage savings by borrowers. Practitioners have found that the ability to save funds * * * is an important self-help tool for very poor people, allowing them to build assets essential to long-term financial security and self-sufficiency.''

This is an important testament to how an individual, ultimately responsible for his own well being, can prosper with a little push, where none existed before.

We can observe the benefits of Micro credit in many countries, where individuals, with help, have become self-sufficient enough to make great economic strides. Micro enterprise lending is a worthwhile venture that I am glad to support. I also want to commend the Subcommittee on Foreign Operations for expressing its support of micro enterprise funding, specifically its intent

that at a majority of all micro enterprise resources be focused on the poorest people. Perhaps the primary conduit for micro enterprise lending by this Government is AID's program with nongovernmental organizations. AID should continue its efforts in this regard, and should maintain an aggressive approach to the micro enterprise issue.

A.I.D. FUNDING OF MICROENTERPRISE PROGRAM

Mr. BINGAMAN. Mr. President, during the consideration of the foreign operations appropriations bill, I want to address the issue of microenterprise finance as a tool for sustainable development in developing countries.

I realize that Third World development efforts have received much criticism in this body, but here is an emerging theory and technique for offering financial services to the poor that is similar to those found in any financial system.

I understand that the microenterprise program is based on the concept that giving poor people access to financial services can allow them to participate in the private sector, rely on their entrepreneurial spirit, and be given a chance to rise out of poverty.

The microenterprise program has gained increasing recognition as a creative and successful way to provide foreign aid to developing countries.

Traditionally, most Western aid programs emphasize increasing credit to the poor at subsidized interest rates. But Mr. President, creating and maintaining such distortions in Third World economies does not benefit the poor; in fact, most of such subsidized credit serves those already established in the private and public sectors. Instead, if you can reach the poorest of the poor and enable them to become self-employed or create micro-business, then at least they face the possibility of emerging from poverty.

In addition, poor people and especially women, face barriers to credit that are often based on a set of constraints including a lack of collateral and being perceived as a bad credit risk.

There are many examples where these misperceptions have been proven wrong.

The Grameen Bank, for example, has become an international success story when talking about microenterprise finance. It is an organization for the poor and has accessed 2 million poor in the past 15 years. It has 1,050 offices and serves 35,000 villages, 94 percent being women. The customers, who are also part owners, obtain small loans for self-employment from which they generate income to repay the loans and support their families. Grameen extends credit without collateral but only has a 2 percent default rate, equivalent to that of any Western bank.

To qualify for a loan, a client must join a 5-member group and a 40-member center and attend weekly meetings. The client must assume responsibility for the loan of the group's members because it is the group and not the bank that evaluates loan proposals. If all five in the group repay their loan promptly, they are guaranteed credit for the rest of their lives.

But the bank also follows borrowers to save money and never forgives a loan, although they may restructure. Grameen helps their clients attain their entrepreneurial potentials and encourages a culture of self-help and self-reliance.

The Grameen model is now being followed by many established nongovernmental organizations. In fact, many are developing new and innovative approaches that are showing enormous ingenuity and success.

I strongly support this more creative and productive approach to providing foreign aid to developing countries, and am appreciative of the efforts of the committee chairman and ranking member, Senators MCCONNELL and LEAHY, for the report language of the foreign operations appropriation bill that A.I.D. maintain last year's level of funding microenterprise programs.

Microenterprise loans average less than $140, but the impact this small amount of money has on the loan recipients is enormous. At least half of the microenterprise resources are identified to make loans of less than $300 to those in the poorest half of the poverty line. This guarantees that microenterprise funds are directed toward those who need it the most. The funds go to individuals, not to governments.

Microenterprise loans give people a way to transform their lives. These funds provide a way to become self-sufficient, and allows people to begin to meet their own needs in the areas of health, educating their children, and improving their living environment. Most important, the microenterprise program gives people hope for the future.

Microenterprise foreign aid money is recycled. As money is paid back it is used for new loans to others. Eventually the microenterprise programs get linked into the formal financial system, and the effect is expanded even more. The microenterprise program will help millions of families.

My colleagues in this Chamber have given strong and sustained support to the microenterprise program. I commend them for recognizing this project's utility and worth. This program effectively promotes economic health in poor countries, and should receive the highest possible commitment from A.I.D.

ZIMBABWE

Mr. MCCONNELL. Mr. President, this committee was prepared to deal with a current trade dispute and nationalization of foreign assets in Zimbabwe, but has withdrawn action relying upon the good faith representations of Ambassador Midzi of the Republic of Zimbabwe that the problems involving United States companies have been mediated successfully. We congratulate the leadership of the Republic of Zimbabwe for its constructive actions and hope there will be no further need for this committee to review this matter nor contemplate action to remedy complaints by United States citizens.

THE EXPORT-IMPORT BANK

Mrs. MURRAY. Mr. President, I rise to make a few remarks about the foreign operations legislation for fiscal year 1997. Let me begin by complementing both Chairman MCCONNELL and Senator LEAHY for bringing this bill to the floor today. As a member of the subcommittee, I appreciate the lengths to which both of these Senators have gone to accommodate me and the citizens of Washington State.

This is important legislation; issues including the Middle East peace process, the growth of democracy in the former Soviet Union, efforts to combat disease and starvation around the globe, international family planning and job-creating export assistance financing are all part of this bill. Few pieces of legislation address so many issues of importance to this country—economic issues, national security issues and others associated with our role as the world's lone superpower. Importantly, this is all accomplished for an investment that represents less than 1 percent of the Federal budget.

I am particularly pleased that the Appropriations Committee fully funded our assistance program to Russia to foster the growth of democracy and build important new markets for United States goods and services. My home State of Washington is actively involved in Russia, particularly the Russian Far East. Educational, cultural, health and athletic exchanges, numerous sister city relationships, the West Coast Working group of the Gore-Chernomyrdin Commission, and of course, international trade and commerce with Russia have all captivated the citizens of Washington State. Washington State has demonstrated a commitment to developing and expanding ties with the Russian Far East by locating a state office in Vladivostock.

I have already mentioned that this bill addresses many national interests of concern to the United States. Any of which could be explored in greater detail today here on the floor of the Senate. I want to take a few moments to focus on the provisions of this bill that promote exports from the United States—the job creators of this legislation—and specifically, the Export-Import Bank of the United States.

This legislation provides nearly $770 million to the Export-Import Bank of the United States for fiscal year 1997. Ex-Im is the great equalizer for U.S. firms seeking to export abroad in a competitive global marketplace. A marketplace where our international competitors are spending vastly greater sums of money in support of their exporters. For example, in 1994, Japan provided export financing to nearly 40 percent of all that nation's trade deals. In the same time period, Canada financed almost 20 percent of its exports.

U.S. export financing through the Ex-Im bank equaled 3.3 percent—a figure significantly below virtually all of our trade partners.

It is estimated that the fiscal year 1997 appropriation will support between $15 and $18 billion in exports. Think about it, the Export-Import Bank will leverage its $770 million appropriation to generate $15–$18 billion in economic activity—job creating economic activity—right here in the United States in the next year. For several pennies, the American taxpayer, through Ex-Im, will support nearly 500,000 American jobs. And export-related jobs have shown to pay approximately 13-percent more than nonexport jobs. The Ex-Im Bank is sustaining and creating family wage jobs all across this country.

In my own State of Washington, the Ex-Im Bank is having a significant impact on trade promotion and job creation. Many identify the Boeing Co. with the Export-Import Bank. While the relationship between the bank and the aerospace industry is often overstated, it is important to note that approximately 2,000 small businesses in Washington State do contracting work for the Boeing Co. So when Ex-Im helps the United States commercial aircraft industry develop new markets for aircraft in Poland and Lithuania, Ex-Im supports jobs at small businesses across my State.

There are numerous examples of the Export-Import Bank aiding Washington State businesses seeking to export abroad. With Ex-Im assistance, Pacific Propeller, a propeller manufacturer and overhauler, located in Kent, WA secured $7.5 million of important work in Indonesia. Connelly Skis exported its recreational equipment including the new ''Big Easy'' water ski to Belgium, Columbia, South Africa, and Jamaica. And the Lamb Weston Corp. shipped Washington State french fries to Argentina, Chile, Guatemala, and Aruba. This was all done with assistance from Ex-Im—all of these export deals may not have occurred without Ex-Im assistance. Clearly, the Export-Import Bank of the United States is a major contributor to my State's efforts to compete and succeed in international trade. Few recognize the benefits of this small appropriation to the Export-Import Bank, many work and prosper due to this agencies important work.

Ex-Im is the lender of last resort; meaning the bank finances only deals that will not go through without assistance. The bank supports U.S. exporters when foreign governments offer subsidized financing to competitors, when private financing is unavailable or when small businesses are unable to locate commercial banks willing to provide financing. Importantly, the Ex-Im bank is a vital tool for small businesses seeking to export. Support for small businesses represented almost 80 percent of all Export-Import Bank transactions during fiscal year 1995.

I do have several reservations about the language in the bill which addresses an outstanding controversy regarding the Bank's provision of so-called retention bonuses. The bill restricts funding for the salary and expenses of the chairman and president of the Bank until Mr. Kamarck is confirmed by the regular process of the Senate. A full Senate hearing is, after all, the best forum to question Mr. Kamarck's actions and his nomination to lead the Bank. I urge the Senate to proceed immediately with a hearing for Mr. Kamarck.

Additionally, this legislation cuts administrative expenses for the Export-Import Bank by nearly $7 million. This punitive action is another expression of congressional frustration over the retention bonus issue. My concern is that in our zeal to protest previous Bank actions, we will actually be harming the Bank's ability to help America's exporters. I hope my colleagues in the Congress and the administration will come together to address outstanding Bank issues prior to this bill becoming law.

This legislation also provides important funding for the Overseas Private Investment Corporation [OPIC] and the Trade and Development Agency [TDA]. Both of these entities are also important components in the U.S. Government's trade promotion arsenal.

Mr. President, in my mind, the trade and export promotion provisions of this legislation represent a partnership with states across the country. In Washington State, by virtue of our location and history, we enjoy important cultural and economic ties with virtually every corner of the world. Despite an activist statewide commitment to international trade, Washington State needs the backing of the Federal Government to counter the resources of the Japanese and German Governments and those of our other international trade partners. For a minuscule investment, agencies like the Export-Import Bank, the Overseas Private Investment Corporation and the Trade and Development Agency all provide needed support—financial and consultative—to U.S. exporters.

Ms. MIKULSKI. Mr. President, I wish to engage the distinguished ranking member of the Foreign Operations Appropriations Subcommittee, Senator LEAHY in a colloquy regarding the use of Agency for International Development funds designated for Assistance for Eastern Europe and the Baltics.

This legislation provides funds for Assistance for Eastern Europe and the Baltics. One of the more successful programs we have established in the region are the joint research programs we have with Poland, the Czech Republic, Hungary, and Slovakia. In addition to funding high-quality, competitively awarded joint research grants, these programs strengthen ties between our countries, and expose foreign researchers to the American research system. This program also enables American researchers to form partnerships with Eastern European researchers. Projects are chosen to mutually benefit both the United States and the collaborating partner. The benefits of these research programs don't flow one way, but flow in both directions.

Finally, unlike most United States collaborative research programs, or assistance programs in general, Poland, the Czech Republic, Hungary, and Slovakia, match dollar for dollar the United States contribution to the joint research funds for their countries. This shows the importance they attach to this collaboration. In fact, I have just received a joint letter from the Ambassadors of these four countries stressing their governments' support and financial commitment to the programs. I have also received letters from American researchers stating the benefits of this program. I want to stress that every dollar of funding supports research projects—there are no overhead costs associated with these joint research funds.

I believe that these cooperative research and development programs exemplify the type of programs we should support with these countries and are in line with the goals of our assistance programs in Eastern Europe and the Baltics.

I would ask the distinguished ranking member if he agrees with my assessment of these collaborative research programs and that guidance provided to the Agency for International Development should encourage AID to make a contribution to these four programs in fiscal year 1997 at the level these programs received in fiscal year 1996.

Mr. LEAHY. Mr. President, I would say to the Senator from Maryland that I will urge the conferees to include in the statement of manager's language to provide sufficient guidance to the Administrator of AID to allow funding for these important agreements.

Ms. MIKULSKI. Mr. President, I thank the Senator from Vermont for this important clarification.

Mr. DOMENICI. Mr. President, the Senate is now considering H.R. 3540, the Foreign Operations and Export Financing appropriations bill for Fiscal Year 1997.

The final bill provides $12.2 billion in budget authority and $5.2 billion in new outlays to operate the programs of the Department of State, export and military assistance, bilateral and multilateral economic assistance, and related agencies for Fiscal Year 1997.

When outlays from prior year budget authority and other completed actions are taken into account, the bill totals $12.3 billion in budget authority and $13.4 billion in outlays for Fiscal Year 1997.

Although the subcommittee is over its section 602(B) allocation for outlays, with enactment of section 579, the bill will be $76 million in budget authority and $7 million in outlays under the subcommittee's 602(B) allocation.

I commend the committee for supporting full funding for the North

American Development Bank in the bill.

Mr. President, I ask unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD.

I urge the adoption of the bill.

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

FOREIGN OPERATIONS SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	72	8,253
H.R. 3540, as reported to the Senate	12,174	5,123
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	12,246	13,376
Mandatory:		
Outlays from prior-year BA and other actions completed	.....	.....
H.R. 3540, as reported to the Senate	44	44
Adjustment to conform mandatory programs with Budget Resolution assumptions	.....	.....
Subtotal mandatory	44	44
Adjusted Bill Total	12,290	13,420
Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	.....
Nondefense discretionary	12,250	13,311
Violent crime reduction trust fund	.....	.....
Mandatory	44	44
Total allocation	12,294	13,355
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	.....
Nondefense discretionary	−4	65
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	−4	65

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. MCCAIN. The foreign operations appropriations bill is generally a bill that does not have a problem with earmarks designed to benefit the States of individual members. This is the case again this year. Having said this, I do have some concerns about the bill and report in this regard and would like to briefly outline them.

There is a specific appropriation for $2.5 million in the bill for the American-Russian Center to provide business training and technical assistance to the Russian Far East. I have no reason to doubt the utility of this program. It may offer valuable assistance to the NIS, and I have long been a supporter of such assistance. However, if, as I am informed, AID would have spent roughly the same amount of funds on this program without the earmark, it is not clear to me why it required an earmark. Why cannot AID simply fund the program out of a larger account, as it apparently has in the past?

I accept AID's support of the program and I do not object to the provision. But as with any appropriations bill, a specific request for funding, which AID did not make in this case, is very helpful in evaluating the need for it when it appears in the bill as an earmark. The cause of a useful program is only helpful by AID listing such things as priorities.

There are assurances in the report that Russian industries and governments support 70 percent of the center's costs and that they have pledged 100 percent support by 1997. For purely budgetary reasons—$2.5 million in any bill is not insignificant—I hope they will follow through on their pledges. I will be following the program carefully to see that this is the case.

Unlike the bill, the committee report contains several comments on the advisability of funding particular programs that cause me some concern and would appear to have specific members' interest at heart.

First, the report ''directs'' AID to make at least $2 million available for the core grant of the International Fertilizer Development Center based in Alabama.

Second, it ''strongly encourages'' support for programs conducted by the University of Hawaii in Pacific regional development. It ''strongly supports'' the university's efforts to develop a United States-Russian partnership to educate young voters. and it ''encourages'' AID to collaborate with the university in health and human services training.

Third, it ''supports'' $750,000 for Florida International University's Latin American Journalism Program.

Fourth, it ''urges'' AID to support the research activity on pests of Montana State University.

Fifth, it ''encourages'' AID to support the education program of the University of Northern Iowa in Slovakia.

Last, it ''urges'' the International Fund for Ireland to support the work of Montana State University, Virginia Commonwealth, and Portland State.

Again, all of these matters are listed in the report, not the bill, and I would remind the agencies concerned that they are under no legal obligation to spend the funds as directed.

Mr. MURKOWSKI. Mr. President, it is my understanding the rollcall vote will be tomorrow on the Lieberman amendment.

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. MURKOWSKI. Outside of the windup, which I understand I have been entrusted with, I have no further comments.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, briefly, let me thank my friend and colleague from Alaska for his excellent statement and, of course, for the spirit of partnership with which we have gone forward on this.

If I read this right, the foreign operations bill that is before us would appropriate over $12,217,000,000. This amendment concerns $25 million of that—a speck. For anybody individually, $25 million is a lot of money. As part of this bill, it is a very, very small percentage.

I can tell you personally, I don't believe that there is any part of this bill that is a better investment, in terms of preserving international security, saving American soldiers from having to go into battle—which would truly cost us a lot of money—than this $25 million. I know that the administration right up to the President feels that very, very strongly.

I believe that we have achieved two very significant accomplishments with the addition of the Murkowski-McCain second-degree amendment. This is all about keeping promises. The Agreed Framework of October 1994 was a very significant agreement between the United States, South Korea, Japan, and North Korea, the Democratic Peoples' Republic of Korea.

We are saying, by overriding the committee's recommendation to cut the funding down to $13 million, that we promise $25 million a year to fund this agreement. The Congress says we are going to keep that agreement. We are going to fund up to the $25 million. But we expect the North Koreans to keep their end of the bargain as well. We are counting on the administration to effectively monitor the agreement and report to Congress if there is any indication that the North Koreans are not keeping their end of the bargain.

So far, I say, so good. I think the second-degree amendment greatly improves my underlying amendment. I am grateful, again, to my two colleagues, Senators MURKOWSKI and MCCAIN, for the way in which we have gone at this.

I thank the Chair, and I yield the floor.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

GAO REPORT ON MOTOR FUELS: ISSUES RELATED TO REFORMULATED GASOLINE, OXYGENATED FUELS, AND BIOFUELS

Mr. DASCHLE. Mr. President, a report released last week by the General Accounting Office [GAO] concludes that the reformulated gasoline [RFG] program is a cost-effective means of reducing ozone pollution and easing our Nation's vulnerability to oil supply disruptions and related price shocks. Congress ought to pay close attention to the conclusions of this study as it seeks to wean the nation off imported petroleum and further improve air quality throughout the Nation.

This independent analysis confirms that the reformulated gasoline program is good for the economy and good for the environment. RFG, which reduces emissions of volatile organic compounds and toxic air pollutants by 15 percent, displaces significant amounts of petroleum, much of which is imported. Given the gasoline price shocks that this country recently experienced and the petroleum displacement goals established by Congress in

the 1992 Energy Policy Act, it is time to consider nationwide use of RFG.

According to the GAO report, the potential for RFG with oxygenates to displace petroleum consumption is significant. GAO expects that by the year 2000 about 305,000 barrels per day of petroleum will be displaced by oxygenates. This amounts to about 37 percent of the 10 percent petroleum displacement goal established by Congress in the 1992 Energy Policy Act.

GAO noted in its report that if all gasoline in the country were reformulated, the Nation could displace 762,000 barrels of petroleum per day by 2000, and thus meet nearly all of the 10 percent petroleum displacement goal. Moreover, despite predictions by the oil industry that RFG would cost consumers over 13 cents per gallon more than conventional gasoline, GAO found that the actual cost to consumers has been negligible.

The environmental potential of an expanded RFG program is extraordinary. In the future, RFG will be even cleaner. In the year 2000, the Environmental Protection Agency will implement RFG Phase II, which will require further reductions in emissions of volatile organic compounds and toxic pollutants, as well as reductions of nitrous oxides.

Expanding RFG nationwide will bring these clean air benefits to new areas of the country. Moreover, since air pollution is transported over vast distances, adopting a nationwide RFG program will help further reduce pollution in areas already using RFG to lower ozone levels.

A nationwide program would achieve these air quality benefits at low cost. GAO concluded that Phase II RFG will be one of the most cost-effective measures available to control low-level ozone pollution. With the additional petroleum displacement benefits associated with nationwide use of RFG, there seems to be no reason why we should not move in that direction.

Finally, the GAO report demonstrates that continuing research into ethanol, an oxygenate used in RFG, is critical. GAO confirmed that substantial progress has been made in reducing the cost to produce ethanol. Since 1980, the cost to produce corn-based ethanol has dropped from $2.50 per gallon to about $1.34 per gallon. I hope that my colleagues in Congress will review the findings of the General Accounting Office and continue to support the research and incentives that have proven so successful in lowering the cost of ethanol production and encouraging the development of a strong domestic industry. As GAO has shown, these investments provide important dividends in terms of cleaner air and greater energy independence for the United States.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I think so often of that November evening long ago, in 1972, when the television networks reported that I had been elected as a U.S. Senator from North Carolina. I remember well the exact time that the announcement was made and how stunned I was.

It had never really occurred to me that I would be the first Republican in history to be elected by the people of North Carolina to the U.S. Senate. When I got over my astonishment, I thought about a lot of things. And I made some commitments to myself one of which was that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 66,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them are greatly concerned about the total Federal debt which back in February exceeded $5 trillion for the first time in history. Congress created this monstrous debt which coming generations will have to pay.

Mr. President, the young people who visit with me almost always like to discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Wednesday, July 24, stood at $5,173,226,283,802.71. On a per capita basis, the existing Federal debt amounts to $19,494.49 for every man, woman, and child in America on a per capita basis.

The increase in the national debt in the 24 hours since my report yesterday shows an increase of more than one billion dollars ($1,562,134,965.80, to be exact). That one-day Federal debt increase involves enough money to pay the college tuitions for 231,633 students for 4 years.

CHIAPAS—A TEST FOR MEXICO'S FUTURE

Mr. LEAHY. Mr. President, 3 weeks ago, a group of armed rebels in the state of Guerrero, Mexico marched down from the mountains and into the city of Coyuca de Benitez, not far from the resort town of Acapulco. Then, last week, several armed men attacked a Mexican army vehicle, killing one civilian in the crossfire. They were arrested, and the Mexican army is scouring Guerrero's countryside looking for other members of the insurgent group, known as the ''Popular Revolutionary Army,'' in an attempt to prevent future outbreaks of violence in the region.

These are just the most recent of several demonstrations of civil unrest in Mexico since the 1994 uprising of the ''Zapatista National Liberation Army'' in Chiapas. In states like Tabasco, Puebla, and San Luis Potosi, indigenous people are increasingly staging protests, and resorting to violence, to expose the inequity and racism of which they have been victims for generations.

Unfortunately, while the Mexican Government has reportedly tripled its assistance to Chiapas in the 2 years since the Zapatista uprising, those efforts have produced little in the way of real economic and social change. The disparities that exist between Chiapas and the rest of Mexico are still as appalling as they were 2 years ago. While President Zedillo has recognized that poverty and the lack of access to justice among indigenous populations are matters which must be addressed, his administration has taken few effective steps to do so.

Chiapas is one of Mexico's richest states, contributing oil, electric energy, cattle, coffee, cocoa, sugar, and various fruits and vegetables to domestic and international markets. Yet the majority of the people there lack adequate food and shelter, or access to education and basic medical care.

Where the government built roads in Chiapas, the roads were often of poor quality. Health clinics lack beds and experienced doctors. Schools lack materials and trained teachers. The uneven distribution of wealth and the unjust distribution of land are at the root of the civil unrest that has captured the world's attention.

Over 50 percent of Mexico's hydroelectric power is generated in Chiapas, yet less than one-third of all houses there have electricity.

Coffee producers, with the help of over 80,000 Chiapanecos, almost all of whom are Mayan Indians, produce 35 percent of Mexico's coffee each year. While over 50 percent of the coffee is exported to markets in the United States and Europe for over three times it's value in Chiapas, indigenous laborers, paid as little as $2 per day, rarely see any of that profit.

Cattle has become an increasingly profitable industry, but while nearly 3 million head are exported each year, few of the people in indigenous communities can afford to buy meat. There are reports that half of Chiapanecos are malnourished, and in the highlands and jungle areas the percentage is even higher.

Half of the homes in Chiapas do not have potable water and two-thirds lack sewage systems. There is one doctor for every 2,000 people. Chiapas has the highest number of deaths per 100,000 people than any other state in Mexico. Infant mortality, is close to double the national average.

The illiteracy rate is five times the national average, and the percentage of students not attending school is more than three times the national average.

The situation in Chiapas stems in part from a government that has deliberately excluded the indigenous people

of Mexico from the political process. While the Zapatista uprising may have given them a voice in the national and international press, they still lack a real voice in their own government.

Politics in Chiapas has been dominated by corrupt local and state officials influenced by the Civil Defense Committee. The Committee is comprised of the few families that own virtually all that is worth owning in the state. Human rights groups including Amnesty International and Americas' Watch have documented accounts of torture and political violence by Chiapas authorities since the mid–1980's.

The majority of the adult population in Chiapas is illiterate. Peasants there have reported that they don't vote, but the ruling PRI party picks up their voting cards and votes for them. In the 1988 elections which former President Salinas won by a narrow margin, no state gave the PRI a greater percentage of the vote than Chiapas.

What Chiapas needs is increased democratization of the Mexican political system, and greater representation for indigenous people. Until that occurs, political instability will discourage the investment that is necessary to provide jobs for the people there.

The United States loaned Mexico billions of dollars during the economic crisis of 1994. That decision was controversial in the United States, and had it been put to a vote in the Congress it might have been defeated. If the Mexican Government does not act aggressively to strengthen the institutions of democracy and reform its economy, political and economic instability will increase. If the peso collapses again, would the United States bail out Mexico a second time? I would not want to bet my house on it.

While the Mexican Government needs to do more to provide the people of Chiapas with basic services like potable water and roads that are passable in the rainy season, what they need most, and what will ultimately bring about the kind of fundamental changes that are needed in order to avoid further violence and instability, is economic investment and a meaningful say in the political process.

Despite widespread poverty in states like Chiapas, the Mexican elite have prospered, from Mexico's enormous oil wealth and the growth in manufacturing during the past two decades. The beneficiaries of this wealth need to recognize that the future stability and prosperity of their country depends on them. Not the United States. Not anyone else. They alone can provide the financial investment and jobs that are needed to overcome the desperation and inequities that have led to violence in places like Chiapas and Guerrero.

Mr. President, in addition to our geographical linkage, the United States and Mexico are closely linked both economically and culturally. There is a large population of Mexican-Americans living in the United States, and we are taking unprecedented measures to stem the flow of illegal immigrants from Mexico who risk arrest and even death in search of a better life in the north. There is no escaping the fact that events in Mexico, even in seemingly distant states like Chiapas, have enormous implications for our own country.

So we must encourage the Mexican Government, and representatives of Mexico's private sector, to address these problems with the utmost urgency. Benito Juarez, Emiliano Zapata, and Mexico's other great political visionaries and revolutionaries, gave their people hope for a better life. But for many, that hope has faded, and for some, who have resorted to violence, it has died. They have nothing left to lose.

With Mexico's population continuing to grow, putting increasing pressure on government services and the country's resources, the situation in places like Chiapas has reached a crisis point. But with creative thinking and the recognition that those who have prospered have a responsibility to help those who have been left out, Mexico's business elite has an opportunity to play a key role in finally turning the goals of the Mexico revolution into a reality.

TRIBUTE TO JOHN DAVIS AND HIS MANY CONTRIBUTIONS TO THE CITY OF BURLINGTON

Mr. LEAHY. Mr. President, in every community there is someone who has changed the direction of events, who has shaped the future of its residents. Burlington, VT has John Davis. This month John is saying goodbye to the City of Burlington's Community and Economic Development Office CEDO where he has spent the last 10 years making Burlington a better place to live and work. As Housing Director for most of that period John has worked to make affordable housing a reality for countless low and moderate income people living in Vermont's most expensive housing market. Since 1994 John has also been the driving force behind the effort to revitalize Burlington's Old North End through its designation as Vermont's only Enterprise Community.

When President Clinton first announced the Empowerment Zone and Enterprise Community Initiative, John was quick to see the opportunity to turn around the decline of Burlington's Old North End. There was no shortage of roadblocks on that long road to winning the designation of Enterprise Community. I think that only John's unique mix of grass-roots organizing skills, MIT professor's intelligence, and every day Vermonter common sense could have brought together all of the disparate groups involved to develop a plan for building a ''New'' North End where the ''Old'' one stood before.

There was little doubt in my mind that the project, under John's leadership, would succeed when I walked with HUD Secretary Cisneros down Archibald Street in the fall of 1994. Already there were signs of the changes to come, in particular the block long mural depicting neighborhood residents supporting the initiative, a mural John's family and many area residents worked on. One year later Secretary Cisneros walked down a very different Archibald Street in a very different neighborhood and pronounced Burlington's ''New'' North End the most advanced Enterprise Community he had visited.

In December of 1994 when I was honored to announce that the Old North End in Burlington had been selected as an ''Enterprise Community'', John Davis was quick to attribute that success to the people of the Old North End saying ''The reason we won was not because of the problems. . . We won because of our assets.'' Well, John was most definitely one of those assets, as was the community enthusiasm, cooperative spirit, and sense of hope he helped to bring out in a part of the city that many had written off. That renewed spirit has continued to grow and will sustain the renewal of the New North End when John has moved on.

I wish John the best of luck in whatever challenge he takes on next. I know his wife Bonnie Acker and his daughter Dia are looking forward to seeing more of him in the weeks ahead, but he will certainly be missed by those of us (and there are many) who have been lucky enough to work with John during his 10 years of service to the city and people of Burlington, VT.

ADDITIONAL COSPONSOR—H.R. 3603

Mr. LEAHY. Mr. President, I ask unanimous consent to be added as a cosponsor to amendment No. 4974 to H.R. 3603, the fiscal year 1997 agriculture appropriations bill.

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

MESSAGES FROM THE HOUSE

At 10:25 a.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 bill, in which it requests the concurrence of the Senate:

H.R. 3814. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3005) to amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BLILEY, Mr. FIELDS of Texas, Mr. OXLEY, Mr. TAUZIN, Mr. SCHAEFER, Mr. DEAL of Georgia, Mr. FRISA, Mr. WHITE, Mr. DINGELL, Mr. MARKEY, Mr. BOUCHER, Mr. GORDON, Ms. FURSE, and Mr. KLINK as the managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3734) to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997, and agrees to the conference

asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. KASICH, Mr. ARCHER, Mr. GOODLING, Mr. ROBERTS, Mr. BLILEY, Mr. SHAW, Mr. TALENT, Mr. NUSSLE, Mr. HUTCHINSON, Mr. MCCRERY, Mr. BILIRAKIS, Mr. SMITH of Texas, Mrs. JOHNSON of Connecticut, Mr. CAMP, Mr. FRANKS, of Connecticut, Mr. CUNNINGHAM, Mr. CASTLE, Mr. GOODLATTE, Mr. SABO, Mr. GIBBONS, Mr. CONYERS, Mr. DE LA GARZA, Mr. CLAY, Mr. FORD, Mr. MILLER of California, Mr. WAXMAN, Mr. STENHOLM, Mrs. KENNELLY, Mr. LEVIN, Mr. TANNER, Mr. BECERRA, Mrs. THURMAN, and Ms. WOOLSEY as the managers of the conference on the part of the House.

The message also announced that pursuant to the provisions of section 6968(a) of title 10, United States Code, the Speaker appoints Mr. Hale of Pennsylvania as a member of the Board of Visitors to the U.S. Naval Academy to fill the existing vacancy thereon.

ENROLLED BILL SIGNED

At 4:09 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:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

At 6:05 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 bills:

H.R. 1627. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, and for other purposes.

H.R. 3235. An act to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for 3 years, and for other purposes.

The message also announced that the House agree to the amendment of the Senate to the bill (H.R. 1114) to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3814. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes; to the Committee on Appropriations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STEVENS, from the Committee on Government Affairs:

Franklin D. Raines, of the District of Columbia, to be Director of the Office of Management and Budget.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. BURNS (for himself and Mr. BAUCUS):

S. 1989. A bill to authorize the construction and operation of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BROWN:

S. 1990. A bill to reauthorize appropriations for the Civil Rights Commission Act of 1983, and for other purposes; to the Committee on the Judiciary.

By Mr. BIDEN (by request):

S. 1991. A bill entitled the ''Anti-Gang and Youth Violence Control Act of 1996''; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1992. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1989. A bill to authorize the construction and operation of the Fort Peck Reservation rural water system in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 1996

• Mr. BURNS. Madam President, today, I introduce a bill that will ensure the Assiniboine and Sioux people of the Fort Peck Reservation in Montana a safe and reliable water supply system. The Fort Peck Reservation is located in northeastern Montana. It is one of the largest reservations in the United States, and has a population of more than 10,000. The Fort Peck Reservation faces problems similar to all reservations in the country, that of remote rural areas. This reservation also suffers from a very high unemployment rate, 75 percent. Added to all this, the populations on the reservation suffer from high incident of heart disease, high blood pressure, and diabetes. A safe and reliable source of water is needed to both improve the health status of the residents and to encourage economic development and thereby self-sufficiency for this area.

This legislation would authorize a reservation-wide municipal, rural and industrial water system for the Fort Peck Reservation. It would provide a much needed boost to the future of the region and for economic development, and ultimately economic self-sufficiency for the entire area. My bill has the support of the residents of the reservation and the endorsement of the Tribal Council of the Assiniboine and Sioux Tribes.

The residents of the Fort Peck Reservation are now plagued with major drinking water problems. In one of the communities, the sulfate levels in the water are four times the standard for safe drinking water. In four of the communities the iron levels are five times the standard. Sadly, some families were forced to abandon their homes as a result of substandard water quality. Basically, the present water supply system is inadequate and unreliable to supply a safe water supply to those people that live on the reservation.

Several of the local water systems have had occurrences of biological contamination in recent years. As a result, the Indian Health Service has been forced to issue several health alerts for drinking water. In many cases, residents of reservation communities are forced to purchase bottled water. Not a big deal to those who can afford it, but difficult to a population that has the unemployment rate found on the reservation. All this, despite the fact that within spitting distance is one of the largest man-made reservoirs in the United States, built on the Missouri River.

Agriculture continues to maintain the No. 1 position in terms of economic impact in Montana. In a rural area like the Fort Peck Reservation agriculture plays the key role in the economy, more so than in many areas of the State. The water system authorized by the legislation will not only provide a good source of drinking water, but also a water supply necessary to protect and preserve the livestock operations on the reservation. A major constraint on the growth of the livestock industry around Fort Peck has been the lack of adequate watering sites for cattle. This water supply system would provide the necessary water taps to fill watering tanks for livestock, which in normal times would boost the local economy of the region and the State. An additional benefit of this system would be more effective use of water for both water and soil conservation and rangeland management.

The future water needs of the reservation are expanding. Data show that the reservation population is growing, as many tribal members are returning to the reservation. It is clear that the people that live on the reservation, both tribal and nontribal members, are in desperate need of a safe and reliable source of drinking water.

The solution to this need for an adequate and safe water supply is a reservation-wide water pipeline that will deliver a safe and reliable source of water to the residents. In addition this water project will be constructed in size to allow communities off the reservation the future ability to tap into the system. A similar system for water distribution is currently in use on a reservation in South Dakota.

The people of the Fort Peck Reservation the State of Montana are only asking for one basic life necessity. Good, clean, safe drinking water. This is something that the more developed regions of the Nation take for granted,

but in rural America we still seek to develop.

I realize that this bill will be assigned a number and will not go much further than being referred to a committee. However, this issue needs to be placed upon the radar screens of Congress, so that in the coming years we can get this accomplished for the Fort Peck Reservation and the people of the State of Montana.●

By Mr. BIDEN (by request):

S. 1991. A bill entitled the ''Anti-Gang and Youth Violence Control Act of 1996''; to the Committee on the Judiciary.

THE ANTI-GANG AND YOUTH VIOLENCE CONTROL ACT OF 1996

Mr. BIDEN. Mr. President, I rise to introduce the Anti-Gang and Youth Violence Control Act of 1996. This is the President's juvenile justice bill, and I am introducing it at his request.

Over the last several years, a consensus has been building in our Nation, and we are now in the unusual position of having the public and the experts in agreement that juvenile crime and violence is the most pressing problem facing America.

Moreover, we now have the statistics to back up the consensus: This past February, the U.S. Department of Justice released an update to its first national report on juvenile offenders and victims.

The numbers in this report, as well as those in the FBI's most recent uniform crime report, demonstrate what many have been warning of for the last several years—we are facing a devastating rise in juvenile violence and crime.

Between 1988 and 1994 the juvenile violent crime arrest rate has increased by more than 50 percent.

In 1994, there were more than 125,000 juvenile arrests for violent crime offenses and another 131,000 juvenile arrests for drug abuse violations.

A total of more than 2.2 million juveniles were arrested for crimes in 1994.

Between 1993 and 1994, while adult arrest rates remained virtually stable, the total number of juvenile arrests increased 11 percent.

Over this same period, the number of juvenile arrests for violent crime increased 6.5 percent.

Most frightening, the Justice Department study also forecast that, even if the overall crime rate stops growing, the rising number of juveniles will nonetheless produce a 22-percent rise in violent crime arrests.

And, should the violent crime rate continue to grow as it has between 1983 and 1992, the number of juveniles arrested for violent crimes will double by the year 2010 to more than 260,000 arrests.

The President's Anti-Gang and Youth Violence Control Act includes important provisions to address these increases in chronic, violent offenders, including transferring the most serious offenders to adult court for prosecution, increasing the range of sanctions available to the courts in sentencing a juvenile, increasing the length of time a juvenile can be incarcerated, and increasing the access courts have to a juvenile offender's prior record.

In my view, these provisions take an important first step toward beginning a needed dialog about a problem that is complicated and must be addressed over the long term. I hope that we can build on what the President has proposed, because we face a three-tiered challenge in reforming the juvenile justice system.

As juvenile violence grows, both in rate and intensity, it is, of course, important to reform the juvenile justice system to address the most violent young criminals. The current system was never designed to handle either the number of juveniles or the level of violence being perpetrated by a small number of juveniles. The President's bill focuses on this aspect of juvenile justice reform.

Just as critical—if not more so—if we are to effectively end the rise of juvenile crime rates is to focus on where this new breed of criminals is coming from and work to prevent future increases like the ones we have seen over the past decade.

Allow me to put some of the aforementioned statistics in context.

First, even with the increases in juvenile crime and violence, juveniles accounted for just 14 percent of all violent crimes and 25 percent of all property crimes in 1994.

Second, a small proportion of all children commit most of the violent juvenile crimes—less than one-half of 1 percent of all juveniles were arrested for a violent crime, and approximately 7 percent of youth who commit crime are violent offenders.

This last number is both heartening and frightening. On the one hand, it indicates that there is a small target population which demands our immediate attention, and that targeting this population could have significant results in lowering juvenile crime rates. As I noted, the President's bill addresses this need to crack down on this group.

On the other hand, the President's bill does not address the very real need to address the 95 percent of kids who are not yet committing serious crimes, but are on the crime path and will become part of this 5 percent if left unchecked.

In other words, we must do more to identify those offenders who will end up a part of that dangerous 5 percent and turn them around before they are too far down the road to violence.

Focusing attention only on the violent 5 percent misses the essential point that most kids in the juvenile justice system—95 percent of all juveniles arrested—are not violent. They are also often first-time offenders. These are the juveniles the system was originally designed to handle, and rightfully so, because these are the children who can still be deterred from becoming life-long criminals if we provide juvenile courts with the appropriate prevention and intervention resources at this critical stage.

Today, in most States, a juvenile can commit multiple, nonviolent offenses before they get any real attention from the juvenile justice system. This must change. We must help these 95 percent of juvenile offenders at the time of their first misbehavior and keep them from becoming repeat or serious offenders. This means giving juvenile court judges the ability to impose a range of graduated sanctions designed to prevent additional criminal behavior.

Finally, we must realize that most children are not delinquent—94 percent of children in 1994 did not come before a judge—but these children are in danger of becoming delinquent due to the risk factors many of them face.

Any truly comprehensive juvenile justice plan must address not only those children already in the system, but it must also focus on those children who may enter the system if their needs are not addressed.

This task may sound like an impossible task, but it is not. We know what works and we can implement it. For example, we know that nearly 50 percent of all youth crime occurs during the hours after-school and before dinnertime, as these are the hours that 80 percent of America's children during these hours return to homes where no adults are present to provide supervision.

By providing ''safe-havens'' such as boys and girls clubs and police athletic leagues where children can go after school, we can remove children from the streets and keep them out of trouble.

In addition, we know that most juvenile offenders target other juveniles as their victims. By providing safe, supervised activities for children, we also achieve the goal of ''target-hardening''—that is, we can reduce juvenile crime by removing potential victims from offender's paths.

Mr. President, as I have stated, although I generally support the efforts and initiatives of the President's Anti-gang and Youth Violence Control Act, it can only be one component of an overall juvenile justice initiative if it is to be successful. The President's bill does contain some important initiatives to deal with the most violent youth offenders. Among others, these provisions—which incorporate proposals made by me and other Members of Congress, include programs to initiate drug and gun courts in the juvenile system, to increase penalties for engaging children in drug trafficking, and for increasing controls on dangerous drugs such as Rohypnol and methamphetamine which are becoming increasingly popular among youth.

I commend the President on his efforts, and I urge the President and my colleagues to continue to address the

issues of juvenile justice by working with me to develop a comprehensive youth violence control and delinquency prevention plan.

By Mrs. FEINSTEIN:

S. 1992. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Energy and Natural Resources.

THE AIDS MEMORIAL GROVE ACT OF 1996

Mrs. FEINSTEIN. Mr. President, today I am introducing the AIDS Memorial Grove Act of 1966.

This bill is identical to H.R. 3193 sponsored by Congresswoman PELOSI in the House.

The legislation recognizes the significance of the 15-acre AIDS Memorial Grove in Golden Gate Park in San Francisco and directs the Secretary of Interior to designate the AIDS Memorial Grove as a national memorial.

The AIDS Memorial Grove is a place where people come together to grieve, find solace, support and hope. Since 1991, volunteers have been planting trees and maintaining this woodland area. Visitors come not only from San Francisco, but also from all across the United States.

In giving national recognition to the area, the legislation makes the AIDS Memorial Grove the Nation's first living memorial dedicated to the thousands of Americans who have died of AIDS and in support of individuals who are living with acquired immune deficiency syndrome and their families and friends.

No Federal funds would be required.

The AIDS Memorial Grove is, and will continue to be, a public/private partnership totally supported by private donations. The AIDS Memorial Grove board of directors already has signed a 99-year agreement with the City of San Francisco and the San Francisco Recreation and Park Department to maintain the grove in perpetuity.

The legislation is consistent with other bills creating areas affiliated with the National Park System. I urge my colleagues to join me in working for its enactment.

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. 1992

SECTION 1. SHORT TITLE.

This Act may be cited as the ''AIDS Memorial Grove Act of 1996''.

SEC. 2. RECOGNITION AND DESIGNATION OF THE AIDS MEMORIAL GROVE AS NATIONAL MEMORIAL.

(a) RECOGNITION OF SIGNIFICANCE OF THE AIDS MEMORIAL GROVE.—The Congress hereby recognizes the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, as a memorial—

(1) dedicated to individuals who have died as a result of acquired immune deficiency syndrome; and

(2) in support of individuals who are living with acquired immune deficiency syndrome and their loved ones and caregivers.

(b) DESIGNATION AS NATIONAL MEMORIAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall designate the AIDS Memorial Grove as a national memorial.

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 1646

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 1646, a bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

S. 1675

At the request of Mr. GRAMM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

S. 1743

At the request of Mr. BINGAMAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1743, a bill to provide temporary emergency livestock feed assistance for certain producers, and for other purposes.

S. 1857

At the request of Mr. GREGG, his name was added as a cosponsor of S. 1857, a bill to establish a bipartisan commission on campaign practices and provide that its recommendations be given expedited consideration.

S. 1898

At the request of Mr. DOMENICI, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1898, a bill to protect the genetic privacy of individuals, and for other purposes.

S. 1954

At the request of Mr. HATCH, the names of the Senator from Arizona [Mr. KYL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Indiana [Mr. COATS], the Senator from Tennessee [Mr. FRIST], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1954, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 1957

At the request of Mr. PRESSLER, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1957, a bill to amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation.

S. 1987

At the request of Mr. FAIRCLOTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1987, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of Social Security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

AMENDMENT NO. 4974

At the request of Mr. LEAHY his name was added as a cosponsor of amendment No. 4974 proposed to H.R. 3603, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 5017

At the request of Mr. BREAUX, his name was added as a cosponsor of amendment No. 5017 proposed to H.R. 3540, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes.

At the request of Mr. MCCAIN, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Maine [Mr. COHEN] were added as cosponsors of amendment No. 5017 proposed to H.R. 3540, supra.

AMENDMENT NO. 5018

At the request of Mr. COVERDELL, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. HATCH], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of amendment No. 5018 proposed to H.R. 3540, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENTS SUBMITTED

THE FOREIGN OPERATIONS EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1997

COHEN (AND OTHERS) AMENDMENT NO. 5019

Mr. COHEN (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. CHAFEE, Mr. BREAUX, Mr. JOHNSTON, and Mr. THOMAS) proposed an amendment to the bill (H.R. 3540) making appropriations for foreign operations, export financing and related programs for the fiscal year ending September 30, 1997, and for other purposes; as follows:

On page 188, strike lines 3 through 22 and insert the following:

POLICY TOWARD BURMA

SEC. 569. (a) Until such time as the President determines and certifies to Congress that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government, the following sanctions shall be imposed on Burma:

(1) BILATERAL ASSISTANCE.—There shall be no United States assistance to the Government of Burma, other than:

(A) humanitarian assistance,

(B) counter-narcotics assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, if the Secretary of State certifies to the appropriate congressional committees that:

i) the Government of Burma is fully cooperating with U.S. counter-narcotics efforts, and

ii) the programs are fully consistent with United States human rights concerns in Burma and serve the United States national interest, and

(C) assistance promoting human rights and democratic values.

(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other utilization of funds of the respective bank to or for Burma.

(3) VISAS.—Except as required by treaty obligations or to staff the Burmese mission to the United States, the United States shall not grant visas to any Burmese government official.

(b) CONDITIONAL SANCTIONS.—The President shall prohibit United States persons from new investment in Burma, if the President determines and certifies to Congress that, after the date of enactment of this act, the Government of Burma has physically harmed, rearrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the democratic opposition.

(c) MULTILATERAL STRATEGY.—The President shall seek to develop in coordination with members of ASEAN and other countries having major trading and investment interests in Burma, a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialog between the State Law and Order Restoration Council (SLORC) and democratic opposition groups within Burma.

(d) PRESIDENTIAL REPORTS.—Every six months following the enactment of this act, the President shall report to the Chairmen of the Committee on Foreign Relations, the Committee on International Relations and the House and Senate Appropriations Committees on the following:

(1) progress toward democratization in Burma;

(2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and

(3) progress made in developing the strategy referred to in subsection (c).

(e) WAIVER AUTHORITY.—The President shall have the authority to waive, temporarily or permanently, any sanction referred to in subsection (a) or subsection (b) if he determines and certifies to congress that the application of such sanction would be contrary to the national security interests of the United States.

(f) DEFINITIONS.—

(1) The term ''international financial institutions'' shall include the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, and the International Monetary Fund.

(2) The term ''new investment'' shall mean any of the following activities if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a non-governmental entity in Burma, on or after the date of the certification under subsection (b):

(A) the entry into a contract that includes the economical development of resources located in Burma, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership, including an equity interest, in that development; and

(C) the entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation;

provided that the term ''new investment'' does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology.

BUMPERS (AND OTHERS) AMENDMENT NO. 5020

Mr. MCCONNELL (for Mr. BUMPERS, for himself, Mr. HATFIELD, Mr. GORTON, Mr. SIMON, Mr. JOHNSTON, Mr. BURNS, Mr. REID, and Mr. ROTH) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 119, strike lines 6 and 7 and insert in lieu thereof the following:

''(h)(1) Of the funds appropriated under title II of this Act, including funds appropriated under this heading, not less than $11,000,000 shall be available only for assistance for Mongolia, of which amount not less than $6,000,000 shall be available only for the Mongolian energy sector.

''(2) Funds made available for assistance for Mongolia shall be made available in accordance with the purposes and utilizing the authorities provided in chapter 11 of part I of the Foreign Assistance Act of 1961.''.

REID AMENDMENT NO. 5021

Mr. MCCONNELL (for Mr. REID) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert the following:

FEMALE GENITAL MUTILATION

SEC. . (a) LIMITATION.—Beginning 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1) has, as a cultural custom, a known history of the practice of female genital mutilation;

(2) has not made the practice of female genital mutilation illegal; and

(3) has not taken steps to implement educational programs designed to prevent the practice of female genital mutilation.

(b) DEFINITION.—For purposes of this section, the term ''international financial institution'' shall include the institutions identified in section 535(b) of this Act.

INOUYE (AND BENNETT) AMENDMENT NO. 5022

Mr. MCCONNELL (for Mr. INOUYE, for himself and Mr. BENNETT) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 107, line 23, strike ''should be made available'' and insert ''shall be available only''.

LEAHY AMENDMENT NO. 5023

Mr. MCCONNELL (for Mr. LEAHY) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 184, line 6, delete the word ''MORATORIUM'' and everything that follows through the period on page 185, line 3.

LEAHY (AND INOUYE) AMENDMENT NO. 5024

Mr. MCCONNELL (for Mr. LEAHY, for himself and Mr. INOUYE) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 177, line 24, after ''Jordan,'' insert the following: ''Tunisia,''

On page 178, line 2, after ''101–179'' insert the following: '': *Provided,* That not later than May 1, 1997, the Secretary of State shall submit a report to the Committees on Appropriations describing actions by the Government of Tunisia during the previous six months to improve respect for civil liberties and promote the independence of the judiciary.''

LEAHY (AND OTHERS) AMENDMENT NO. 5025

Mr. MCCONNELL (for Mr. LEAHY, for himself, Mrs. KASSEBAUM, and Mr. HATFIELD, Mr. DASCHLE, and Mr. JEFFORDS) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 135, line 7, delete ''$626,000,000'' and insert in lieu thereof ''$700,000,000.''

MCCONNELL (AND LEAHY) AMENDMENT NO. 5026

Mr. MCCONNELL (for himself and Mr. LEAHY) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 148, line 10 through line 13, strike the following language, ''That comparable requirements of any similar provision in any other Act shall be applicable only to the extent that funds appropriated by this Act have been authorized: *Provided further,*''.

SMITH (AND OTHERS) AMENDMENT NO. 5027

Mr. SMITH (for himself, Mr. THOMAS, and Mr. HELMS) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 105, line 17, strike ''*provided further,*'' and all that follows through the colon on line 21.

HELMS (AND OTHERS) AMENDMENT NO. 5028

Mr. HELMS (for himself, Mr. LOTT, and Mr. GREGG) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, lines 17 and 18, insert the following:

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. . (a) PROHIBITION ON VOLUNTARY CONTRIBUTIONS FOR THE UNITED NATIONS.—None of the funds appropriated or otherwise made available by this Act may be made available to pay any voluntary contribution of the United States to the United Nations or any of its specialized agencies (including the United Nations Development Program) if the United Nations attempts to implement or impose any taxation or fee on any United States persons or borrows funds from any international financial institution.

(b) CERTIFICATION REQUIRED FOR DISBURSEMENT OF FUNDS.—None of the funds appropriated or otherwise made available under this Act may be made available to pay any voluntary contribution of the United States to the United Nations or any of its specialized agencies (including the United Nations Development Program) unless the President certifies to the Congress 15 days in advance of such payment that the United Nations or such agency, as the case may be, is not engaged in, and has not been engaged in during the previous fiscal year, any effort to develop, advocate, promote, or publicize any proposal concerning taxation or fees on United States persons in order to raise revenue for the United Nations or any of its specialized agencies.

(c) DEFINITIONS.—As used in this section:

(1) The term ''international financial institution'' includes the African Development Bank, the African Development Fund, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the International Monetary Fund, and the Multilateral Insurance Guaranty Agency; and

(2) The term ''United States person'' refers to—

(A) a natural person who is a citizen or national of the United States; or

(B) a corporation, partnership, or other legal entity organized under the United States or any State, territory, possession, or district of the United States.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 5029

Mr. MURKOWSKI (for himself, Mr. D'AMATO, Mr. THOMAS, and Mr. BOND) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following:

SENSE OF CONGRESS REGARDING THE UNITED STATES-JAPAN INSURANCE AGREEMENT

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States and Japan share a long and important bilateral relationship which serves as an anchor of peace and stability in the Asia Pacific region, an alliance which was reaffirmed at the recent summit meeting between President Clinton and Prime Minister Hashimoto in Tokyo.

(2) The Japanese economy has experienced difficulty over the past few years, demonstrating that it is no longer possible for Japan, the world's second largest economy, to use exports as the sole engine of economic growth, but that the Government of Japan must promote deregulation of its domestic economy in order to increase economic growth.

(3) Japan is the second largest insurance market in the world and the largest life insurance market in the world.

(4) The share of foreign insurance in Japan is less than 3 percent, and large Japanese life and non-life insurers dominate the market.

(5) The Government of Japan has had as its stated policy for several years the deregulation and liberalization of the Japan insurance market, and has developed and adopted a new insurance business law as a means of achieving this publicly stated objective of liberalization and deregulation.

(6) The Governments of Japan and the United States concluded in October of 1994 the United States-Japan Insurance Agreement, following more than one and one-half years of negotiations, in which Agreement the Government of Japan reiterated its intent to deregulate and liberalize its market.

(7) The Government of Japan in June of 1995 undertook additional obligations to provide greater foreign access and liberalization to its market through its schedule of insurance obligations during the financial services negotiations of the World Trade Organization (WTO).

(8) The United States insurance industry is the most competitive in the world, operates successfully throughout the world, and thus could be expected to achieve higher levels of market access and profit-ability under a more open, deregulated and liberalized Japanese market.

(9) Despite more than one and one-half years since the conclusion of the United States-Japan Insurance Agreement, despite more than one year since Japan undertook new commitments under the WTO, despite the entry into force on April 1, 1996, of the new Insurance Business Law, the Japanese market remains closed and highly regulated and thus continues to deny fair and open treatment for foreign insurers, including competitive United States insurers.

(10) The non-implementation of the United States-Japan Insurance Agreement is a matter of grave importance to the United States Government.

(11) Dozens of meetings between the United States Trade Representative and the Ministry of Finance have taken place during the past year.

(12) President Clinton, Vice President Gore, Secretary Rubin, Secretary Christopher, Secretary Kantor, Ambassador Barshefsky have all indicated to their counterparts in the Government of Japan the importance of this matter to the United States.

(13) The United States Senate has written repeatedly to the Minister of Finance and the Ambassador of Japan.

(14) Despite all of these efforts and indications of importance, the Ministry of Finance has failed to implement the United States-Japan Insurance Agreement.

(15) Several deadlines have already passed for resolution of this issue with the latest deadline set for July 31, 1996.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Ministry of Finance of the Government of Japan should immediately and without further delay completely and fully comply with all provisions of the United States-Japan Insurance Agreement, including most especially those which require the Ministry of Finance to deregulate and liberalize the primary sectors of the Japanese market, and those which insure that the current position of foreign insurers in Japan will not be jeopardized until primary sector deregulation has been achieved, and a three-year period has elapsed; and

(2) failing satisfactory resolution of this matter on or before July 31, 1996, the United States Government should use any and all resources at its disposal to bring about full and complete compliance with the Agreement.

HELMS AMENDMENT NO. 5030

Mr. MCCONNELL (for Mr. HELMS) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following:

SENSE OF CONGRESS REGARDING THE CONFLICT IN CHECHNYA

SEC. . (a) CONGRESSIONAL DECLARATION.—The Congress declares that the continuation of the conflict in Chechnya, the continued killing of innocent civilians, and the ongoing violation of human rights in that region are unacceptable.

(b) SENSE OF CONGRESS.—The Congress hereby—

(1) condemns Russia's infringement of the cease-fire agreements in Chechnya;

(2) calls upon the Government of the Russian Federation to bring an immediate halt to offensive military actions in Chechnya and requests President Yeltsin to honor his decree of June 25, 1996 concerning the withdrawal of Russian armed forces from Chechnya;

(3) encourages the two warring parties to resume negotiations without delay so as to find a peaceful political solution to the Chechen problem; and

(4) supports the Organization for Security and Cooperation in Europe and its representatives in Chechnya in its efforts to mediate in Chechnya.

BROWN AMENDMENT NO. 5031

Mr. MCCONNELL (for Mr. BROWN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 125, line 2, before the period insert the following: ''*: Provided,* That of the funds appropriated under this heading, $2,000,000 shall be available only for demining operations in Afghanistan''.

FAIRCLOTH AMENDMENTS NOS. 5032–5033

Mr. MCCONNELL (for Mr. FAIRCLOTH) proposed two amendments to the bill, H.R. 3540, supra; as follows:

AMENDMENT NO. 5032

At the appropriate place, insert the following new section:

REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT ON SECRETARY OF STATE

SEC. . (a) FOREIGN AND REPORTING REQUIREMENT.—In addition to the voting practices of a foreign country, the report required to be submitted to Congress under section 406(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2414a), shall include a side-by-side comparison of individual countries' overall support for the United States at the United Nations and the amount of United States assistance provided to such country in that fiscal year.

(b) UNITED STATES ASSISTANCE.—For purposes of this section, the term ''United States assistance'' has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

AMENDMENT NO. 5033

On page 198, between lines 17 and 18, insert the following new section:

REPORT ON DOMESTIC FEDERAL AGENCIES FURNISHING UNITED STATES ASSISTANCE

SEC. . (a) IN GENERAL.—Not later than June 1, 1997, the Comptroller General of the United States shall study and report to the Congress on all assistance furnished directly or indirectly to foreign countries, foreign entities, and international organizations by domestic Federal agencies and Federal agencies.

(b) DEFINITIONS.—As used in this section:

(1) DOMESTIC FEDERAL AGENCY.—The term ''domestic Federal agency'' means a Federal agency the primary mission of which is to carry out functions other than foreign affairs, defense, or national security functions.

(2) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term in section 551(1) of title 5, United States Code.

(3) INTERNATIONAL ORGANIZATION.—The term ''international organization'' has the meaning given the term in section 1 of the International Organization Immunities Act (22 U.S.C. 288).

(4) UNITED STATES ASSISTANCE.—The term ''United States assistance'' has the meaning given the term in section 481(c)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

SIMON (AND OTHERS) AMENDMENT NO. 5034

Mr. MCCONNELL (for Mr. SIMON for himself, Mrs. KASSEBAUM, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mr. JEFFORDS) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 105, beginning on line 12, strike ''amount'' and all that follows through ''should'' on line 13 and insert ''amount made available to carry out chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa) shall''.

THE NUCLEAR WASTE POLICY ACT OF 1996

WELLSTONE AMENDMENTS NOS. 5035–5037

(Ordered to lie on the table.)

Mr. WELLSTONE submitted three amendments intended to be proposed by him to the bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982; as follows:

AMENDMENT NO. 5035

On page 65 of the bill at the end of line 20, insert the following: ''The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period a law is enacted disapproving the Secretary's proposed adjustment.''

AMENDMENT NO. 5036

On page 85 of the bill, strike lines 13 through 15 and insert in lieu thereof the following:

''(a) Notwithstanding any other provision of this Act or contract as defined in section 2 of this Act, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be borne by the federal government.''

AMENDMENT NO. 5037

On page 85 of the bill, strike line 13 through 15 and insert in lieu thereof the following:

''(a) Notwithstanding any other provision of this Act (except subsection (b) of this section) or contract as defined in section 2 of this Act, the Secretary shall not accept title to spent nuclear fuel or high-level nuclear waste generated by a commercial nuclear power reactor unless the Secretary determines that accepting title to the fuel or waste is necessary to enable the Secretary to protect adequately the public health or safety, or the environment. To the extent that the federal government is responsible for personal or property damages arising from such fuel or waste while in the federal government's possession, such liability shall be borne by the federal government.''

THE SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

GRAMM (AND OTHERS) AMENDMENT NO. 5038

Mr. GRAMM (for himself, Mr. BIDEN, Mr. HATCH, and Mrs. HUTCHISON) proposed an amendment to the bill (S. 1675) to provide for the nationwide tracking of convicted sexual predators, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pam Lychner Sexual Offender Tracking and Identification Act of 1996''.

SEC. 2. OFFENDER REGISTRATION.

(a) ESTABLISHMENT OF FBI DATABASE.—Subtitle A of Title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new section:

''SEC. 170102. FBI DATABASE.

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'FBI' means the Federal Bureau of Investigation;

''(2) the terms 'criminal offense against a victim who is a minor', 'sexually violent offense', 'sexually violent predator', 'mental abnormality', and 'predatory' have the same meanings as in section 170101(a)(3); and

''(3) the term 'minimally sufficient sexual offender registration program' means any State sexual offender registration program that—

''(A) requires the registration of each offender who is convicted of an offense described in subparagraph (A) or (B) or section 170101(a)(1);

''(B) requires that all information gathered under such program be transmitted to the FBI in accordance with subsection (g) of this section;

''(C) meets the requirements for verification under section 170101(b)(3); and

''(D) requires that each person who is required to register under subparagraph (A) shall do so for a period of not less than 10 years beginning on the date that such person was released from prison or placed on parole, supervised release, or probation.

''(b) ESTABLISHMENT.—The Attorney General shall establish a national database at the Federal Bureau of Investigation to track the whereabouts and movement of—

''(1) each person who has been convicted of a criminal offense against a victim who is a minor;

''(2) each person who has been convicted of a sexually violent offense; and

''(3) each person who is a sexually violent predator.

''(c) REGISTRATION REQUIREMENT.—Each person described in subsection (b) who resides in a State that has not established a minimally sufficient sexual offender registration program shall register a current address, fingerprints of that person, and a current photograph of that person with the FBI for inclusion in the database established under subsection (b) for the time period specified under subsection (d).

''(d) LENGTH OF REGISTRATION.—A person described in subsection (b) who is required to register under subsection (c) shall, except during ensuing periods of incarceration, continue to comply with this section—

''(1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or

''(2) for the life of the person, if that person—

''(A) has 2 or more convictions for an offense described in subsection (b);

''(B) has been convicted of aggravated sexual abuse, as defined in section 2241 of title 18, United States Code, or in a comparable provision of State law; or

''(C) has been determined to be a sexually violent predator.

''(e) VERIFICATION.—

''(1) PERSONS CONVICTED OF AN OFFENSE AGAINST A MINOR OR A SEXUALLY VIOLENT OFFENSE.—In the case of a person required to register under subsection (c), the FBI shall, during the period in which the person is required to register under subsection (d), verify the person's address in accordance with guidelines that shall be promulgated by the Attorney General. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individual.

''(2) SEXUALLY VIOLENT PREDATORS.—Paragraph (1) shall apply to a person described in subsection (b)(3), except that such person must verify the registration once every 90 days after the date of the initial release or commencement of parole of that person.

''(f) COMMUNITY NOTIFICATION.—

''(1) IN GENERAL.—Subject to paragraph (2), the FBI may release relevant information concerning a person required to register under subsection (c) that is necessary to protect the public.

''(2) IDENTITY OF VICTIM.—In no case shall the FBI release the identity of any victim of an offense that requires registration by the offender with the FBI.

''(g) NOTIFICATION OF FBI OF CHANGES IN RESIDENCE.—

''(1) ESTABLISHMENT OF NEW RESIDENCE.—For purposes of this section, a person shall be deemed to have established a new residence during any period in which that person resides for not less than 10 days.

''(2) PERSONS REQUIRED TO REGISTER WITH THE FBI.—Each establishment of a new residence, including the initial establishment of a residence immediately following release from prison, or placement on parole, supervised release, or probation, by a person required to register under subsection (c) shall be reported to the FBI not later than 10 days after that person establishes a new residence.

''(3) INDIVIDUAL REGISTRATION REQUIREMENT.—A person required to register under subsection (c) or under a minimally sufficient offender registration program, including a program established under section 170101, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and a photograph of that person, for inclusion in the appropriate database, with—

''(A) the FBI; and

''(B) the State in which the new residence is established.

''(4) STATE REGISTRATION REQUIREMENT.—Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 170101, is notified of a change of address by a person required to register under such program within or outside of such State, the State shall notify—

''(A) the law enforcement officials of the jurisdiction to which, and the jurisdiction from which, the person has relocated; and

''(B) the FBI.

''(5) VERIFICATION.—

''(A) NOTIFICATION OF LOCAL LAW ENFORCEMENT OFFICIALS.—The FBI shall ensure that State and local law enforcement officials of the jurisdiction to which, and the State and local law enforcement officials of the jurisdiction to which, a person required to register under subsection (c) relocates are notified of the new residence of such person.

''(B) NOTIFICATION OF FBI.—A State agency receiving notification under this subsection shall notify the FBI of the new residence of the offender.

''(C) VERIFICATION.—

''(I) STATE AGENCIES.—If a State agency cannot verify the address of or locate a person required to register with a minimally sufficient sexual offender registration program, including a program established under section 170101, the State shall immediately notify the FBI.

''(ii) FBI.—If the FBI cannot verify the address of or locate a person required to register under subsection (c) or if the FBI receives notification from a State under clause (I), the FBI shall ensure that, either the State or the FBI shall—

''(I) classify the person as being in violation of the registration requirements of the national database; and

''(II) add the name of the person to the National Crime Information Center Wanted Person File and create a wanted persons record, provided that an arrest warrant which meets the requirements for entry into the file is issued in connection with the violation.

''(h) FINGERPRINTS.—

''(1) IN GENERAL.—

''(A) FBI REGISTRATION.—For each person required to register under subsection (c), fingerprints shall be obtained and verified by the FBI or a local law enforcement official pursuant to regulations issued by the Attorney General.

''(B) STATE REGISTRATION SYSTEMS.—In a State that has a minimally sufficient sexual offender registration program, including a program established under section 170101, fingerprints required to be registered with the FBI under this section shall be obtained and verified in accordance with State requirements. The State agency responsible for registration shall ensure that the fingerprints and all other information required to be registered is registered with the FBI.

''(I) PENALTY.—A person required to register under paragraph (1), (2), or (3) of subsection (g) who knowingly fails to comply with this section shall—

''(1) in the case of a first offense—

''(A) if the person has been convicted of 1 offense described in subsection (b), be fined not more than $100,000; or

''(B) if the person has been convicted of more than 1 offense described in subsection (b), be imprisoned for up to 1 year and fined not more than $100,000; or

''(2) in the case of a second or subsequent offense, be imprisoned for up to 10 years and fined not more than $100,000.

''(j) RELEASE OF INFORMATION.—The information collected by the FBI under this section shall be disclosed by the FBI—

''(1) to Federal, State, and local criminal justice agencies for—

''(A) law enforcement purposes; and

''(B) community notification in accordance with section 170101(d)(3); and

''(2) to Federal, State, and local governmental agencies responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).''.

''(k) NOTIFICATION UPON RELEASE.—Any state not having established a program described in 170102(a)(3) must—

''(1) Upon release from prison, or placement on parole, supervised release, or probation, notify each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1) of their duty to register with the FBI; and

''(2) Notify the FBI of the release of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1).''.

SEC. 3. DURATION OF STATE REGISTRATION REQUIREMENT.

Section 170101(b)(6) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is amended to read as follows:

''(6) LENGTH OF REGISTRATION.—A person required to register under subsection (a)(1) shall continue to comply with this section, except during ensuing periods of incarceration, until—

''(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

''(B) for the life of that person if that person—

''(I) has 1 or more prior convictions for an offense described in subsection (a)(1)(A); or

''(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A); or

''(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2).''.

SEC. 4. STATE BOARDS.

Section 170101(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is amended by inserting before the period at the end the following: '', victim rights advocates, and representatives from law enforcement agencies''.

SEC. 5. FINGERPRINTS.

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new subsection:

''(g) FINGERPRINTS.—Each requirement to register under this section shall be deemed to also require the submission of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).''.

SEC. 6. VERIFICATION.

Section 170101(b)(3)(A)(iii) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(3)(A)(iii)) is amended by adding at the end the following: ''The person shall include with the verification form, fingerprints and a photograph of that person.''.

SEC. 7. REGISTRATION INFORMATION.

Section 170101(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is amended to read as follows:

''(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State Law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit all information described in paragraph (1) to the Federal Bureau of Investigation for inclusion in the FBI database described in section 170102.

SEC. 8. IMMUNITY FOR GOOD FAITH CONDUCT.

State and federal law enforcement agencies, employees of state and federal law enforcement agencies, and state and federal officials shall be immune from liability for good faith conduct under section 170102.

SEC. 9. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry out this Act and the amendments made by this Act.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective 1 year after the date of enactment of this Act.

(b) COMPLIANCE BY STATES.—Each State shall implement the amendments made by sections 3, 4, 5, 6, and 7 of this Act not later than 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement such amendments.

(c) INELIGIBILITY FOR FUNDS.—

(1) a State that fails to implement the program as describe din sections 3, 4, 5, 6, and 7 of this Act shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765).

(2) any funds that are not allocated for failure to comply with sections 3, 4, 5, 6, or 7 of this Act shall be reallocated to States that comply with these sections.

SEC. 11. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1997

MOYNIHAN AMENDMENT NO. 5039

Mr. MCCONNELL (for Mr. MOYNIHAN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 188, between lines 22 and 23, insert the following new section:

REPORTS ON THE SITUATION IN BURMA

SEC. ____. (a) LABOR PRACTICES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of State, shall submit a report to the appropriate congressional committees on—

(1) Burma's compliance with international labor standards including, but not limited to, the use of forced labor, slave labor, and involuntary prison labor by the junta;

(2) the degree to which foreign investment in Burma contributes to violations of fundamental worker rights;

(3) labor practices in support of Burma's foreign tourist industry; and

(4) efforts by the United States to end violations of fundamental labor rights in Burma.

(b) DEFINITION.—As used in this section, the term ''appropriate congressional committees'' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(c) FUNDING.—(1) There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for expenses necessary to carry out the provisions of this section, $30,000 to the Department of Labor.

(2) The amount appropriated by this Act under the heading ''DEPARTMENT OF STATE, INTERNATIONAL NARCOTICS CONTROL'' shall be reduced by $30,000.

GRAHAM AMENDMENT NO. 5040

Mr. MCCONNELL (for Mr. GRAHAM) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . HAITI.

The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the civilian-led Haitian National Police and Coast Guard, except as otherwise stated in law: Provided, That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

BROWN (AND SIMON) AMENDMENT NO. 5041

Mr. MCCONNELL (for Mr. BROWN, for himself and Mr. SIMON) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . TRADE RELATIONS WITH EASTERN AND CENTRAL EUROPE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The countries of Central and Eastern Europe, including Poland, Hungary, the Czech Republic, Slovakia, Romania, Slovenia, Lithuania, Latvia, Estonia, and Bulgaria, are important to the long-term stability and economic success of a future Europe freed from the shackles of communism.

(2) The Central and Eastern European countries, particularly Hungary, Poland, the Czech Republic, Romania, Slovakia, Slovenia, Latvia, Lithuania, and Estonia, are in the midst of dramatic reforms to transform their centrally planned economies into free market economies and to join the Western community.

(3) It is in the long-term interest of the United States to encourage and assist the transformation of Central and Eastern Europe into a free market economy, which is the solid foundation of democracy, and will contribute to regional stability and greatly increased opportunities for commerce with the United States.

(4) Trade with the countries of Central and Eastern Europe accounts for less than one percent of total United States trade.

(5) The presence of a market with more than 140,000,000 people, with a growing appetite for consumer goods and services and badly in need of modern technology and management, should be an important market for United States exports and investments.

(6) The United States has concluded agreements granting most-favored-nation status to most of the countries of Central and Eastern Europe.

(B) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should take steps to promote more open, fair, and free trade between the United States and the countries of Central Europe, including Poland, Hungary, the Czech Republic, Slovakia, Lithuania, Latvia, Estonia, Romania, and Slovenia, including—

(1) developing closer commercial contacts;

(2) the mutual elimination of tariff and nontariff discriminatory barriers in trade with these countries;

(3) exploring the possibility of framework agreements that would lead to a free trade agreement;

(4) negotiating bilateral investment treaties;

(5) stimulating increased United States exports and investments to the region;

(6) obtaining further liberalization of investment regulations and protection against nationalization in these foreign countries; and

(7) establishing fair and expeditious dispute settlement procedures.

SPECTER (AND OTHERS) AMENDMENT NO. 5042

Mr. MCCONNELL. (for Mr. SPECTER, for himself, Mr. MOYNIHAN, and Mr. D'AMATO) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON FOREIGN SOVEREIGN IMMUNITY.

(a) IN GENERAL.—Section 1605(a)(7) of title 28, United States Code, is amended to read as follows:

''(7) in which money damages are sought against a foreign state for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act, if—

''(A) such act or provision of material support was engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency;

''(B) the foreign state against whom the claim was brought—

''(i) was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred or was later so designated as a result of such act; or

''(ii) had no treaty of extradition with the United States at the time the act occurred and no adequate and available remedies exist either in such state or in the place in which the act occurred;

''(C) the claimant has afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; and

''(D) the claimant or victim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to actions brought in United States courts on or after the date of enactment of this Act.

BROWN AMENDMENTS NOS. 5043–5044

Mr. MCCONNELL (for Mr. BROWN and Mr. GORTON) proposed two amendments to the bill, H.R. 3540, supra; as follows:

AMENDMENT NO. 5043

At the appropriate place, add the following new section:

SEC. . SENSE OF CONGRESS REGARDING CROATIA.

(a) FINDINGS.—The Congress makes the following findings:

(1) Croatia has politically and financially contributed to the NATO peacekeeping operations in Bosnia;

(2) The economic stability and security of Croatia is important to the stability of South Central Europe; and

(3) Croatia is in the process of joining the Partnership for Peace.

(b) SENSE OF CONGRESS.—It is the Sense of Congress that:

(1) Croatia should be recognized and commended for its contributions to NATO and the various peacekeeping efforts in Bosnia;

(2) the United States should support the active participation of Croatia in activities appropriate for qualifying for NATO membership, provided Croatia continues to adhere fully to the Dayton Peace Accords and continues to make progress toward establishing democratic institutions, a free market, and the rule of law.

AMENDMENT NO. 5044

At the appropriate place, add the following new section:

SEC. . ROMANIA'S PROGRESS TOWARD NATO MEMBERSHIP.

(a) FINDINGS.—The Congress makes the following findings:

(1) Romania emerged from years of brutal Communist dictatorship in 1989 and approved a new Constitution and elected a Parliament by 1991, laying the foundation for a modern parliamentary democracy charged with guaranteeing fundamental human rights, freedom of expression, and respect for private property;

(2) Local elections, parliamentary elections, and presidential elections have been held in Romania, with 1996 marking the second nationwide presidential elections under the new Constitution;

(3) Romania was the first former Eastern bloc country to join NATO's Partnership for Peace program and has hosted Partnership for Peace military exercises on its soil;

(4) Romania is the second largest country in terms of size and population in Central Europe and as such is strategically significant;

(5) Romania formally applied for NATO membership in April of 1996 and has begun an individualized dialogue with NATO on its membership application; and

(6) Romania has contributed to the peace and reconstruction efforts in Bosnia by participating in the Implementation Force (IFOR).

(b) SENSE OF THE CONGRESS.—Therefore, it is the sense of the Congress that:

(1) Romania is making significant progress toward establishing democratic institutions, a free market economy, civilian control of the armed forces and the rule of law;

(2) Romania is making important progress toward meeting the criteria for accession into NATO;

(3) Romania deserves commendation for its clear desire to stand with the West in NATO, as evidenced by its early entry into the Partnership for Peace, its formal application for NATO membership, and its participation in IFOR;

(4) Romania should be evaluated for membership in the NATO Participation Act's transition assistance program at the earliest opportunity; and

(5) The United States should work closely with Romania and other countries working toward NATO membership to ensure that every opportunity is provided.

DORGAN (AND OTHERS) AMENDMENT NO. 5045

Mr. DORGAN (for himself, Mr. HATFIELD, Mr. BUMPERS, Mr. JEFFORDS, Mr. LEAHY, Mr. HARKIN, Mr. PRYOR, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. PELL, Mr. INOUYE, Mr. WYDEN, Mr. KENNEDY, Mr. SIMON, Mr. LAUTENBERG, and Mrs. FEINSTEIN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE CONGRESSIONAL REVIEW OF ARMS TRANSFERS ELIGIBILITY ACT OF 1996

SEC. 01. SHORT TITLE.

This title may be cited as the ''Congressional Review of Arms Transfers Eligibility Act of 1996''.

SEC. 02. PURPOSE.

The purpose of this title is to provide congressional review of the eligibility of foreign governments to be considered for United States military assistance and arms transfers, and to establish clear standards for such eligibility including adherence to democratic principles, protection of human rights, nonaggression, and participation in the United Nations Register of Conventional Arms.

SEC. 03. ELIGIBILITY FOR UNITED STATES MILITARY ASSISTANCE OR ARMS TRANSFERS.

(a) PROHIBITION; WAIVER.—United States military assistance or arms transfers may not be provided to a foreign government during a fiscal year unless the President determines and certifies to the Congress for that fiscal year that—

(1) such government meets the criteria contained in section 04;

(2) it is in the national security interest of the United States to provide military assistance and arms transfers to such government, and the Congress enacts a law approving such determination; or

(3) an emergency exists under which it is vital to the interest of the United States to provide military assistance or arms transfers to such government.

(b) DETERMINATION WITH RESPECT TO EMERGENCY SITUATIONS.—The President shall submit to the Congress at the earliest possible date reports containing determinations with respect to emergencies under subsection (a)(3). Each such report shall contain a description of—

(1) the nature of the emergency;

(2) the type of military assistance and arms transfers provided to the foreign government; and

(3) the cost to the United States of such assistance and arms transfers.

SEC. 04. CRITERIA FOR CERTIFICATION.

The criteria referred to in section 03(a)(1) are as follows:

(1) PROMOTES DEMOCRACY.—Such government—

(A) was chosen by and permits free and fair elections;

(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

(C) promotes the rule of law, equality before the law, and respect for individual and minority rights, including freedom to speak, publish, associate, and organize; and

(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

(2) RESPECTS HUMAN RIGHTS.—Such government—

(A) does not engage in gross violations of internationally recognized human rights, as described in section 502B(d)(1) of the Foreign Assistance Act of 1961;

(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

(C) permits access on a regular basis to political prisoners by international humanitarian organizations such as the International Committee of the Red Cross;

(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights; and

(E) does not impede the free functioning of and access of domestic and international human rights organizations or, in situations of conflict or famine, of humanitarian organizations.

(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—Such government is not currently engaged in acts of armed aggression in violation of international law.

(4) FULL PARTICIPATION IN UNITED NATIONS REGISTER OF CONVENTIONAL ARMS.—Such government is fully participating in the United Nations Register of Conventional Arms.

SEC. 05. CERTIFICATION AND DECERTIFICATION.

(a) NOTIFICATION TO CONGRESS.—In the case of a determination by the President under section 03(a)(1) or (2) with respect to a foreign government, the President shall submit to the Congress the initial certification in conjunction with the submission of the annual request for enactment of authorizations and appropriations for foreign assistance programs for a fiscal year and shall, where appropriate, submit additional or amended certifications at any time thereafter in the fiscal year.

(b) DECERTIFICATION.—If a foreign government ceases to meet the criteria contained in section 04, the President shall submit a decertification of the government to the Congress, whereupon any prior certification under section 03(a)(1) shall cease to be effective.

SEC. 06. UNITED STATES MILITARY ASSISTANCE AND ARMS TRANSFERS DEFINED.

For purposes of this title, the terms ''United States military assistance'' and ''arms transfers'' mean—

(1) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance), including the transfer of excess defense articles under section 516 of that Act;

(2) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training);

(3) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (except any transfer or other assistance under section 23 of such Act), including defense articles and defense services licensed or approved for export under section 38 of that Act.

SEC. 07. EFFECTIVE DATE.

(a) Except as provided in subsection (b), this title shall take effect October 1, 1997.

(b) Any initial certification made under section 03 shall be transmitted to the Congress with the President's budget submission for fiscal year 1998 under section 1105 of title 31, United States Code.

KERRY AMENDMENT NO. 5046

Mr. KERRY proposed an amendment to amendment No. 5045 proposed by Mr. DORGAN to the bill, H.R. 3540, supra; as follows:

At the end of the amendment, add the following new section:

SEC. . INTERNATIONAL ARMS TRANSFERS REGIME.

(a) INTERNATIONAL EFFORTS.—The President shall continue and expand efforts through the United Nations and other international fora, such as The Wassernaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies, to curb worldwide arms transfers, particularly to nations that do not meet the criteria established in section 04, with a goal of establishing a permanent multilateral regime to govern the transfer of conventional arms.

(b) REPORT.—The President shall submit an annual report to the Congress describing efforts he has undertaken to gain international acceptance of the principles incorporated in section 04, and evaluating the progress made toward establishing a multilateral regime to control the transfer of conventional arms. This report shall be submitted in conjunction with the submission of the annual request for authorizations and appropriations for foreign assistance programs for a fiscal year.

DOMENICI (AND OTHERS) AMENDMENT NO. 5047

Mr. DOMENICI (for himself, Mr. D'AMATO, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. MURKOWSKI, Mr. SHELBY, Mr. HELMS, Mr. GRAMM, Mr. BINGAMAN, Mr. KEMPTHORNE, Mr. BOND, Mr. HATCH, and Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following new section:

PROSECUTION OF MAJOR DRUG TRAFFICKERS RESIDING IN MEXICO

SEC. . (a) REPORT.—(1) Not later than 30 days after the date of enactment of this Act, the Administrator of the Drug Enforcement Administration shall submit a report to the President—

(A) identifying the 10 individuals who are indicted in the United States for unlawful trafficking or production of controlled substances most sought by United States law enforcement officials and who there is reason to believe reside in Mexico; and

(B) identifying 25 individuals not named under paragraph (1) who have been indicted for such offenses and who there is reason to believe reside in Mexico.

(2) The President shall promptly transmit to the Government of Mexico a copy of the report submitted under paragraph (1).

(b) PROHIBITION.—

(1) IN GENERAL.—None of the funds appropriated under the heading ''International Military Education and Training'' may be made available for any program, project, or activity for Mexico.

(2) EXCEPTION.—Paragraph (1) shall not apply if, not later than 6 months after the date of enactment of this Act, the President certifies to Congress that—

(A) the Government of Mexico has extradited to the United States the individuals named pursuant to subsection (a)(1); or

(B) the Government of Mexico has apprehended and begun prosecution of the individuals named pursuant to subsection (a)(1).

(c) WAIVER.—Subsection (b) shall not apply if the President of Mexico certifies to the President of the United States that—

(1) the Government of Mexico made intensive, good faith efforts to apprehend the individuals named pursuant to subsection (a)(1)

but did not find one or more of the individuals within Mexico; and

(2) the Government of Mexico has apprehended and extradited or apprehended and prosecuted 3 individuals named pursuant to subsection (a)(2) for each individual not found under paragraph (1).

THE NUCLEAR WASTE POLICY ACT OF 1996

MURKOWSKI AMENDMENT NOS. 5048–5057

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted 10 amendments intended to be proposed by him to the bill, S. 1936, supra; as follows:

AMENDMENT NO. 5048

Strike subsections (h) through (i) of section 201 and insert in lieu thereof the following—

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into an agreement with the City of Caliente and Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of the City of Caliente and Lincoln County, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which the City of Caliente and Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to 1/12 of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).''.

AMENDMENT NO. 5049

In section 603 strike the word ''solely''.

AMENDMENT NO. 5050

In subsection (a) of section 604 strike ''The Secretary or the Secretary's designee or designees shall not be required to appear before the Board or any element of the Board for more than twelve working days per calendar year.''.

AMENDMENT NO. 5051

Strike section 501 and insert in lieu thereof the following:

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.''.

AMENDMENT NO. 5052

Strike section 501 and insert in lieu thereof the following—

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

''(1) complying with such requirement and a requirement of this Act is impossible; or

''(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.''.

AMENDMENT NO. 5053

Strike subsection (c) of section 201 and insert in lieu thereof the following:

''(c) ACQUISTIONS.—The Secretary shall acquire lands and rights-of-way along the 'Chalk Mountain Heavy Haul Route' depicted on the map dated March 13, 1996, and on file with the Secretary, necessary to commence intermodal transfer at Caliente, Nevada.''.

AMENDMENT NO. 5054

Beginning on page 1, line 3, strike ''Nuclear'' and all that follows, and insert in lieu thereof the following: ''Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent repository.
''Sec. 206. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. Financial assistance.
''Sec. 302. On-Site representative.
''Sec. 303. Acceptance of benefits.
''Sec. 304. Restrictions on use of funds.
''Sec. 305. Land of conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Federal contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Judicial review of agency actions.
''Sec. 503. Licensing of facility expansions and transshipments.
''Sec. 504. Siting a second repository.
''Sec. 505. Financial arrangements for low-level radioactive waste site closure.
''Sec. 506. Nuclear Regulatory Commission training authority.
''Sec. 507. Emplacement schedule.
''Sec. 508. Transfer of title.
''Sec. 509. Decommissioning pilot program.
''Sec. 510. Water rights.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.
''Sec. 703. Effective date.

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior

finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.''

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(2) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISTIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facility replacement replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(3) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council. Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandumm of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into agreement with Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Lincoln county, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to ½ of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCE OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not late than November 30, 1999.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30,

1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19) of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a repository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 9169.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

''(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.)

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph(e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3)(A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spend nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without reasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security:

''(2) LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under other provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION. Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OR LOCAL GOVERNMENT.—

''(A) Period.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spend nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary, or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) 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 the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and highlevel radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spend nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

''(1) complying with such requirements and a requirement of this Act is impossible, or

''(2) such requirement, as applied or enforced, is an obstacle to accomplishing or

carrying out this Act or a regulation under this Act.

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with

the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

"SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

"SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

"SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

"SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—the Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

"SEC. 510. WATER RIGHTS.

''a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

"SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

"SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSE.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, by the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1996.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

''SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to met the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuring 5 fiscal years.

''SEC. 703. EFFECTIVE DATE.

''This Act shall become effective two days after enactment.''.

AMENDMENT NO. 5055

Beginning on page 1, line 3, strike ''Nuclear'' and all that follows, and insert in lieu thereof the following: ''the Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent repository.
''Sec. 206. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. Financial assistance.
''Sec. 302. On-Site representative.
''Sec. 303. Acceptance of benefits.
''Sec. 304. Restrictions on use of funds.
''Sec. 305. Land of conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Federal contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Judicial review of agency actions.
''Sec. 503. Licensing of facility expansions and transshipments.
''Sec. 504. Siting a second repository.
''Sec. 505. Financial arrangements for low-level radioactive waste site closure.
''Sec. 506. Nuclear Regulatory Commission training authority.
''Sec. 507. Emplacement schedule.
''Sec. 508. Transfer of title.
''Sec. 509. Decommissioning pilot program.
''Sec. 510. Water rights.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.
''Sec. 703. Effective date.

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the

reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.''

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(2) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management

System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISTIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facility replacement replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(3) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council. Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandumm of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into agreement with Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Lincoln county, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to ½ of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCE OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not late than November 30, 1999.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a

schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

"SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

"SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19 of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend

any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a repository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 9169.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.)

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph(e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3)(A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons

therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spend nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without reasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security:

''(2)— LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under other provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION. Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OR LOCAL GOVERNMENT.—

''(A) Period.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spend nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary, or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) 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 the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and highlevel radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spend nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

''(1) complying with such requirements and a requirement of this Act is impossible, or

''(2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

''SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

''SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

''SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

''SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee

involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

''SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

''SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

''SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—the Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

''SEC. 510. WATER RIGHTS.

''a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

''SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

''SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.

''SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSE.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, by the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1996.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

''SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to met the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuring 5 fiscal years.

''SEC. 703. EFFECTIVE DATE.

''This Act shall become effective one day after enactment.''.

AMENDMENT NO. 5056

Beginning on page 1, line 3, strike ''Nuclear'' and all that follows, and insert in lieu thereof the following: ''the Nuclear Waste Policy Act of 1982 is amended to read as follows:

''SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent repository.
''Sec. 206. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. Financial assistance.
''Sec. 302. On-Site representative.
''Sec. 303. Acceptance of benefits.
''Sec. 304. Restrictions on use of funds.
''Sec. 305. Land of conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Federal contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Judicial review of agency actions.
''Sec. 503. Licensing of facility expansions and transshipments.
''Sec. 504. Siting a second repository.
''Sec. 505. Financial arrangements for low-level radioactive waste site closure.
''Sec. 506. Nuclear Regulatory Commission training authority.
''Sec. 507. Emplacement schedule.
''Sec. 508. Transfer of title.
''Sec. 509. Decommissioning pilot program.
''Sec. 510. Water rights.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.

''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.
''Sec. 703. Effective date.

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.''

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(2) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste

accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISTIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facility replacement replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(3) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council. Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandumm of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into agreement with Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Lincoln county, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to ½ of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCE OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

"SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are

necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not late than November 30, 1999.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19 of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a repository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 9169.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.)

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph(e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3)(A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

''SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca

Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spend nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without reasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security:

''(2)— LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under other provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at 10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

''SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION. Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OR LOCAL GOVERNMENT.—

''(A) Period.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal

descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spend nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary, or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) 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 the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

"SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying

out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

"SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and highlevel radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spend nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system

"SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

"SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

"SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

''SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

''SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

''SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—the Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

''SEC. 510. WATER RIGHTS.

''a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such

term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

"SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

"SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.

"SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSE.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

"SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such as may be necessary to carry out the provisions of this title.

"SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

"TITLE VII—MANAGEMENT REFORM

"SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, by the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1996.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to met the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuring 5 fiscal years.

"SEC. 703. EFFECTIVE DATE.

''This Act shall become effective one day after enactment.''.

AMENDMENT NO. 5054

Beginning on page 1, line 3, strike ''Nuclear'' and all that follows, and insert in lieu thereof the following: ''the Nuclear Waste Policy Act of 1982 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Nuclear Waste Policy Act of 1996'.

''(b) TABLE OF CONTENTS.—

''Sec. 1. Short title and table of contents.
''Sec. 2. Definitions.

''TITLE I—OBLIGATIONS

''Sec. 101. Obligations of the Secretary of Energy.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

''Sec. 201. Intermodal transfer.
''Sec. 202. Transportation planning.
''Sec. 203. Transportation requirements.
''Sec. 204. Interim storage.
''Sec. 205. Permanent repository.
''Sec. 206. Land withdrawal.

''TITLE III—LOCAL RELATIONS

''Sec. 301. Financial assistance.
''Sec. 302. On-Site representative.
''Sec. 303. Acceptance of benefits.
''Sec. 304. Restrictions on use of funds.
''Sec. 305. Land of conveyances.

''TITLE IV—FUNDING AND ORGANIZATION

''Sec. 401. Program funding.
''Sec. 402. Office of Civilian Radioactive Waste Management.
''Sec. 403. Federal contribution.

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''Sec. 501. Compliance with other laws.
''Sec. 502. Judicial review of agency actions.
''Sec. 503. Licensing of facility expansions and transshipments.
''Sec. 504. Siting a second repository.
''Sec. 505. Financial arrangements for low-level radioactive waste site closure.
''Sec. 506. Nuclear Regulatory Commission training authority.
''Sec. 507. Emplacement schedule.
''Sec. 508. Transfer of title.
''Sec. 509. Decommissioning pilot program.
''Sec. 510. Water rights.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''Sec. 601. Definitions.
''Sec. 602. Nuclear Waste Technical Review Board.
''Sec. 603. Functions.
''Sec. 604. Investigatory powers.
''Sec. 605. Compensation of members.
''Sec. 606. Staff.
''Sec. 607. Support services.
''Sec. 608. Report.
''Sec. 609. Authorization of appropriations.
''Sec. 610. Termination of the board.

''TITLE VII—MANAGEMENT REFORM

''Sec. 701. Management reform initiatives.
''Sec. 702. Reporting.
''Sec. 703. Effective date.

''SECTION 2. DEFINITIONS.

''For purposes of this Act:

''(1) ACCEPT, ACCEPTANCE.—The terms 'accept' and 'acceptance' mean the Secretary's act of taking possession of spent nuclear fuel or high-level radioactive waste.

''(2) AFFECTED INDIAN TRIBE.—The term ''affected Indian tribe'' means any Indian tribe—

''(A) whose reservation is surrounded by or borders an affected unit of local government, or

''(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of an interim storage facility or a repository if the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

''(3) AFFECTED UNIT OF LOCAL GOVERNMENT.—The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or interim storage facility. Such term may, at the discretion of the Secretary, include other units of local government that are contiguous with such unit.

''(4) ATOMIC ENERGY DEFENSE ACTIVITY.—The term 'atomic energy defense activity' means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

''(A) Naval reactors development.

''(B) Weapons activities including defense inertial confinement fusion.

''(C) Verification and control technology.

''(D) Defense nuclear materials production.

''(E) Defense nuclear waste and materials byproducts management.

''(F) Defense nuclear materials security and safeguards and security investigations.

''(G) Defense research and development.

''(5) CIVILIAN NUCLEAR POWER REACTOR.—The term 'civilian nuclear power reactor' means a civilian nuclear power plant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

''(6) COMMISSION.—The term 'Commission' means the Nuclear Regulatory Commission.

''(7) CONTRACTS.—The term 'contracts' means the contracts, executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, under section 302(a) of the Nuclear Waste Policy Act of 1982, by the Secretary and any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for acceptance of such waste or fuel by the Secretary and the payment of fees to offset the Secretary's expenditures, and any subsequent contracts executed by the Secretary pursuant to section 401(a) of this Act.''

''(8) CONTRACT HOLDERS.—The term 'contract holders' means parties (other than the Secretary) to contracts.

''(9) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(10) DISPOSAL.—The term 'disposal' means the emplacement in a repository of spent nuclear fuel, high-level radioactive waste, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits recovery of such material for any future purpose.

''(11) DISPOSAL SYSTEM.—The term 'disposal system' means all natural barriers and engineered barriers, and engineered systems and components, that prevent the release of radionuclides from the repository.

''(12) EMPLACEMENT SCHEDULE.—The term 'emplacement schedule' means the schedule established by the Secretary in accordance with section 507(a) for emplacement of spent nuclear fuel and high-level radioactive waste at the interim storage facility.

''(13) ENGINEERED BARRIERS AND ENGINEERED SYSTEMS AND COMPONENTS.—The terms 'engineered barriers' and 'engineered systems and components,' mean man-made components of a disposal system. These terms include the spent nuclear fuel or high-level radioactive waste form, spent nuclear fuel package or high-level radioactive waste package, and other materials placed over and around such packages.

''(14) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' means—

''(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

''(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation, which includes any low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class C radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983.

''(15) FEDERAL AGENCY.—The term 'Federal agency' means any Executive agency, as defined in section 105 of title 5, United States Code.

''(16) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

''(17) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management system' means the system developed by the Secretary for the acceptance, transportation, storage, and disposal of spent nuclear fuel and high-level radioactive waste under title II of this Act.

''(18) INTERIM STORAGE FACILITY.—The term 'interim storage facility' means a facility designed and constructed for the receipt, handling, possession, safeguarding, and storage of spent nuclear fuel and high-level radioactive waste in accordance with title II of this Act.

''(19) INTERIM STORAGE FACILITY SITE.—The term 'interim storage facility site' means the specific site within Area 25 of the Nevada Test Site that is designated by the Secretary and withdrawn and reserved in accordance with this Act for the location of the interim storage facility.

''(20) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' means radioactive material that—

''(A) is not spent nuclear fuel, high-level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014 (e)(2)); and

''(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

''(21) METRIC TONS URANIUM.—The terms 'metric tons uranium' and 'MTU' means the amount of uranium in the original unirradiated fuel element whether or not the spent nuclear fuel has been reprocessed.

''(22) NUCLEAR WASTE FUND.—The terms 'Nuclear Waste Fund' and 'waste fund' mean the nuclear waste fund established in the United States Treasury prior to the date of enactment of this Act under section 302(c) of the Nuclear Waste Policy Act of 1982.

''(23) OFFICE.—The term 'Office' means the Office of Civilian Radioactive Waste Management established within the Department prior to the date of enactment of this Act under the provisions of the Nuclear Waste Policy Act of 1982.

''(24) PROGRAM APPROACH.—The term 'program approach' means the Civilian Radioactive Waste Management Program Plan, dated May 6, 1996, as modified by this Act, and as amended from time to time by the Secretary in accordance with this Act.

''(25) REPOSITORY.—The term 'repository' means a system designed and constructed under title II of this Act for the geologic disposal of spent nuclear fuel and high-level radioactive waste, including both surface and subsurface areas at which spent nuclear fuel and high-level radioactive waste receipt, handling, possession, safeguarding, and storage are conducted.

''(26) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(27) SITE CHARACTERIZATION.—The term 'site characterization' means activities, whether in a laboratory or in the field, undertaken to establish the geologic condition

and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory facilities, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the licensability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

''(28) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

''(29) STORAGE.—The term 'storage' means retention of spent nuclear fuel or high-level radioactive waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

''(30) WITHDRAWAL.—The term 'withdrawal' has the same definition as that set forth in section 103(j) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(j)).

''(31) YUCCA MOUNTAIN SITE.—The term 'Yucca Mountain site' means the area in the State of Nevada that is withdrawn and reserved in accordance with this Act for the location of a repository.

''TITLE I—OBLIGATIONS

''SEC. 101. OBLIGATIONS OF THE SECRETARY OF ENERGY.

''(a) DISPOSAL.—The Secretary shall develop and operate an integrated management system for the storage and permanent disposal of spent nuclear fuel and high-level radioactive waste.

''(b) INTERIM STORAGE.—The Secretary shall store spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders at an interim storage facility pursuant to section 204 in accordance with the emplacement schedule, beginning not later than November 30, 1999.

''(c) TRANSPORTATION.—The Secretary shall provide for the transportation of spent nuclear fuel and high-level radioactive waste accepted by the Secretary. The Secretary shall procure all systems and components necessary to transport spent nuclear fuel and high-level radioactive waste from facilities designated by contract holders to and among facilities comprising the Integrated Management System. Consistent with the Buy American Act (41 U.S.C. 10a–10c), unless the Secretary shall determine it to be inconsistent with the public interest, or the cost to be unreasonable, all such systems and components procured by the Secretary shall be manufactured in the United States, with the exception of any transportable storage systems purchased by contract holders prior to the effective date of the Nuclear Waste Policy Act of 1996 and procured by the Secretary from such contract holders for use in the integrated management system.

''(d) INTEGRATED MANAGEMENT SYSTEM.—The Secretary shall expeditiously pursue the development of each component of the integrated management system, and in so doing shall seek to utilize effective private sector management and contracting practices.

''(e) PRIVATE SECTOR PARTICIPATION.—In administering the Integrated Management System, the Secretary shall, to the maximum extent possible, utilize, employ, procure and contract with, the private sector to fulfill the Secretary's obligations and requirements under this Act.

''(f) PRE-EXISTING RIGHTS.—Nothing in this Act is intended to or shall be construed to modify—

''(1) any right of a contract holder under section 302(a) of the Nuclear Waste Policy Act of 1982, or under a contract executed prior to the date of enactment of this Act under that section; or

''(2) obligations imposed upon the federal government by the U.S. District Court of Idaho in an order entered on October 17, 1995 in *United States* v. *Batt* (No. 91–0054–S–EJL).

''(g) LIABILITY.—Subject to subsection (f), nothing in this Act shall be construed to subject the United States to financial liability for the Secretary's failure to meet any deadline for the acceptance or emplacement of spent nuclear fuel or high-level radioactive waste for storage or disposal under this Act.

''TITLE II—INTEGRATED MANAGEMENT SYSTEM

SEC. 201. INTERMODAL TRANSFER.

''(a) ACCESS.—The Secretary shall utilize heavy-haul truck transport to move spent nuclear fuel and high-level radioactive waste from the mainline rail line at Caliente, Nevada, to the interim storage facility site.

''(b) CAPABILITY DATE.—The Secretary shall develop the capability to commence rail to truck intermodal transfer at Caliente, Nevada, no later than November 30, 1999. Intermodal transfer and related activities are incidental to the interstate transportation of spent nuclear fuel and high-level radioactive waste.

''(c) ACQUISTIONS.—The Secretary shall acquire lands and rights-of-way necessary to commence intermodal transfer at Caliente Nevada.

''(d) REPLACEMENTS.—The Secretary shall acquire and develop on behalf of, and dedicate to, the City of Caliente, Nevada, parcels of land and right-of-way within Lincoln County, Nevada, as required to facility replacement replacement of land and city wastewater disposal facilities necessary to commence intermodal transfer pursuant to this Act. Replacement of land and city wastewater disposal activities shall occur no later than November 30, 1999.

''(3) NOTICE AND MAP.—Within 6 months of the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(1) publish in the Federal Register a notice containing a legal description of the sites and rights-of-way to be acquired under this subsection; and

''(2) file copies of a map of such sites and rights-of-way with the Congress, the Secretary of the Interior, the State of Nevada, the Archivist of the United States, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council. Such map and legal description shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors and legal descriptions and make minor adjustments in the boundaries.

''(f) IMPROVEMENTS.—The Secretary shall make improvements to existing roadways selected for heavy-haul truck transport between Caliente, Nevada, and the interim storage facility site as necessary to facilitate year-round safe transport of spent nuclear fuel and high-level radioactive waste.

''(g) LOCAL GOVERNMENT INVOLVEMENT.—The Commission shall enter into a Memorandumm of Understanding with the City of Caliente and Lincoln County, Nevada, to provide advice to the Commission regarding intermodal transfer and to facilitate on-site representation. Reasonable expenses of such representation shall be paid by the Secretary.

''(h) BENEFITS AGREEMENT.—

''(1) IN GENERAL.—The Secretary shall offer to enter into agreement with Lincoln County, Nevada concerning the integrated management system.

''(2) AGREEMENT CONTENT.—Any agreement shall contain such terms and conditions, including such financial and institutional arrangements, as the Secretary and agreement entity determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of Lincoln county, Nevada.

''(3) AMENDMENT.—An agreement entered into under this subsection may be amended only with the mutual consent of the parties to the amendment and terminated only in accordance with paragraph (4).

''(4) TERMINATION.—The Secretary shall terminate the agreement under this subsection if any major element of the integrated management system may not be completed.

''(5) LIMITATION.—Only 1 agreement may be in effect at any one time.

''(6) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

''(i) CONTENT OF AGREEMENT.—

''(1) SCHEDULE.—In addition to the benefits to which Lincoln County is entitled to under this title, the Secretary shall make payments under the benefits agreement in accordance with the following schedule:

BENEFITS SCHEDULE

[Amounts in millions]

Event	Payment
(A) Annual payments prior to first receipt of spent fuel	$2.5
(B) Annual payments beginning upon first spent fuel receipt	5
(C) Payment upon closure of the intermodal transfer facility	5

''(2) DEFINITIONS.—For purposes of this section, the term—

''(A) 'spent fuel' means high-level radioactive waste or spent nuclear fuel; and

''(B) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

''(3) ANNUAL PAYMENTS.—Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

''(4) REDUCTION.—If the first spent fuel payment under paragraph (1)(B) is made within 6 months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to ½ of such annual payment under paragraph (1)(A) for each full month less than 6 that has not elapsed since the last annual payment under paragraph (1)(A).

''(5) RESTRICTIONS.—The Secretary may not restrict the purposes for which the payments under this section may be used.

''(6) DISPUTE.—In the event of a dispute concerning such agreement, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

''(7) CONSTRUCTION.—The signature of the Secretary on a valid benefits agreement under this section shall constitute a commitment by the United States to make payments in accordance with such agreement under section 401(c)(2).

''(j) INITIAL LAND CONVEYANCES.—

''(1) CONVEYANCE OF PUBLIC LANDS.—One hundred and twenty days after enactment of this Act, all right, title and interest of the United States in the property described in paragraph (2), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by

operation of law to the County of Lincoln, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Lincoln under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Lincoln County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(2) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, shall be conveyed under paragraph (1) to the County of Lincoln, Nevada:

Map 10: Lincoln County, Parcel M, Industrial Park Site

Map 11: Lincoln County, Parcel F, Mixed Use Industrial Site

Map 13: Lincoln County, Parcel J, Mixed Use, Alamo Community Expansion Area

Map 14: Lincoln County, Parcel E, Mixed Use, Pioche Community Expansion Area

Map 15: Lincoln County, Parcel B, Landfill Expansion Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in paragraph (2) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Lincoln, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''SEC. 202. TRANSPORTATION PLANNING.

''(a) TRANSPORTATION READINESS.—The Secretary shall take those actions that are necessary and appropriate to ensure that the Secretary is able to transport safely spent nuclear fuel and high-level radioactive waste from sites designated by the contract holders to mainline transportation facilities, using routes that minimize, to the maximum practicable extent consistent with Federal requirements governing transportation of hazardous materials, transportation of spent nuclear fuel and high-level radioactive waste through populated areas, beginning not later than November 30, 1999, and, by that date, shall, in consultation with the Secretary of Transportation, develop and implement a comprehensive management plan that ensures that safe transportation of spent nuclear fuel and high-level radioactive waste from the sites designated by the contract holders to the interim storage facility site beginning not late than November 30, 1999.

''(b) TRANSPORTATION PLANNING.—In conjunction with the development of the logistical plan in accordance with subsection (a), the Secretary shall update and modify, as necessary, the Secretary's transportation institutional plans to ensure that institutional issues are addressed and resolved on a schedule to support the commencement of transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility no later than November 30, 1999. Among other things, such planning shall provide a schedule and process for addressing and implementing, as necessary, transportation routing plans, transportation contracting plans, transportation training in accordance with section 203, and public education regarding transportation of spent nuclear fuel and high level radioactive waste; and transportation tracking programs.

''SEC. 203. TRANSPORTATION REQUIREMENTS.

''(a) PACKAGE CERTIFICATION.—No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this Act except in packages that have been certified for such purposes by the Commission.

''(b) STATE NOTIFICATION.—The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this Act.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and funds to States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste for training for public safety officials of appropriate units of local government. The Secretary shall also provide technical assistance and funds for training directly to national nonprofit employee organizations which demonstrate experience in implementing and operating worker health and safety training and education programs and demonstrate the ability to reach and involve in training programs target populations of workers who are or will be directly engaged in the transportation of spent nuclear fuel and high-level radioactive waste, or emergency response or post-emergency response with respect to such transportation. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations, and shall be consistent with any training standards established by the Secretary of Transportation in accordance with subsection (g). The Secretary's duty to provide technical and financial assistance under this subsection shall be limited to amounts specified in annual appropriations.

''(d) PUBLIC EDUCATION.—The Secretary shall conduct a program to educate the public regarding the transportation of spent nuclear fuel and high-level radioactive waste, with an emphasis upon those States, units of local government, and Indian tribes through whose jurisdiction the Secretary plans to transport substantial amounts of spent nuclear fuel or high-level radioactive waste.

''(e) COMPLIANCE WITH TRANSPORTATION REGULATIONS.—Any person that transports spent nuclear fuel or high-level radioactive waste under the Nuclear Waste Policy Act of 1986, pursuant to a contract with the Secretary, shall comply with all requirements governing such transportation issued by the federal, state and local governments, and Indian tribes, in the same way and to the same extent that any person engaging in that transportation that is in or affects interstate commerce must comply with such requirements, as required by 49 U.S.C. sec. 5126.

''(f) EMPLOYEE PROTECTION.—Any person engaged in the interstate commerce of spent nuclear fuel or high-level radioactive waste under contract to the Secretary pursuant to this Act shall be subject to and comply fully with the employee protection provisions of 49 U.S.C. 20109 and 49 U.S.C. 31105.

''(g) TRAINING STANDARD.—(1) No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary of Transportation, pursuant to authority under other provisions of law, in consultation with the Secretary of Labor and the Commission, shall promulgate a regulation establishing training standards applicable to workers directly involved in the removal and transportation of spent nuclear fuel and high-level radioactive waste. The regulation shall specify minimum training standards applicable to workers, including managerial personnel. The regulation shall require that the employer possess evidence of satisfaction of the applicable training standard before any individual may be employed in the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(2) If the Secretary of Transportation determines, in promulgating the regulation required by subparagraph (1), that regulations promulgated by the Commission establish adequate training standards for workers, then the Secretary of Transportation can refrain from promulgating additional regulations with respect to worker training in such activities. The Secretary of Transportation and the Commission shall work through their Memorandum of Understanding to ensure coordination of worker training standards and to avoid duplicative regulation.

''(3) The training standards required to be promulgated under subparagraph (1) shall, among other things deemed necessary and appropriate by the Secretary of Transportation, include the following provisions—

''(A) a specified minimum number of hours of initial off site instruction and actual field experience under the direct supervision of a trained, experienced supervisor;

''(B) a requirement that onsite managerial personnel receive the same training as workers, and a minimum number of additional hours of specialized training pertinent to their managerial responsibilities; and

''(C) a training program applicable to persons responsible for responding to and cleaning up emergency situations occurring during the removal and transportation of spent nuclear fuel and high-level radioactive waste.

''(4) There is authorized to be appropriated to the Secretary of Transportation, from general revenues, such sums as may be necessary to perform his duties under this subsection.

''SEC. 204. INTERIM STORAGE.

''(a) AUTHORIZATION.—The Secretary shall design, construct, and operate a facility for the interim storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility site. The interim storage facility shall be subject to licensing pursuant to the Atomic Energy Act of 1954 in accordance with the Commission's regulations governing the licensing of independent spent fuel storage installations, which regulations shall be amended by the Commission as necessary to implement the provisions of this Act. The interim storage facility shall commence operation in phases in accordance with subsection (b).

''(b) SCHEDULE.—(1) The Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at the interim storage facility at the interim storage facility site by November 30, 1999, except that:

''(A) The Secretary shall not begin any construction activities at the interim storage facility site before December 31, 1998.

''(B) The Secretary shall cease all activities (except necessary termination activities) at the Yucca Mountain site if the President determines, in his discretion, on or before December 31, 1998, based on a preponderance of the information available at such time, that the Yucca Mountain site is unsuitable for development as a repository, including geologic and engineered barriers, because of a substantial likelihood that a repository of useful size cannot be designed, licensed, and constructed at the Yucca Mountain site.

''(C) No later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include

''(i) the preliminary design concept for the critical elements of the repository and waste package,

''(ii) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geologic setting relative to the overall system performance standard set forth in section 205(d) of this Act,

''(iii) a plan and cost estimate for the remaining work required to complete a license application, and

''(iv) an estimate of the costs to construct and operate the repository in accordance with the design concept

''(D) Within 18 months of a determination by the President that the Yucca Mountain site is unsuitable for development as a repository under paragraph (B), the President shall designate a site for the construction of an interim storage facility. If the President does not designate a site for the construction of an interim storage facility, or the construction of an interim storage facility at the designated site is not approved by law within 24 months of the President's determination that the Yucca Mountain site is not suitable for development as a repository, the Secretary shall begin construction of an interim storage facility at the interim storage facility site as defined in section 2(19) of this Act. The interim storage facility site as defined in section 2(19 of this Act shall be deemed to be approved by law for purposes of this section.

''(2) Upon the designation of an interim storage facility site by the President under paragraph (1)(D), the Secretary shall proceed forthwith and without further delay with all activities necessary to begin storing spent nuclear fuel and high-level radioactive waste at an interim storage facility at the designated site, except that the Secretary shall not begin any construction activities at the designated interim storage facility site before the designated interim storage facility site is approved by law.

''(c) DESIGN.—

''(1) The interim storage facility shall be designed in two phases in order to commence operations no later than November 30, 1999. The design of the interim storage facility shall provide for the use of storage technologies, licensed, approved, or certified by the Commission for use at the interim storage facility as necessary to ensure compatibility between the interim storage facility and contract holders' spent nuclear fuel and facilities, and to facilitate the Secretary's ability to meet the Secretary's obligations under this Act.

''(2) The Secretary shall consent to an amendment to the contracts to provide for reimbursement to contract holders for transportable storage systems purchased by contract holders if the Secretary determines that it is cost effective to use such transportable storage systems as part of the integrated management system, provided that the Secretary shall not be required to expend any funds to modify contract holders' storage or transport systems or to seek additional regulatory approvals in order to use such systems.

''(d) LICENSING.—

''(1) PHASES.—The interim storage facility shall be licensed by the Commission in two phases in order to commence operations no later than November 30, 1999.

''(2) FIRST PHASE.—No later than 12 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the first phase of the interim storage facility. The Environmental Report and Safety Analysis Report submitted in support of such license application shall be consistent with the scope of authority requested in the license application. The license issued for the first phase of the interim storage facility shall have a term of 20 years. The interim storage facility licensed in the first phase shall have a capacity of not more than 15,000 MTU. The Commission shall issue a final decision granting or denying the application for the first phase license no later than 16 months from the date of the submittal of the application for such license.

''(3) SECOND PHASE.—No later than 30 months after the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall submit to the Commission an application for a license for the second phase interim storage facility. The license for the second phase facility shall authorize a storage capacity of 40,000 MTU. If the Secretary does not submit the license application for construction of a repository by February 1, 2002, or does not begin full spent nuclear fuel receipt operations at a repository by January 17, 2010, the license shall authorize a storage capacity of 60,000 MTU. The license application shall be submitted such that the license can be issued to permit the second phase facility to begin full spent nuclear fuel receipt operations no later than December 31, 2002. The license for the second phase shall have an initial term of up to 100 years, and shall be renewable for additional terms upon application of the Secretary.

''(e) ADDITIONAL AUTHORITY.—

''(1) CONSTRUCTION.—For purposes of complying with this section, the Secretary may commence site preparation for the interim storage facility as soon as practicable after the date of enactment of the Nuclear Waste Policy Act of 1996 and shall commence construction of each phase of the interim storage facility subsequent to submittal of the license application for such phase except that the Commission shall issue an order suspending such construction at any time if the Commission determines that such construction poses an unreasonable risk to public health and safety or the environment. The Commission shall terminate all or part of such order upon a determination that the Secretary has taken appropriate action to eliminate such risk.

''(2) FACILITY USE.—Notwithstanding any otherwise applicable licensing requirement, the Secretary may utilize any facility owned by the Federal Government on the date of enactment of the Nuclear Waste Policy Act of 1996 within the boundaries of the interim storage facility site, in connection with an imminent and substantial endangerment to public health and safety at the interim storage facility prior to commencement of operations during the second phase.

''(3) EMPLACEMENT OF FUEL AND WASTE.—Subject to paragraph (i), once the Secretary has achieved the annual acceptance rate for spent nuclear fuel from civilian nuclear power reactors established pursuant to the contracts executed prior to the date of enactment of the Nuclear Waste Policy Act of 1996, as set forth in the Secretary's annual capacity report dated March, 1995 (DOE/RW–0457), the Secretary shall accept, in an amount not less than 25 percent of the difference between the contractual acceptance rate and the annual emplacement rate for spent nuclear fuel from civilian nuclear power reactors established under section 507(a), the following radioactive materials:

''(A) spent nuclear fuel or high-level radioactive waste of domestic origin from civilian nuclear power reactors that have permanently ceased operation on or before the date of enactment of the Nuclear Waste Policy Act of 1996;

''(B) spent nuclear fuel from foreign research reactors, as necessary to promote non-proliferation objectives; and

''(C) spent nuclear fuel, including spent nuclear fuel from naval reactors, and high-level radioactive waste from atomic energy defense activities.

''(f) NATIONAL ENVIRONMENTAL POLICY ACT OF 9169.—

''(1) PRELIMINARY DECISIONMAKING ACTIVITIES.—The Secretary's and President's activities under this section, including, but not limited to, the selection of a site for the interim storage facility, assessments, determinations and designations made under section 204(b), the preparation and submittal of a license application and supporting documentation, the construction of a facility under paragraph (e)(1) of this section, and facility use pursuant to paragraph (e)(2) of this section shall be considered preliminary decisionmaking activities for purposes of judicial review. The Secretary shall not prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any environmental review under subparagraph (E) or (F) of such Act before conducting these activities.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—

''(A) FINAL DECISION.—A final decision by the Commission to grant or deny a license application for the first or second phase of the interim storage facility shall be accompanied by an Environmental Impact Statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)). In preparing such Environmental Impact Statement, the Commission—

''(i) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

''(ii) shall analyze the impacts of the transportation of spent nuclear fuel and high-level radioactive waste to the interim storage facility in a generic manner.

''(B) CONSIDERATIONS.—Such Environmental Impact Statement shall not consider—

''(i) the need for the interim storage facility, including any individual component thereof;

''(ii) the time of the initial availability of the interim storage facility;

''(iii) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

''(iv) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

''(v) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

(vi) the environmental impacts of the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility beyond the initial term of the license or the term of the renewal period for which a license renewal application is made.

''(g) JUDICIAL REVIEW.—Judicial review of the Commission's environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be consolidated with judicial review of the Commission's licensing decision. No court shall have jurisdiction to enjoin the construction or operation of the interim storage facility prior to its final decision on review of the Commission's licensing action.

''(h) WASTE CONFIDENCE.—The Secretary's obligation to construct and operate the interim storage facility in accordance with this section and the Secretary's obligation to develop an integrated management system in accordance with the provisions of this

Act, shall provide sufficient and independent grounds for any further findings by the Commission of reasonable assurance that spent nuclear fuel and high-level radioactive waste will be disposed of safely and on a timely basis for purposes of the Commission's decision to grant or amend any license to operate any civilian nuclear power reactor under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.)

''(i) STORAGE OF OTHER SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—No later than 18 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Commission shall, by rule, establish criteria for the storage in the interim storage facility of fuel and waste listed in paragraph(e)(3)(A) through (C), to the extent such criteria are not included in regulations issued by the Commission and existing on the date of enactment of the Nuclear Waste Policy Act of 1996. Following establishment of such criteria, the Secretary shall seek authority, as necessary, to store fuel and waste listed in paragraph (e)(3)(A) through (C) at the interim storage facility. None of the activities carried out pursuant to this paragraph shall delay, or otherwise affect, the development, construction, licensing, or operation of the interim storage facility.

''(j) SAVINGS CLAUSE.—The Commission shall, by rule, establish procedures for the licensing of any technology for the dry storage of spent nuclear fuel by rule and without, to the maximum extent possible, the need for site-specific approvals by the Commission. Nothing in this Act shall affect any such procedures, or any licenses or approvals issued pursuant to such procedures in effect on the date of enactment.

"SEC. 205. PERMANENT REPOSITORY.

''(a) REPOSITORY CHARACTERIZATION.—

''(1) GUIDELINES.—The guidelines promulgated by the Secretary and published at 10 CFR part 960 are annulled and revoked and the Secretary shall make no assumptions or conclusions about the licensability of the Yucca Mountain site as a repository by reference to such guidelines.

''(2) SITE CHARACTERIZATION ACTIVITIES.—The Secretary shall carry out appropriate site characterization activities at the Yucca Mountain site in accordance with the Secretary's program approach to site characterization. The Secretary shall modify or eliminate those site characterization activities designed only to demonstrate the suitability of the site under the guidelines referenced in paragraph (1).

''(3) SCHEDULE DATE.—Consistent with the schedule set forth in the program approach, as modified to be consistent with the Nuclear Waste Policy Act of 1996, no later than February 1, 2002, the Secretary shall apply to the Commission for authorization to construct a repository. If, at any time prior to the filing of such application, the Secretary determines that the Yucca Mountain site cannot satisfy the Commission's regulations applicable to the licensing of a geologic repository, the Secretary shall terminate site characterization activities at the site, notify Congress and the State of Nevada of the Secretary's determination and the reasons therefor, and recommend to Congress not later than 6 months after such determination further actions, including the enactment of legislation, that may be needed to manage the Nation's spent nuclear fuel and high-level radioactive waste.

''(4) MAXIMIZING CAPACITY.—In developing an application for authorization to construct the repository, the Secretary shall seek to maximize the capacity of the repository, in the most cost-effective manner, consistent with the need for disposal capacity.

''(b) REPOSITORY LICENSING.—Upon the completion of any licensing proceeding for the first phase of the interim storage facility, the Commission shall amend its regulations governing the disposal of spend nuclear fuel and high-level radioactive waste in geologic repositories to the extent necessary to comply with this Act. Subject to subsection (c), such regulations shall provide for the licensing of the repository according to the following procedures:

''(1) CONSTRUCTION AUTHORIZATION.—The Commission shall grant the Secretary a construction authorization for the repository upon determining that there is reasonable assurance that spent nuclear fuel and high-level radioactive waste can be disposed of in the repository—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without reasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security:

''(2)— LICENSE.—Following substantial completion of construction and the filing of any additional information needed to complete the license application, the Commission shall issue a license to dispose of spent nuclear fuel and high-level radioactive waste in the repository if the Commission determines that the repository has been constructed and will operate—

''(A) in conformity with the Secretary's application, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(3) CLOSURE.—After emplacing spent nuclear fuel and high-level radioactive waste in the repository and collecting sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with the Commission's regulations applicable to the licensing of a repository, as modified in accordance with this Act, the Secretary shall apply to the Commission to amend the license to permit permanent closure of the repository. The Commission shall grant such license amendment upon finding that there is reasonable assurance that the repository can be permanently closed—

''(A) in conformity with the Secretary's application to amend the license, the provisions of this Act, and the regulations of the Commission;

''(B) without unreasonable risk to the health and safety of the public; and

''(C) consistent with the common defense and security.

''(4) POST-CLOSURE.—The Secretary shall take those actions necessary and appropriate at the Yucca Mountain site to prevent any activity at the site subsequent to repository closure that poses an unreasonable risk of—

''(A) breaching the repository's engineered or geologic barriers; or

''(B) increasing the exposure of individual members of the public to radiation beyond the release standard established in subsection (d)(1).

''(c) MODIFICATION OF REPOSITORY LICENSING PROCEDURE.—The Commission's regulations shall provide for the modification of the repository licensing procedure, as appropriate, in the event that the Secretary seeks a license to permit the emplacement in the repository, on a retrievable basis, of spent nuclear fuel or high-level radioactive waste as is necessary to provide the Secretary with sufficient confirmatory data on repository performance to reasonably confirm the basis for repository closure consistent with applicable regulations.

''(d) REPOSITORY LICENSING STANDARDS.—The Administrator of the Environmental Protection Agency shall, pursuant to authority under other provisions of law, issue generally applicable standards for the protection of the public from releases of radioactive materials or radioactivity from the repository. Such standards shall be consistent with the overall system performance standard established by this subsection unless the Administrator determines by rule that the overall system performance standard would constitute an unreasonable risk to health and safety. The Commission's repository licensing determinations for the protection of the public shall be based solely on a finding whether the repository can be operated in conformance with the overall system performance standard established in paragraph (1), applied in accordance with the provisions of paragraph (2), and the Administrator's radiation protection standards. The Commission shall amend its regulations in accordance with subsection (b) to incorporate each of the following licensing standards:

''(1) ESTABLISHMENT OF OVERALL SYSTEM PERFORMANCE STANDARD.—The standard for protection of the public from release of radioactive material or radioactivity from the repository shall prohibit releases that would expose an average member of the general population in the vicinity of the Yucca Mountain site to an annual dose in excess of 100 millirems unless the Commission determines by rule that such standard would constitute an unreasonable risk to health and safety and establishes by rule another standard which will protect health and safety. Such standard shall constitute an overall system performance standard.

''(2) APPLICATION OF OVERALL SYSTEM PERFORMANCE STANDARD.—The Commission shall issue the license if it finds reasonable assurance that for the first 1,000 years following the commencement of repository operations, the overall system performance standard will be met based on a probabilistic evaluation, as appropriate, of compliance with the overall system performance standard in paragraph (1).

''(3) FACTORS.—For purposes of making the finding in paragraph (2)—

''(A) the Commission shall not consider catastrophic events where the health consequences of individual events themselves can be reasonably assumed to exceed the health consequences due to the impact of the events on repository performance;

''(B) for the purpose of this section, an average member of the general population in the vicinity of the Yucca Mountain site means a person whose physiology, age, general health, agricultural practices, eating habits, and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits, or other relevant practices or characteristics shall not be considered; and

''(C) the Commission shall assume that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure actions at the Yucca Mountain site; in accordance with subsection (b)(4), shall be sufficient to—

''(i) prevent any human activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

''(ii) prevent any increase in the exposure of individual members of the public to radiation beyond the allowable limits specified in paragraph (1).

''(4) ADDITIONAL ANALYSIS.—The Commission shall analyze the overall system performance through the use of probabilistic evaluations that use best estimate assumptions, data, and methods for the period commencing after the first 1,000 years of operation of the repository and terminating at

10,000 years after the commencement of operation of the repository.

''(e) NATIONAL ENVIRONMENTAL POLICY ACT.—

''(1) SUBMISSION OF STATEMENT.—Construction and operation of the repository shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall submit an environmental impact statement on the construction and operation of the repository to the Commission with the license application and shall supplement such environmental impact statement as appropriate.

''(2) CONSIDERATIONS.—For purposes of complying with the requirements of the National Environmental Policy Act of 1969 and this section, the Secretary shall not consider in the environmental impact statement the need for the repository, or alternative sites or designs for the repository.

''(3) ADOPTION BY COMMISSION.—The Secretary's environmental impact statement and any supplements thereto shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization under subsection (b)(1), a license under subsection (b)(2), or a license amendment under subsection (b)(3). To the extent such statement or supplement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969, and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954. In any such statement or supplement prepared with respect to the repository, the Commission shall not consider the need for a repository, or alternate sites or designs for the repository.

''(f) JUDICIAL REVIEW.—No court shall have jurisdiction to enjoin issuance of the Commission repository licensing regulations prior to its final decision on review of such regulations.

"SEC. 206. LAND WITHDRAWAL.

''(a) WITHDRAWAL AND RESERVATION.—

''(1) WITHDRAWAL.—Subject to valid existing rights, the interim storage facility site and the Yucca Mountain site, as described in subsection (b), are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including the mineral leasing laws, the geothermal leasing laws, the material sale laws, and the mining laws.

''(2) JURISDICTION.—Jurisdiction of any land within the interim storage facility site and the Yucca Mountain site managed by the Secretary of the Interior or any other Federal officer is transferred to the Secretary.

''(3) RESERVATION.—The interim storage facility site and the Yucca Mountain site are reserved for the use of the Secretary for the construction and operation, respectively, of the interim storage facility and the repository and activities associated with the purposes of this title.

''(b) LAND DESCRIPTION.—

''(1) BOUNDARIES.—The boundaries depicted on the map entitled ''Interim Storage Facility Site Withdrawal Map,'' dated March 13, 1996, and on file with the Secretary, are established as the boundaries of the Interim Storage Facility site.

''(2) BOUNDARIES.—The boundaries depicted on the map entitled 'Yucca Mountain Site Withdrawal Map,' dated July 9, 1996, and on file with the Secretary, are established as the boundaries of the Yucca Mountain site.

''(3) NOTICE AND MAPS.—Within 6 months of the date of the enactment of the Nuclear Waste Policy Act of 1996, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the interim storage facility site; and

''(B) file copies of the maps described in paragraph (1), and the legal description of the interim storage facility site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(4) NOTICE AND MAPS.—Concurrent with the Secretary's application to the Commission for authority to construct the repository, the Secretary shall—

''(A) publish in the Federal Register a notice containing a legal description of the Yucca Mountain site; and

''(B) file copies of the maps described in paragraph (2), and the legal description of the Yucca Mountain site with the Congress, the Secretary of the Interior, the Governor of Nevada, and the Archivist of the United States.

''(5) CONSTRUCTION.—The maps and legal descriptions of the interim storage facility site and the Yucca Mountain site referred to in this subsection shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''TITLE III—LOCAL RELATIONS

"SEC. 301. FINANCIAL ASSISTANCE.

''(a) GRANTS.—The Secretary is authorized to make grants to any affected Indian tribe or affected unit of local government for purposes of enabling the affected Indian tribe or affected unit of local government—

''(1) to review activities taken with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of the integrated management system on the affected Indian tribe or the affected unit of local government and its residents;

''(2) to develop a request for impact assistance under subsection (c);

''(3) to engage in any monitoring, testing, or evaluation activities with regard to such site;

''(4) to provide information to residents regarding any activities of the Secretary, or the Commission with respect to such site; and

''(5) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken with respect to such site.

''(b) SALARY AND TRAVEL EXPENSES.—Any salary or travel expense that would ordinarily be incurred by any affected Indian tribe or affected unit of local government may not be considered eligible for funding under this section.

''(c) FINANCIAL AND TECHNICAL ASSISTANCE.—

''(1) ASSISTANCE REQUESTS.—The Secretary is authorized to offer to provide financial and technical assistance to any affected Indian tribe or affected unit of local government requesting such assistance. Such assistance shall be designed to mitigate the impact on the affected Indian tribe or affected unit of local government of the development of the integrated management system.

''(2) REPORT.—Any affected Indian tribe or affected unit of local government may request assistance under this section by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from activities of the integrated management system.

''(d) OTHER ASSISTANCE.—

''(1) TAXABLE AMOUNTS.—In addition to financial assistance provided under this subsection, the Secretary is authorized to grant any affected Indian tribe or affected unit of local government an amount each fiscal year equal to the amount such affected Indian tribe or affected unit of local government, respectively, would receive if authorized to tax integrated management system activities, as such affected Indian tribe or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such affected unit of local government.

''(2) TERMINATION. Such grants shall continue until such time as all such activities, development, and operations are terminated at such site.

''(3) ASSISTANCE TO INDIAN TRIBES AND UNITS OR LOCAL GOVERNMENT.—

''(A) Period.—Any affected Indian tribe or affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following the date on which the Secretary notifies the affected Indian tribe or affected unit of local government of the termination of the operation of the integrated management system.

''(B) ACTIVITIES.—Any affected Indian tribe or affected unit of local government may not receive any further assistance under this section if the integrated management system activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"SEC. 302. ON-SITE REPRESENTATIVE.

''The Secretary shall offer to the unit of local government within whose jurisdiction a site for an interim storage facility or repository is located under this Act an opportunity to designate a representative to conduct on-site oversight activities at such site. The Secretary is authorized to pay the reasonable expenses of such representative.

"SEC. 303. ACCEPTANCE OF BENEFITS.

''(a) CONSENT.—The acceptance or use of any of the benefits provided under this title by any affected Indian tribe or affected unit of local government shall not be deemed to be an expression of consent, express, or implied, either under the Constitution of the State or any law thereof, to the siting of an interim storage facility or repository in the State of Nevada, any provision of such Constitution or laws to the contrary notwithstanding.

''(b) ARGUMENTS.—Neither the United States nor any other entity may assert any argument based on legal or equitable estoppel, or acquiescence, or waiver, or consensual involvement, in response to any decision by the State to oppose the siting in Nevada of an interim storage facility or repository premised upon or related to the acceptance or use of benefits under this title.

''(c) LIABILITY.—No liability of any nature shall accrue to be asserted against any official of any governmental unit of Nevada premised solely upon the acceptance or use of benefits under this title.

"SEC. 304. RESTRICTIONS ON USE OF FUNDS.

''None of the funding provided under this title may be used—

''(1) directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code;

''(2) for litigation purposes; and

''(3) to support multistate efforts or other coalition-building activities inconsistent with the purposes of this Act.

"SEC. 305. LAND CONVEYANCES.

''(a) CONVEYANCES OF PUBLIC LANDS.—One hundred and twenty days after

enactment of this Act, all right, title and interest of the United States in the property described in subsection (b), and improvements thereon, together with all necessary easements for utilities and ingress and egress to such property, including, but not limited to, the right to improve those easements, are conveyed by operation of law to the County of Nye, Nevada, unless the county notifies the Secretary of Interior or the head of such other appropriate agency in writing within 60 days of such date of enactment that it elects not to take title to all or any part of the property, except that any lands conveyed to the County of Nye under this subsection that are subject to a Federal grazing permit or lease or a similar federally granted permit or lease shall be conveyed between 60 and 120 days of the earliest time the Federal agency administering or granting the permit or lease would be able to legally terminate such right under the statutes and regulations existing at the date of enactment of this Act, unless Nye County and the affected holder of the permit or lease negotiate an agreement that allows for an earlier conveyance.

''(b) SPECIAL CONVEYANCES.—Notwithstanding any other law, the following public lands depicted on the maps and legal descriptions dated October 11, 1995, and on file with the Secretary shall be conveyed under subsection (a) to the County of Nye, Nevada:

Map 1: Proposed Pahrump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahrump Landfill Sites

Map 4: Amargosa Valley Regional Landfill Site

Map 5: Amargosa Valley Municipal Landfill Site

Map 6: Beatty Landfill/Transfer Station Site

Map 7: Round Mountain Landfill Site

Map 8: Tonopah Landfill Site

Map 9: Gabbs Landfill Site.

''(3) CONSTRUCTION.—The maps and legal descriptions of special conveyances referred to in subsection (b) shall have the same force and effect as if they were included in this Act. The Secretary may correct clerical and typographical errors in the maps and legal descriptions and make minor adjustments in the boundaries of the sites.

''(4) EVIDENCE OF TITLE TRANSFER.—Upon the request of the County of Nye, Nevada, the Secretary of the Interior shall provide evidence of title transfer.

''TITLE IV—FUNDING AND ORGANIZATION

"SEC. 401. PROGRAM FUNDING.

''(a) CONTRACTS.—

''(1) AUTHORITY OF SECRETARY.—In the performance of the Secretary's functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such waste or spent fuel. Such contracts shall provide for payment of annual fees to the Secretary in the amounts set by the Secretary pursuant to paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended. Subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, the contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act, provided that the Secretary shall consent to an amendment to such contracts as necessary to implement the provisions of this Act.

''(2) ANNUAL FEES.—

''(A) For electricity generated by civilian nuclear power reactors and sold between January 7, 1983, and September 30, 2002, the fee under paragraph (1) shall be equal to 1.0 mill per kilowatt hour generated and sold. For electricity generated by civilian nuclear power reactors and sold on or after October 1, 2002, the aggregate amount of fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures on those activities consistent with subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriation required to be funded by the Federal Government pursuant to section 403.

The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated and sold, except that the annual fee collected under this subparagraph shall not exceed 1.0 mill per kilowatt-hour generated and sold.

''(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year on or after October 1, 2002, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

''(i) any unobligated balance collected pursuant to this section during the previous fiscal year; and

''(ii) the percentage of such appropriations required to be funded by the Federal Government pursuant to section 403,

the Secretary may make expenditures from the Nuclear Waste Fund up to the level of the fees assessed.

''(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

''(3) ONE-TIME FEE.—For spent nuclear fuel or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to January 7, 1983, the fee shall be in an amount equivalent to an average charge of 1.0 mill per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom. Payment of such one-time fee prior to the date of enactment of the Nuclear Waste Policy Act of 1996 shall satisfy the obligation imposed under this paragraph. Any one-time fee paid and collected subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996 pursuant to the contracts, including any interest due pursuant to such contracts, shall be paid to the Nuclear Waste Fund no later than September 30, 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph on or before September 30, 2002, and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. The person paying the fee under this paragraph to the Secretary shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of spent fuel or high-level radioactive waste derived from spend nuclear fuel used to generate electricity in a civilian power reactor prior to January 7, 1983.

''(4) ADJUSTMENTS TO FEE.—The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3), together with the existing balance of the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996, to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (c)(2). In the event the Secretary determines that the revenues being collected are either insufficient or excessive to recover the costs incurred by the Federal Government that are specified in subsection (c)(2), the Secretary shall propose an adjustment to the fee in subsection (c)(2) to ensure full cost recovery. The Secretary shall immediately transmit the proposal for such an adjustment to both houses of Congress.

''(b) ADVANCE CONTRACTING REQUIREMENT.—

''(1) IN GENERAL.—

''(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

''(i) such person has entered into a contract under subsection (a) with the Secretary, or

''(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

''(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

''(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

''(3) ASSIGNMENT.—The rights and duties of contract holders are assignable.

''(c) NUCLEAR WASTE FUND.—

''(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

''(A) the existing balance in the Nuclear Waste Fund on the date of enactment of the Nuclear Waste Policy Act of 1996; and

''(B) all receipts, proceeds, and recoveries realized under subsections (a), and (c)(3) subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996, which shall be deposited in the Nuclear Waste Fund immediately upon their realization.

''(2) USE.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to subsections (d) and (e), only for purposes of the integrated management system.

''(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—

''(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

''(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the

Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

''(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

''(ii) 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 the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

''(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

''(d) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget annually along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

''(e) APPROPRIATIONS.—The Secretary may make expenditures from the Nuclear Waste Fund, subject to appropriations, which shall remain available until expended.

''SEC. 402. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

''(a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

''SEC. 403. FEDERAL CONTRIBUTION.

''(a) ALLOCATION.—No later than one year from the date of enactment of the Nuclear Waste Policy Act of 1996, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors shall include,

''(1) an appropriate portion of the costs associated with research and development activities with respect to development of an interim storage facility and repository; and

''(2) as appropriate, interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

''(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, as established under subsection (a).

''(c) REPORT.—In conjunction with the annual report submitted to Congress under Section 702, the Secretary shall advise the Congress annually of the amount of spent nuclear fuel and highlevel radioactive waste from atomic energy defense activities and spent nuclear fuel from foreign research reactors, requiring management in the integrated management system.

''(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities and spend nuclear fuel from foreign research reactors, as established under subsection (a).

''TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

''SEC. 501. COMPLIANCE WITH OTHER LAWS.

''If the requirements of any Federal, State, or local law (including a requirement imposed by regulation or by any other means under such a law) are inconsistent with or duplicative of the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or of this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act of 1954 and of this Act in implementing the integrated management system.

''SEC. 502. JUDICIAL REVIEW OF AGENCY ACTIONS.

''(a) JURISDICTION OF THE UNITED STATES COURTS OF APPEALS.—

''(1) ORIGINAL AND EXCLUSIVE JURISDICTION.—Except for review in the Supreme Court of the United States, and except as otherwise provided in this Act, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any final decision or action of the Secretary, the President, or the Commission under this Act;

''(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this Act;

''(C) challenging the constitutionality of any decision made, or action taken, under any provision of this Act; or

''(D) for review of any environmental impact statement prepared or environmental assessment pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this Act or alleging a failure to prepare such statement with respect to any such action.

''(2) VENUE.—The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

''(b) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought no later than 180 days after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action no later than 180 days after the date such party acquired actual or constructive knowledge or such decision, action, or failure to act.

''(c) APPLICATION OF OTHER LAW.—The provisions of this section relating to any matter shall apply in lieu of the provisions of any other Act relating to the same matter.

''SEC. 503. LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS.

''(a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after January 7, 1983, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

''(b) ADJUDICATORY HEARING.—

''(1) DESIGNATION.—At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing if it determines that—

''(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

''(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

''(2) DETERMINATION.—In making a determination under this subsection, the Commission—

''(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

''(B) shall not consider—

''(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor to which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

''(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction

permit or operating license for a civilian nuclear power reactor at such site, unless—

''(I) such issue results from any revision of siting or design criteria by the Commission following such decision; and

''(II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

''(3) APPLICATION.—The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

''(4) CONSTRUCTION.—The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear power plant by the Commission.

''(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

''(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

''(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

''SEC. 504. SITING A SECOND REPOSITORY.

''(a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

''(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

''SEC. 505. FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE.

''(a) FINANCIAL ARRANGEMENTS.—

''(1) STANDARDS AND INSTRUCTIONS.—The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on January 7, 1983, prior to termination of such licenses.

''(2) BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS.—If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

''(b) TITLE AND CUSTODY.—

''(1) AUTHORITY OF SECRETARY.—The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

''(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

''(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

''(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

''(2) PROTECTION.—If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

''(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

''SEC. 506. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.

''The Commission is authorized and directed to promulgate regulations, or other appropriate regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians, and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing Commission administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs.

''SEC. 507. EMPLACEMENT SCHEDULE.

''(a) The emplacement schedule shall be implemented in accordance with the following:

''(1) Emplacement priority ranking shall be determined by the Department's annual 'Acceptance Priority Ranking' report.

''(2) The Secretary's spent fuel emplacement rate shall be no less than the following: 1,200 MTU in fiscal year 2000 and 1,200 MTU in fiscal year 2001; 2,000 MTU in fiscal year 2002 and 2000 MTU in fiscal year 2003; 2,700 MTU in fiscal year 2004; and 3,000 MTU annually thereafter.

''(b) If the Secretary is unable to begin emplacement by November 30, 1999 at the rates specified in subsection (a), or if the cumulative amount emplaced in any year thereafter is less than that which would have been accepted under the emplacement rate specified in subsection (a), the Secretary shall, as a mitigation measure, adjust the emplacement schedule upward such that within 5 years of the start of emplacement by the Secretary,

''(1) the total quantity accepted by the Secretary is consistent with the total quantity that the Secretary would have accepted if the Secretary had began emplacement in fiscal year 2000, and

''(2) thereafter the emplacement rate is equivalent to the rate that would be in place pursuant to paragraph (a) above if the Secretary had commenced emplacement in fiscal year 2000.

''SEC. 508. TRANSFER OF TITLE.

''(a) Acceptance by the Secretary of any spent nuclear fuel or high-level radioactive waste shall constitute a transfer of title to the Secretary.

''(b) No later than 6 months following the date of enactment of the Nuclear Waste Policy Act of 1996, the Secretary is authorized to accept all spent nuclear fuel withdrawn from Dairyland Power Cooperative's La Crosse Reactor and, upon acceptance, shall provide Dairyland Power Cooperative with evidence of the title transfer. Immediately upon the Secretary's acceptance of such spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage from the date of acceptance until the Secretary removes the spent nuclear fuel from the La Crosse Reactor site.''

''SEC. 509. DECOMMISSIONING PILOT PROGRAM.

''(a) AUTHORIZATION.—the Secretary is authorized to establish a Decommissioning Pilot Program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

''(b) FUNDING.—No funds from the Nuclear Waste Fund may be used for the Decommissioning Pilot Program.

''SEC. 510. WATER RIGHTS.

''a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising under this Act.

''(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER NEVADA LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the State of Nevada. Nothing in this Act shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands.

''(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER NEVADA LAWS.—Nothing in this Act shall be construed to limit the exercise of water rights as provided under Nevada State laws.

''TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

''SEC. 601. DEFINITIONS.

''For purposes of this title—

''(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

''(2) BOARD.—The term 'Board' means the Nuclear Waste Technical Review Board continued under section 602.

''SEC. 602. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

''(a) CONTINUATION OF THE NUCLEAR WASTE TECHNICAL REVIEW BOARD.—The Nuclear

Waste Technical Review Board, established under section 502(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of the Nuclear Waste Policy Act of 1996, shall continue in effect subsequent to the date of enactment of the Nuclear Waste Policy Act of 1996.

''(b) MEMBERS.—

''(1) NUMBER.—The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after December 22, 1987, from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

''(2) CHAIR.—The President shall designate a member of the Board to serve as Chairman.

''(3) NATIONAL ACADEMY OF SCIENCES.—

''(A) NOMINATIONS.—The National Academy of Sciences shall, not later than 90 days after December 22, 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

''(B) VACANCIES.—The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

''(C) NOMINEES.—

''(i) Each person nominated for appointment to the Board shall be—

''(I) eminent in a field of science or engineering, including environmental sciences; and

''(II) selected solely on the basis of established records of distinguished service.

''(ii) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

''(iii) No person shall be nominated for appointment to the Board who is an employee of—

''(I) the Department of Energy;

''(II) a national laboratory under contract with the Department of Energy; or

''(III) an entity performing spent nuclear fuel or high-level radioactive waste activities under contract with the Department of Energy.

''(4) VACANCIES.—Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

''(5) TERMS.—Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after December 22, 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment, except that a member of the Board whose term has expired may continue to serve as a member of the Board until such member's successor has taken office.

''SEC. 603. FUNCTIONS.

''The Board shall limit its evaluations to the technical and scientific validity solely of the following activities undertaken directly by the Secretary after December 22, 1987—

''(1) site characterization activities; and

''(2) activities of the Secretary relating to the packaging or transportation of spent nuclear fuel or high-level radioactive waste.

''SEC. 604. INVESTIGATORY POWERS.

''(a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. The Secretary or the Secretary's designee or designees shall not required to appear before the Board or any element of the Board for more than twelve working days per calendar year.

''(b) PRODUCTION OF DOCUMENTS.—

''(1) RESPONSE TO INQUIRIES.—Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information that is generally available to the public as may be necessary to respond to any inquiry of the Board under this title.

''(2) EXTENT.—Subject to existing law, information obtainable under paragraph (1) may include drafts of products and documentation of work in progress.

''SEC. 605. COMPENSATION OF MEMBERS.

''(a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board.

''(b) TRAVEL EXPENSE.—Each member of the Board may receive travel expenses, including per diem in lieu of subsidence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

''SEC. 606. STAFF.

''(a) CLERICAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical staff as may be necessary to discharge the responsibilities of the Board.

''(2) PROVISIONS OF TITLE 5.—Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 3 of such title relating to classification and General Schedule pay rates.

''(b) PROFESSIONAL STAFF.—

''(1) AUTHORITY OF CHAIRMAN.—Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

''(2) NUMBER.—Not more than 10 professional staff members may be appointed under this subsection.

''(3) TITLE 5.—Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 607. SUPPORT SERVICES.

''(a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

''(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General and the Librarian of Congress shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

''(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

''(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''SEC. 608. REPORT.

''The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations.

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for expenditures such as may be necessary to carry out the provisions of this title.

''SEC. 610. TERMINATION OF THE BOARD.

''The Board shall cease to exist not later than one year after the date on which the Secretary begins disposal of spent nuclear fuel or high-level radioactive waste in the repository.

''TITLE VII—MANAGEMENT REFORM

''SEC. 701. MANAGEMENT REFORM INITIATIVES.

''(a) IN GENERAL.—The Secretary is directed to take actions as necessary to improve the management of the civilian radioactive waste management program to ensure that the program is operated, by the maximum extent practicable, in like manner as a private business.

''(b) AUDITS.—

''(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and subcontractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

''(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the enactment of the Nuclear Waste Policy Act of 1996.

''(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

''(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

''(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

''(d) VALUE ENGINEERING.—The Secretary shall create a value engineering function within the Office of Civilian Radioactive Waste Management that reports directly to the Director, which shall carry out value engineering functions in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects.

''(e) SITE CHARACTERIZATION.—The Secretary shall employ, on an on-going basis, integrated performance modeling to identify appropriate parameters for the remaining site characterization effort and to eliminate

studies of parameters that are shown not to affect long-term repository performance.

"SEC. 702. REPORTING.

''(a) INITIAL REPORT.—Within 180 days of enactment of this section, the Secretary shall report to Congress on its planned actions for implementing the provisions of this Act, including the development of the Integrated Waste Management System. Such report shall include—

''(1) an analysis of the Secretary's progress in meeting its statutory and contractual obligation to accept title to, possession of, and delivery of spent nuclear fuel and high-level radioactive waste beginning no later than November 30, 1999, and in accordance with the acceptance schedule;

''(2) a detailed schedule and timeline showing each action that the Secretary intends to take to meet the Secretary's obligations under this Act and the contracts;

''(3) a detailed description of the Secretary's contingency plans in the event that the Secretary is unable to met the planned schedule and timeline; and

''(4) an analysis by the Secretary of its funding needs for fiscal years 1997 through 2001.

''(b) ANNUAL REPORTS.—On each anniversary of the submittal of the report required by subsection (a), the Secretary shall make annual reports to the Congress for the purpose of updating the information contained in such report. The annual reports shall be brief and shall notify the Congress of:

''(1) any modifications to the Secretary's schedule and timeline for meeting its obligations under this Act;

''(2) the reasons for such modifications, and the status of the implementation of any of the Secretary's contingency plans; and

''(3) the Secretary's analysis of its funding needs for the ensuring 5 fiscal years.

"SEC. 703. EFFECTIVE DATE.

''This Act shall become effective two days after enactment.''.

THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1997

BROWN (AND OTHERS) AMENDMENT NO. 5058

Mr. BROWN (for himself), Mr. SIMON, Mr. ROTH, Mr. LIEBERMAN, Mr. HELMS, Ms. MIKULSKI, Mr. MCCAIN, Mr. SPECTER, Mr. SANTORUM, Mr. MCCONNELL, Mr. GORTON, Mr. ABRAHAM, Mr. STEVENS, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following:

TITLE ____—NATO ENLARGEMENT FACILITATION ACT OF 1996

SEC. ___01. SHORT TITLE.

This title may be cited as the ''NATO Enlargement Facilitation Act of 1996''.

SEC. ___02. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

(6) NATO has enlarged its membership on 3 different occasions since 1949.

(7) Congress supports the admission of new members to NATO at an early date and has sought to facilitate the admission of new members into NATO.

(8) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe will be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making available the resources necessary to supplement efforts prospective new members are themselves undertaking.

(9) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the Washington Treaty.

(10) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

(11) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

(12) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

(13) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the North Atlantic Treaty would contribute to international peace and enhance the security of the region. Countries which have become democracies and established market economies, which practice good neighborly relations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the North Atlantic Treaty.

(14) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

(15) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine all appropriate means to strengthen the sovereignty and enhance the security of U.N.-recognized countries in that region.

(16) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(17) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(18) The Congress of the United States finds in particular that Poland, Hungary, and the Czech Republic have made significant progress toward achieving the stated criteria and should be eligible for the additional assistance described in this bill.

(19) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

(20) The process of NATO enlargement entails the agreement of the governments of all NATO members in accordance with Article 10 of the Washington Treaty.

SEC. ___03. UNITED STATES POLICY.

It is the policy of the United States—

(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership; and

(3) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

SEC. ___04. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.

It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Slovenia, Bulgaria, Albania, Moldova, and Ukraine—

(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not stop with the admission of Poland, Hungary, and the Czech Republic as full members of the NATO Alliance.

SEC. ___05. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA, AND LITHUANIA.

In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

SEC. ___06. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 and shall be deemed to have been so designated pursuant to section 203(d) of such Act: Poland, Hungary, and the Czech Republic.

(b) DESIGNATION OF OTHER COUNTRIES.—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

(1) have expressed a clear desire to join NATO;

(2) have begun an individualized dialogue with NATO in preparation for accession;

(3) are strategically significant to an effective NATO defense; and

(4) meet the other criteria outlined in section 203(d) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note).

(c) RULE OF CONSTRUCTION.—Subsection (a) does not preclude the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovenia, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

SEC. ___07. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.

(a) IN GENERAL.—There are authorized to be appropriated $60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994.

(b) AVAILABILITY.—Of the funds authorized to be appropriated by subsection (a)—

(1) not less than $20,000,000 shall be available for the subsidy cost, as defined in section 502(5) of the Credit Reform Act of 1990, of direct loans pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the ''Foreign Military Financing Program'');

(2) not less than $30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the ''Foreign Military Financing Program''); and

(3) not more than $10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

(c) RULE OF CONSTRUCTION.—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

SEC. ___08. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.

(a) IN GENERAL.—Funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(1) the procurement of items in support of these programs; and

(2) the transfer of such items to countries participating in these programs, which may include Poland, Hungary, the Czech Republic, Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Moldova, Ukraine, Albania, and Slovenia.

(b) FUNDS DESCRIBED.—Funds described in this subsection are funds that are available—

(1) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

SEC. ___09. EXCESS DEFENSE ARTICLES.

(a) PRIORITY DELIVERY.—Notwithstanding any other provision of law, the provision and delivery of excess defense articles under the authority of section 203(c) (1) and (2) of the NATO Participation Act of 1994 and section 516 of the Foreign Assistance Act of 1961 shall be given priority to the maximum extent feasible over the provision and delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1640).

(b) COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

SEC. ___10. MODERNIZATION OF DEFENSE CAPABILITY.

The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994, by exploring with such countries options for the sale or lease to such countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

SEC. ___11. TERMINATION OF ELIGIBILITY.

Section 203(f) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(f) TERMINATION OF ELIGIBILITY.—(1) The eligibility of a country designated under subsection (d) for the program established in subsection (a) shall terminate 30 days after the President makes a certification under paragraph (2) unless, within the 30-day period, the Congress enacts a joint resolution disapproving the termination of eligibility.

''(2) Whenever the President determines that the government of a country designated under subsection (d)—

''(A) no longer meets the criteria set forth in subsection (d)(2)(A);

''(B) is hostile to the NATO Alliance; or

''(C) poses a national security threat to the United States,

then the President shall so certify to the appropriate congressional committees.

''(3) Nothing in this title affects the eligibility of countries to participate under other provisions of law in programs described in this Act.''.

SEC. ___12. AMENDMENTS TO THE NATO PARTICIPATION ACT.

(a) CONFORMING AMENDMENT.—The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended in sections 203(a), 203(d)(1), and 203(d)(2) by striking ''countries emerging from communist domination'' each place it appears and inserting ''emerging democracies in Central and Eastern Europe''.

(b) DEFINITIONS.—The NATO Participation Act of 1994 (title II of Public Law 103–446; 22 U.S.C. 1928 note) is amended by adding at the end the following new section:

''SEC. 206. DEFINITIONS.

''The term 'emerging democracies in Central and Eastern Europe' includes, but is not limited to, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, and Ukraine.''.

SEC. ___13. DEFINITIONS.

As used in this title:

(1) EMERGING DEMOCRACIES IN CENTRAL AND EASTERN EUROPE.—The term ''emerging democracies in Central and Eastern Europe'' includes, but is not limited to, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, and Ukraine.

(2) NATO.—The term ''NATO'' means the North Atlantic Treaty Organization.

INOUYE AMENDMENT NO. 5059

Mr. MCCONNELL (for Mr. INOUYE) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following:

SENSE OF CONGRESS REGARDING EXPANSION OF ELIGIBILITY FOR HOLOCAUST SURVIVOR COMPENSATION BY THE GOVERNMENT OF GERMANY

SEC. ___. (a) FINDINGS.—The Congress makes the following findings:

(1) After nearly half a century, tens of thousands of Holocaust survivors continue to be denied justice and compensation by the Government of Germany.

(2) These people who suffered grievously at the hands of the Nazis are now victims of unreasonable and arbitrary rules which keep them outside the framework of the various compensation programs.

(3) Compensation for these victims has been non-existent or, at best, woefully inadequate.

(4) The time has come to right this terrible wrong.

(b) SENSE OF CONGRESS.—The Congress calls upon the Government of Germany to negotiate in good faith with the Conference on Jewish Material Claims Against Germany to broaden the categories of those eligible for compensation so that the injustice of uncompensated Holocaust survivors may be corrected before it is too late.

On page 117, line 14, before the period insert the following: ''*: Provided further,* That of the funds appropriated under this heading $25,000,000 shall be available for the legal restructuring necessary to support a decentralized market-oriented economic system, including enactment of necessary substantive commercial law, implementation of reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys, and law students, and education of

the public designed to promote understanding of a law-based economy''.

KYL AMENDMENT NO. 5060

Mr. MCCONNELL (for Mr. KYL) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 117, line 14, before the period insert the following: '': *Provided further,* That of the funds appropriated under this heading $25,000,000 shall be available for the legal restructuring necessary to support a decentralized market-oriented economic system, including enactment of necessary substantive commercial law, implementation of reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys, and law students, and education of the public designed to promote understanding of a law-based economy''.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 5061

Mr. MCCONNELL (for Mr. LIEBERMAN, for himself, Mr. LUGAR, Mr. BIDEN, Mr. SPECTER, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. HATCH, Mr. LEVIN, and Mr. D'AMATO) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert:

Findings. The United Nations, recognizing the need for justice in the former Yugoslavia, established the International Criminal Tribunal for the former Yugoslavia (hereafter in this resolution referred to as the ''International Criminal Tribunal'');

United Nations Security Council Resolution 827 of May 25, 1993 requires states to cooperate fully with the International Criminal Tribunal;

The parties to the General Framework Agreement for Peace in Bosnia and Herzegovina and associated Annexes (in this resolution referred to as the ''Peace Agreement'') negotiated in Dayton, Ohio and signed in Paris, France, on December 14, 1995, accepted, in Article IX, the obligation ''to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law'';

The Constitution of Bosnia and Herzegovina, agreed to as Annex 4 of the Peace Agreement, provides, in Article IX, that ''No person who is serving a sentence imposed by the International Tribunal for the former Yugoslavia, and no person who is under indictment by the Tribunal and who has failed to comply with an order to appear before the Tribunal, may stand as a candidate or hold any appointive, elective, or other public office in Bosnia and Herzegovina'';

The International Criminal Tribunal has issued 57 indictments against individuals from all parties to the conflicts in the former Yugoslavia;

The International Criminal Tribunal continues to investigate gross violations of international law in the former Yugoslavia with a view to further indictments against the perpetrators;

On July 25, 1995, the International Criminal Tribunal issued an indictment for Radovan Karadzic, president of the Bosnian Serb administration of Pale, and Ratko Mladic, commander of the Bosnian Serb administration and charged them with genocide and crimes against humanity, violations of the law or customs of war, and grave breaches of the Geneva Conventions of 1949, arising from atrocities perpetrated against the civilian population throughout Bosnia-Herzegovina, for the sniping campaign against civilians in Sarajevo, and for the taking of United Nations peacekeepers as hostages and for their use as human shields;

On November 16, 1995, Karadzic and Mladic were indicted a second time by the International Criminal Tribunal, charged with genocide for the killing of up to 6,000 Muslims in Srebrenica, Bosnia, in July 1995;

The United Nations Security Council, in adopting Resolution 1022 on November 22, 1995, decided that economic sanctions on the Federal Republic of Yugoslavia (Scrbia and Montenegro) and the so-called Republika Srpska would be reimposed if, at any time, the High Representative or the IFOR commander informs the Security Council that the Federal Republic of Yugoslavia or the Bosnian Serb authorities are failing significantly to meet their obligations under the Peace Agreement;

The so-called Republika Srpska and the Federal Republic of Yugoslavia (Serbia and Montenegro) have failed to arrest and turn over for prosecution indicted war criminals, including Karadzic and Mladic;

Efforts to politically isolate Karadzic and Mladic have failed thus far and would in any case be insufficient to comply with the Peace Agreement and bring peace with justice to Bosnia and Herzegovina;

The International Criminal Tribunal issued International warrants for the arrest of Karadzic and Mladic on July 11, 1996.

In the so-called Republika Srpska freedom of the press and freedom of assembly are severely limited and violence against ethnic and religious minorities and opposition figures is on the rise;

It will be difficult for national elections in Bosnia and Herzegovina to take place meaningfully so long as key was criminals, including Karadzic and Mladic, remain at large and able to influence political and military developments;

On June 6, 1996, the President of the International Criminal Tribunal, declaring that the Federal Republic of Yugoslavia's failure to extradite indicted war criminals is a blatant violation of the Peace Agreement and of United Nations Security Council Resolutions, called on the High Representative to reimpose economic sanctions on the so-called Republika Srpska and on the Federal Republic of Yugoslavia (Serbia and Montenegro); and

The apprehension and prosecution of indicted war criminals is essential for peace and reconciliation to be achieved and democracy to be established throughout Bosnia and Herzegovina.

It is the sense of the Senate finds that the International Criminal Tribunal for the former Yugoslavia merits continued and increased United States support for its efforts to investigate and bring to justice the perpetrators of gross violations of international law in the former Yugoslavia.

(b) It is the sense of the Senate that the President of the United States should support the request of the President of the International Criminal Tribunal for the former Yugoslavia for the High Representative to reimpose full economic sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro) and the so-called Republika Srpska, in accordance with United Nations Security Council Resolution 1022 (1995), until the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb authorities have complied with their obligations under the Peace Agreement and United Nations Security Council Resolutions to cooperate fully with the International Criminal Tribunal.

(c) It is further the sense of the Senate that the NATO-led Implementation Force (IFOR), in carrying out its mandate, should make it an urgent priority to detain and bring to justice persons indicted by the International Criminal Tribunal.

(d) It is further the sense of the Senate that states in the former Yugoslavia should not be admitted to international organizations and fora until and unless they have complied with their obligations under the Peace Agreement and United Nations Security Council Resolutions to cooperate fully with the International Criminal Tribunal.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States.

PRESSLER (AND D'AMATO) AMENDMENTS NOS. 5062–5063

Mr. MCCONNELL (for Mr. PRESSLER, for himself and Mr. D'AMATO) proposed two amendments to the bill, H.R. 3540, supra; as follows:

AMENDMENT NO. 5062

On page 198, between lines 17 and 18, insert the following:

SENSE OF SENATE ON DELIVERY BY CHINA OF CRUISE MISSILES TO IRAN

SEC. 580. (a) FINDINGS.—The Senate makes the following findings:

(1) On February 22, 1996, the Director of Central Intelligence informed the Senate that the Government of the People's Republic of China had delivered cruise missiles to Iran.

(2) On June 19, 1996, the Under Secretary of State for Arms Control and International Security Affairs informed Congress that the Department of State had evidence of Chinese-produced cruise missiles in Iran.

(3) On at least three occasions in 1996, including July 15, 1996, the Commander of the United States Fifth Fleet has pointed to the threat posed by Chinese-produced cruise missiles to the 15,000 United States sailors and marines stationed in the Persian Gulf region.

(4) Section 1605 of the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484; 50 U.S.C. 1701 note) both requires and authorizes the President to impose sanctions against any foreign government that delivers cruise missiles to Iran.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Government of the People's Republic of China should immediately halt the delivery of cruise missiles and other advanced conventional weapons to Iran; and

(2) the President should enforce all appropriate United States laws with respect to the delivery by that government of cruise missiles to Iran.

AMENDMENT NO. 5063

On page 198, between lines 17 and 18, insert the following:

SENSE OF SENATE ON DELIVERY BY CHINA OF BALLISTIC MISSILE TECHNOLOGY TO SYRIA

SEC. 580. (a) FINDINGS.—The Senate makes the following findings:

(1) Credible information exists indicating that defense industrial trading companies of the People's Republic of China may have transferred ballistic missile technology to Syria.

(2) On October 4, 1994, the Government of the People's Republic of China entered into a written agreement with the United States pledging not to export missiles or related technology that would violate the Missile Technology Control Regime (MTCR).

(3) Section 73(f) of the Arms Export Control Act (22 U.S.C. 2797(f)) states that, when determining whether a foreign person may be subject to United States sanctions for transferring technology listed on the MTCR Annex, it should be a rebuttable presumption that such technology is designed for use in a missile listed on the MTCR Annex if the

President determines that the final destination of the technology is a country the government of which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

(4) The Secretary of State has determined under the terms of section 6(j)(1)(A) of the Export Administration Act of 1979 that Syria has repeatedly provided support for acts of international terrorism.

(5) In 1994 Congress explicitly enacted section 73(f) of the Arms Export Control Act in order to target the transfer of ballistic missile technology to terrorist nations.

(6) The presence of ballistic missiles in Syria would pose a threat to United States armed forces and to regional peace and stability in the Middle East.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is in the national security interests of the United States and the State of Israel to prevent the spread of ballistic missiles and related technology to Syria;

(2) the Government of the People's Republic of China should continue to honor its agreement with the United States not to export missiles or related technology that would violate the Missile Technology Control Regime; and

(3) the President should exercise all legal authority available to the President to prevent the spread of ballistic missiles and related technology to Syria.

MCCAIN AMENDMENT NO. 5064

Mr. MCCONNELL (for Mr. MCCAIN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert the following:

REFUGEE STATUS FOR ADULT CHILDREN OF FORMER VIETNAMESE REEDUCATION CAMP INTERNEES RESETTLED UNDER THE ORDERLY DEPARTURE PROGRAM

SEC. . (a) ELIGIBILITY FOR ORDERLY DEPARTURE PROGRAM.—For purposes of eligibility for the Orderly Departure Program for nationals of Vietnam, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) ALIENS COVERED.—An alien described in this subsection is an alien who—

(1) is the son or daughter of a national of Vietnam who—

(A) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; and

(B) has been accepted for resettlement as a refugee under the Orderly Departure Program on or after April 1, 1995;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

(c) SUPERSEDES EXISTING LAW.—This section supersedes any other provision of law.

McCONNELL AMENDMENT NO. 5065

Mr. MCCONNELL proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place in the bill insert the following,

SEC. . 90 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State, in consultation with the Secretary of Defense, shall provide a report in a classified or unclassified form to the Committee on Appropriations including the following information:

(a) a best estimate on fuel used by the military forces of the Democratic People's Republic of Korea (DPRK);

(b) the deployment position and military training and activities of the DPRK forces and best estimate of the associated costs of these activities;

(c) steps taken to reduce the DPRK level of forces; and

(d) cooperation, training, or exchanges of information, technology or personnel between the DPRK and any other nation supporting the development or deployment of a ballistic missile capability.

THE NUCLEAR WASTE POLICY ACT OF 1996

BRYAN AMENDMENTS NOS. 5066–5077

Mr. BRYAN proposed 12 amendments to the bill S. 1936, supra; as follows:

AMENDMENT NO. 5066

At the appropriate place in the bill, insert the following new section:

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

AMENDMENT NO. 5067

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal laws and regulations in developing and implementing the integrated management system.

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

''(c) REMEDY.—Notwithstanding any other provision of this Act, the provision of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

AMENDMENT NO. 5068

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal laws and regulations in developing and implementing the integrated management system.

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault of negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional

costs incurred by the party not responsible for or contributing to the delay.

'''(c) REMEDY.—Notwithstanding any other provision of this Act, the provisions of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

AMENDMENT NO. 5069

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal, State, and local laws and regulations in developing and implementing the integrated management system.

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault of negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

''(c) REMEDY.—Notwithstanding any other provision of this Act, the provisions of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

AMENDMENT NO. 5070

At the appropriate place in the bill, insert the following new section:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal laws and regulations in developing and implementing the integrated management system.

AMENDMENT NO. 5071

At the appropriate place in the bill, insert the following new section:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal, State, and local laws and regulations in developing and implementing the integrated management system.

AMENDMENT NO. 5072

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal, State, and local laws and regulations in developing and implementing the integrated management system.

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

AMENDMENT NO. 5073

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal laws and regulations in developing and implementing the integrated management system.

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

AMENDMENT NO. 5074

At the appropriate place in the bill, insert the following new section:

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

AMENDMENT NO. 5075

At the appropriate place in the bill, insert the following new section:

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

''(c) REMEDY.—Notwithstanding any other provision of this Act, the provisions of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

AMENDMENT NO. 5076

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

''(c) REMEDY.—Notwithstanding any other provision of this Act, the provisions of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

AMENDMENT NO. 5077

At the appropriate place in the bill, insert the following new provisions:

"SEC. . COMPLIANCE WITH OTHER LAWS.

''Notwithstanding any other provision of this Act, the Secretary shall comply with all Federal, State, and local laws and regulations in developing and implementing the integrated management system.

"SEC. . COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

''(a) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—Notwithstanding any other provision of this Act, the Secretary shall comply with all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in developing and implementing the integrated management system.

''(b) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, any agency action relating to the development or implementation of the integrated management system shall be subject to judicial review.

"SEC. . CONTRACT DELAYS.

''(a) UNAVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, neither the Department nor the contract holder shall be liable under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 for damages caused by failure to perform its obligations thereunder, if such failure arises out of causes beyond the control and without the fault or negligence of the party failing to perform. In the event circumstances beyond the reasonable control of the contract holder or the Department—such as acts of God, or of the public enemy, acts of Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather—cause delay in scheduled delivery, acceptance or transport of spent nuclear fuel and/or high-level radioactive waste, the party experiencing the delay will notify the other party as soon as possible after such delay is ascertained and the parties will readjust their schedules, as appropriate, to accommodate such delay.

''(b) AVOIDABLE DELAYS BY CONTRACT HOLDER OR DEPARTMENT.—Notwithstanding any other provision of this Act, in the event of any delay in the delivery, acceptance or transport of spent nuclear fuel and/or high-level nuclear waste to or by the Department under contracts executed under Section 302(a) of the Nuclear Waste Policy Act of 1982 caused by circumstances within the reasonable control of either the contract holder or the Department or their respective contractors or suppliers, the charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay.

''(c) REMEDY.—Notwithstanding any other provision of this Act, the provisions of subsections (a) and (b) of this Section shall constitute the only remedy available to contract holders or the Department for failure to perform under a contract executed under Section 302(a) of the Nuclear Waste Policy Act of 1982.

LIEBERMAN (AND OTHERS) AMENDMENT NO. 5078

Mr. LIEBERMAN (for himself, Mr. LEAHY, Mr. THOMAS, Mr. HATFIELD, Mr. SIMON, Mr. NUNN, Mr. DASCHLE, Mr. LUGAR, Mr. ROTH, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. INOUYE, and Mr. LEVIN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 126, after line 7, insert the following: ''(INCLUDING TRANSFERS OF FUNDS)''.

On page 127, beginning on line 14, strike ''*Provided further,*'' and all that follows through the colon on page 128, line 6, and insert the following: ''*Provided further*, That, notwithstanding any prohibitions in this or any other Act on direct assistance to North Korea, not more than $25,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) only for heavy fuel oil costs and other expenses associated with the Agreed Framework, of which $13,000,000 shall be from funds appropriated under this heading and $12,000,000 may be transferred from funds appropriated by this Act under the headings 'International Organization and Programs', 'Foreign Military Financing Program', and 'Economic Support Fund':''.

On page 138, line 12, strike ''the Korean'' and all that follows through ''or'' on line 13.

HELMS (AND LOTT) AMENDMENT NO. 5079

Mr. MCCONNELL (for Mr. HELMS, for himself and Mr. LOTT) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198; between lines 17 and 18, insert the following:

DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS

SEC. 580. Chapter 3 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2401 et seq.) is amended by adding at the end the following:

"SEC. 668. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

''(a) REQUIREMENT TO DEOBLIGATE.—

''(1) IN GENERAL.—Except as provided in subsection (b) of this section and in paragraphs (1) and (3) of section 617(a) of this Act, at the beginning of each fiscal year the President shall deobligate and return to the Treasury any funds described in paragraph (2) that, as of the end of the preceding fiscal year, have been obligated for a project or activity for a period of more than 2 years but have not been expended.

''(2) FUNDS.—Paragraph (1) applies to funds made available for—

''(A) assistance under chapter 1 of part I of this Act (relating to development assistance), chapter 10 of part I of this Act (relating to the Development Fund for Africa), or chapter 4 of part II of this Act (relating to the economic support fund);

''(B) assistance under the Support for East European Democracy (SEED) Act of 1989; and

''(C) economic assistance for the independent states of the former Soviet Union under chapter 11 of part I of this Act or under any other provision of law authorizing economic assistance for such independent states.

''(b) EXCEPTIONS.—The President, on a case-by-case basis, may waive the requirement of subsection (a)(1) if the President determines and reports to the Congress that it is in the national interest to do so.

''(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section, the term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.''.

BINAGMAN (AND OTHERS) AMENDMENT NO. 5080

Mr. MCCONNELL (for Mr. BINGAMAN for himself, Mrs. KASSEBAUM, and Mr. SIMON) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert:

The Senate finds that:

The political situation in the African nation of Burundi has deteriorated and there are reports of a military coup against the elected government of Burundi, and;

The continuing ethnic conflict in Burundi has caused untold suffering among the people of Burundi and has resulted in the deaths of over 150,000 people in the past two years, and;

The attempt to overthrow the government of Burundi makes the possibility of an increase in the tension and the continued slaughter of innocent civilians more likely, and;

The United States and the International Community have an interest in ending the crisis in Burundi before it reaches the level of violence that occurred in Rwanda in 1994 when over 800,000 people died in the war between the Hutu and the Tutsi tribes, Now therefore it is the sense of the Senate that:

The United States Senate condemns any violent action intended to overthrow the government of Burundi, and;

Calls on all parties to the conflict in Burundi to exercise restraint in an effort to restore peace, and

Urges the Administration to continue diplomatic efforts at the highest level to find a peaceful resolution to the crisis in Burundi.

ABRAHAM (AND OTHERS) AMENDMENT NO. 5081

Mr. MCCONNELL (for Mr. ABRAHAM, for himself, Mr. BENNETT, Mr. INOUYE, Mr. GRAHAM, Ms. MIKULSKI, Mr. MACK, and Mr. HATFIELD) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 107, line 25, before the period insert the following: ''*:Provided further,* That of the amount appropriated under this heading, not less than $15,000,000 shall be available only for the American Schools and Hospitals Abroad program under section 214 of the Foreign Assistance Act of 1961''.

ABRAHAM AMENDMENT NO. 5081

Mr. MCCONNELL (for Mr. ABRAHAM) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 107, line 25, before the period insert the following: ''*:Provided further,* That of the amount appropriated under this heading, $5,000,000 shall be available only for a land and resource management institute to identify nuclear contamination at Chernobyl.''

THE INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996

LAUTENBERG AMENDMENT NO. 5083

Mr. LOTT (for Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 2980) to amend title 18, United States Code, with respect to stalking; as follows:

At the appropriate place, insert the following:

SEC. . GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel,''; and

(3) in subsection (s)(3)(B)(i), by inserting before the semicolon the following: ''and has not been convicted in any court of any crime involving domestic violence where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel''.

(c) RULES AND REGULATIONS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

COCHRAN AMENDMENT NO. 5084

Mr. MCCONNELL (for Mr. COCHRAN) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 107, line 11, strike ''up to $30,000,000'' and insert in lieu thereof the following: ''$17,500,000''.

MCCONNELL (AND OTHERS) AMENDMENT NO. 5085

Mr. MCCONNELL (for himself, Mr. LEAHY, and Mr. LAUTENBERG) proposed an amendment to the bill, H.R. 3540, supra; as follows:

At the appropriate place, insert;

MIDDLE EAST DEVELOPMENT BANK

SEC. . SHORT TITLE.

This title may be cited as the ''Bank for Economic Cooperation and Development in the Middle East and North Africa Act''.

SEC. . ACCEPTANCE OF MEMBERSHIP.

The President is hereby authorized to accept membership for the United States in the Bank for Economic Cooperation and Development in the Middle East and North Africa (in this title referred to as the ''Bank'') provided for by the agreement establishing the Bank (in this title referred to as the ''Agreement''), signed on May 31, 1996.

SEC. . GOVERNOR AND ALTERNATE GOVERNOR.

(a) APPOINTMENT.—At the inaugural meeting of the Board of Governors of the Bank, the Governor and the alternate for the Governor of the International Bank for Reconstruction and Development, appointed pursuant to section 3 of the Bretton Woods Agreements Act, shall serve ex-officio as a Governor and the alternate for the Governor, respectively, of the Bank. The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank and an alternate for the Governor.

(b) COMPENSATION.—Any person who serves as a Governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such Service.

SEC. . APPLICABILITY OF CERTAIN PROVISIONS OF THE BRETTON WOODS AGREEMENTS ACT.

Section 4 of the Bretton Woods Agreements Act shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary fund.

SEC. . FEDERAL RESERVE BANKS AS DEPOSITORIES.

Any Federal Reserve Bank which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

SEC. . SUBSCRIPTION OF STOCK.

(a) SUBSCRIPTION AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States to not more than 7,011,270 shares of the capital stock of the Bank.

(2) EFFECTIVENESS OF SUBSCRIPTION COMMITMENT.—Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of the United States for shares described in subsection (a), there are authorized to be appropriated $1,050,007,800 without fiscal year limitation.

(c) LIMITATIONS ON OBLIGATION OF APPROPRIATED AMOUNTS FOR SHARES OF CAPITAL STOCK.—

(1) PAID-IN CAPITAL STOCK.—

(A) IN GENERAL.—Not more than $105.000,000 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of paid-in capital sock.

(B) FISCAL YEAR 1997.—Not more than $52,500,000 of the amounts appropriated pursuant to subsection (b) for fiscal year 1997 may be obligated for subscription to shares of paid-in capital stock.

(2) CALLABLE CAPITAL STOCK.—Not more than $787,505,852 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of callable capital stock.

(d) DISPOSITION OF NET INCOME DISTRIBUTIONS BY THE BANK.—Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

SEC. . JURISDICTION AND VENUE OF CIVIL ACTIONS BY OR AGAINST THE BANK.

(a) JUDISDICTION.—The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(b) VENUE.—For purposes of section 1391(b) of title 28, United States Code, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

SEC. . EFFECTIVENESS OF AGREEMENT.

The agreement shall have full force and effect in the United States its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement.

SEC. . EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED.

(A) EXEMPTION FROM SECURITIES LAWS; REPORTS TO SECURITIES AND EXCHANGE COMMISSION.—Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with borrowing of funds, or the guarantee of securities as to both principal and interest, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1993 and section 3(a)(12) of the Securities Exchange Act of 1934. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in

view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors,

(b) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION; REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with such agency or officer as the president shall designate, may suspend the provisions of subsection (a at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

SEC. . TECHNICAL AMENDMENTS.

(a) ANNUAL REPORT REQUIRED ON PARTICIPATION OF THE UNITED STATES IN THE BANK.—Section 1701(c)(2) of the International Financial Insituttions Act (22 U.S.C. 262r(c)(2)) is amended by inserting ''Bank for Economic Cooperation and Development in the Middle East and North Africa,'' after ''Inter-American Development Bank''.

(b) EXEMPTION FROM LIMITATIONS AND RESTRICTIONS ON POWER OF NATIONAL BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE BANK.—The 7th sentence of paragraph 7 of section 5136 of the Revised Statues of the United States (12 U.S.C. 24) is amended by inserting ''Bank for Economic Cooperation and development in the Middle East and North Africa,'' after ''the Inter-American Development Bank.''

(c) BENEFITS FOR UNITED STATES CITIZEN-REPRESENTATIVES TO THE BANK.—Section 51 of Public Law 91–599 (22 U.S.C. 276c–2) is amended by inserting ''the Bank for Economic Cooperation and Development in the Middle East and North Africa,'' after ''the Inter-American Development Bank,''.

Amend the title so as to read as follows: ''A Bill to authorize United States contributions to the International Development Association and to a capital increase of the African Development Bank, to authorize the participation of the United States in the Bank for Economic Cooperation and development in the Middle East and North Africa, and for other purposes.''

LEAHY AMENDMENT NO. 5086

Mr. MCCONNELL (for Mr. LEAHY) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 114, line 24 insert the following before the period at the end thereof: '': *Provided further,* That of the funds appropriated under this heading by prior appropriation's Acts, $36,000,000 of unobligated and unearmarked funds shall be transferred to and consolidated with funds appropriated by this Act under the heading ''International Organization's and Programs''.

PELL AMENDMENT NO. 5087

Mr. MCCONNELL (for Mr. PELL) proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 198, between lines 17 and 18, insert the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) Environmental Impact Assessments as a national instrument are undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority;

(2) in 1978 the Senate adopted Senate Resolution 49, calling on the United States Government to seek the agreement of other governments to a proposed global treaty requiring the preparation of Environmental Impact Assessments for any major project, action, or continuing activity that may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area;

(3) subsequent to the adoption of Senate Resolution 49 in 1978, the United Nations Environment Programme Governing Council adopted Goals and Principles on Environmental Impact Assessment calling on governments to undertake comprehensive Environmental Impact Assessments in cases in which the extent, nature, or location of a proposed activity is such that the activity is likely to significantly affect the environment; and

(4) on October 7, 1992, the Senate gave its advice and consent to the Protocol on Environmental Protection to the Antarctic Treaty, which obligates parties to the Antarctic Treaty to require Environmental Impact Assessment procedures for proposed activities in Antarctica.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States Government should encourage the governments of other nations to engage in analysis of activities that may cause adverse impacts on the environment of other nations or a global commons area; and

(2) such additional analysis can recommend alternatives that will permit such activities to be carried out in environmentally sound ways to avoid or minimize any adverse environmental effects, through requirements for Environmental Impact Assessments where appropriate.

SIMPSON AMENDMENT NO. 5088

Mr. SIMPSON proposed an amendment to the bill, H.R. 3540, supra; as follows:

On page 196, strike lines 14 through 26.

MURKOWSKI AMENDMENT NO. 5089

Mr. MURKOWSKI (for himself, Mr. MCCAIN, and Mr. LIEBERMAN) proposed an amendment to amendment No. 5078 proposed by Mr. LIEBERMAN to the bill, H.R. 3540, supra; as follows:

On page 2, line 9, of the matter proposed to be inserted, strike ''Fund'' and all that follows to the end period and insert the following: ''Fund: *Provided further,* That such funds may be obligated to KEDO only if, prior to such obligation of funds, the President certifies and so reports to Congress that (1)(A) the United States is taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute; (2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by the end of fiscal year 1997; and (3) North Korea has not significantly diverted assistance provided by the United States for purposes for which such assistance was not intended: *Provided further,* That the President may waive the certification requirements of the preceding proviso if the President deems it necessary in the vital national security interests of the United States: *Provided further,* That no funds may be obligated for KEDO until 30 calendar days after the submission to Congress of the waiver permitted under the preceding proviso: *Provided further,* That before obligating any funds for KEDO, the President shall report to Congress on (1) the cooperation of North Korea in the process of returning to the United States the remains of United States military personnel who are listed as missing in action as a result of the Korean conflict (including conducting joint field activities with the United States); (2) violations of the military armistice agreement of 1953; (3) the actions which the United States is taking and plans to take to assure that North Korea is consistently taking steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula and engage in North-South dialogue; and (4) all instances of non-compliance with the Agreed Framework between North Korea and the United States and the Confidential Minute, including diversion of heavy fuel oil:''.

THE SMALL BUSINESS INVESTMENT COMPANY IMPROVEMENT ACT OF 1996

BOND (AND BUMPERS) AMENDMENT NO. 5090

Mr. MURKOWSKI (for Mr. BOND, for himself and Mr. BUMPERS) proposed an amendment to the bill (S. 1784) to amend the Small business Investment Act of 1958, and for other purposes; as follows:

SEC. 13. EXTENSION OF SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''September 30, 1996'' and inserting ''September 30, 1997''.

THE GOVERNMENT ACCOUNTABILITY ACT OF 1996

SPECTER (AND OTHERS) AMENDMENT NO. 5091

Mr. MURKOWSKI (for Mr. SPECTER, for himself, Mr. LEVIN, Mr. ROTH, Mr. NUNN, Mr. STEVENS, Mr. INOUYE, Mr. GRASSLEY, Mr. LEAHY, Mr. COHEN, Mr. KOHL, and Mr. JEFFORDS) proposed an amendment to the bill (H.R. 3166) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''False Statements Penalty Restoration Act''.

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

''§ 1001. Statements or entries generally

''(a) PROHIBITED CONDUCT.—

''(1) IN GENERAL.—A person shall be punished under subsection (b) if, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Federal Government, or any department, agency, committee, subcommittee, or office thereof, that person knowingly and willfully—

''(A) falsifies, conceals, or covers up, by any trick, scheme, or device, a material fact;

''(B) makes any materially false, fictitious, or fraudulent statement or representation; or

''(C) makes or uses any false writing or document, knowing that the document contains any materially false, fictitious, or fraudulent statement or entry.

''(2) APPLICABILITY.—This section shall not apply to parties to a judicial proceeding or anyone seeking to become a party to a judicial proceeding, or their counsel, for statements, representations, or documents submitted by them to a judge in connection with the performance of an adjudicative function.

''(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) CORRUPTLY.—As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''.

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking ''Federal Government acting within his official capacity'' and inserting ''executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government''.

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''or ancillary to'' after ''any proceeding before''; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting ''or ancillary to'' after ''a proceeding before'' each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Tuesday, July 30, 1996, beginning at 9:30 a.m. to conduct a markup on S. 1983, to amend the Native American Graves Protection and Repatriation Act to provide for Native Hawaiian organizations, and for other purposes. The markup will be held in room 485 of the Russel Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce that the oversight hearing regarding the conditions that have made the national forests of the Southwest susceptible to catastrophic fires and diseases scheduled for Tuesday, July 30, 1996, before the Subcommittee on Forests and Public Land Management will now begin at 10:30 a.m. instead of 9:30 a.m. as previously scheduled.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Oversight and Investigations Subcommittee of the Energy and Natural Resources Committee on the propriety of a commercial lease issued by the Bureau of Land Management at Lake Havasu, AZ, including its consistency with the Federal Land Policy and Management Act and Department of the Interior land use policies.

The hearing will take place on Thursday, August 1 at 9:00 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

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 Kelly Johnson or Jo Meuse at (202) 224–6730.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 25, 1996, to conduct an oversight hearing to review the General Accounting Office [GAO] report on the Federal Reserve System.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, July 25, 1996, session of the Senate for the purpose of conducting a hearing on S. 1726, the Promotion of Commerce On-Line in the digital Era [Pro-Code] Act of 1996.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 25, at 2:00 p.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCONNELL. Mr. President, I ask Unanimous Consent on behalf of the Governmental Affairs Committee to meet on Thursday, July 25.

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

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday July 25, 1996, at 10:00 a.m., to hold an executive business meeting.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Labor Human Resources be authorized to meet for a hearing on Genetic Issues, during the session of the Senate on Thursday, July 25, 1996, at 9:30 a.m.

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

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 25, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 1699, a bill to establish the National Cave and Karst Research Institute in the State of New Mexico; and S. 1809, the Aleutian World War II National Historic Sites Act of 1996.

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

ADDITIONAL STATEMENTS

CBO COST ESTIMATE—S. 901

● Mr. MURKOWSKI. Mr. President, on July 16, 1996, I filed Report 104–322 to accompany S. 901, to amend the Reclamation Projects Authorization and Adjustment Act of 1992, that had been ordered favorably reported on June 19, 1996. At the time the Report was filed, the estimates by Congressional Budget Office were not available. The estimate is now available and concludes that enactment of S. 901 would ''not affect direct spending or receipts''. I ask that a copy of the CBO estimate be printed in the RECORD.

The estimate follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 901.

2. Bill title: A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on July 16, 1996.

4. Bill purpose: S. 901 would authorize the Secretary of the Interior to participate in the design, planning, and construction of

eleven water reclamation and reuse projects and two desalination research and development projects. The projects would be subject to the following conditions:

No funds could be appropriated until a feasibility study is completed and the Secretary has determined that the nonfederal project sponsor is financially capable of funding the nonfederal share of the project's costs;

The federal government could not pay more than 25 percent of the total cost of constructing the water reclamation and reuse projects or more than 50 percent of the cost of the desalinization and research and development projects; and

The Secretary would not be authorized to provide funds for the operation and maintenance of any project.

5. Estimated cost to the Federal Government: Assuming the necessary appropriations, CBO estimates that enacting S. 901 would result in new discretionary spending totaling $112 million for fiscal years 1997 through 2002. Additional spending of $20 million would occur after 2002. Appropriations in fiscal year 1996 for water reclamation and reuse projects totaled $20 million. Assuming appropriations of the needed amounts, the Bureau of Reclamation anticipates spending an average of $30 million a year over the 1997–2007 period on projects that have already been authorized.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION							
Spending Under Current Law:							
Estimated Authorization Level [a]	20	30	30	30	30	30	30
Estimated Outlays	20	28	30	30	30	30	30
Proposed Changes:							
Estimated Authorization Level	.....	12	31	22	27	13	10
Estimated Outlays	.....	9	25	22	27	16	13
Spending Under S. 901:							
Estimated Authorization Level [a]	20	42	61	52	57	43	40
Estimated Outlays	20	37	55	52	57	46	43

[a] The 1996 level is the amount appropriated for that year.

The costs of this bill fall within budget function 300.

6. Basis of estimate: For the purpose of this estimate, CBO assumes that funds will be appropriated for all projects authorized by this bill and that spending will occur at historical rates for similar water projects. Some of the projects authorized in this bill are still in the study or design phase and will not be ready to begin construction for a number of years. Estimates of annual budget authority needed to meet design and construction schedules were provided by the Bureau of Reclamation. In all cases, CBO adjusted the estimates to reflect the impact of inflation during the time between authorization, appropriation, and the beginning of construction.

7. Pay-as-you-go considerations: None.

8. Estimated impact of State, local, and tribal governments: S. 901 contains no intergovernmental mandates ad defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). CBO estimates that state and local governments, as nonfederal project sponsors, would incur costs totaling about $370 million over fiscal years 1997 through 2006 if they choose to participate in these projects. Further, nonfederal project sponsors would probably incur some additional costs for feasibility studies and would pay for the operation and maintenance of these projects. Participation in these projects would be voluntary on the part of these nonfederal entities.

This estimate is based on information provided by the Bureau of Reclamation. We assumed that nonfederal project sponsors would contribute 75 percent of the cost of water reclamation and reuse projects and 50 percent of the cost of desalinization projects, as required by the bill.

9. Estimated impact on the private sector: This act would impose no new federal private-sector mandates as defined in Public Law 104–4.

10. Previous CBO estimate: On July 22, 1996, CBO prepared a cost estimate for H.R. 3660, a similar bill ordered reported by the House Committee on Resources. Differences in the estimated costs of the two bills reflect differences in the projects authorized and in the federal shares.

11. Estimate prepared by: Federal Cost Estimate: Gary Brown; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Amy Downs.

12. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

TOWARD A MORE LITERATE SOCIETY

• Mr. SIMON. Mr. President, five years ago today, the National Literacy Act of 1991 became law. In each chamber, legislation in support of literacy had received strong support from both sides of the aisle. In the Senate, our original measure passed in 1990 by a vote of 99–0. Literacy legislation was passed three times by the House. No issue is more important than basic literacy. No issue is less partisan. No issue is more compelling to our nation's ability to survive and flourish. The ability to read, write and speak in English, compute and solve problems is fundamental to functioning at home, on the job and in society. Literacy is an essential ingredient to ensure that each person realizes his or her full potential as a parent, a worker and a member of the community. A United States where every adult is literate is essential if our nation is to continue to compete in the global economy and be a responsible citizen of the world.

As important as literacy is for the nation, possessing basic literacy skills is also critical for the individual. The ability to read, do basic computations and think critically opens the door to endless possibilities and unleashes human potential. The lack of basic educational skills robs people of the opportunity to realize personal happiness and economic security. According to the National Institute for Literacy, which was established by the National Literacy Act, about half of the American workforce has reading and writing problems. This limits an individual's earnings and American productivity. Secretary of Education Richard Riley said it well: ''Illiteracy is the ball and chain that ties people to poverty.''

The images of illiteracy are powerful, the consequences are severe. How dangerous it is when someone cannot read instructions on a medicine bottle or a household appliance. How threatening it is when you cannot understand legal rights and responsibilities. How intimidating it must be when computing, measuring or estimating is a mystery. How sad it is when a child's bedtime story must remain unread because a parent cannot decipher the symbols on the page. We have the power to change these disturbing situations. Literacy could be a part of the solution to many of our social problems.

It was in recognition of the significance and importance of literate citizenry, that the National Literacy Act became law. This legislation was designed to assist state and local programs to provide literacy skills to adult. It was the first national step toward reaching the goal that all Americans obtain the fundamental skills necessary to function effectively in their work and daily lives, and to strengthen and coordinate adult literacy programs across the nation.

The National Institute for Literacy (NIL) has already had many achievements including the establishment of the National Literacy Hotline and the National Adult Literacy and Learning Disabilities Center. The National Institute for Literacy manages the Literacy AmeriCorps program which has assisted families to improve their basic education skills. NIL has funded innovative state and local activities nationwide. The Institute also produces and disseminates timely information on adult education and family literacy practices.

Across the country, State Literacy Resource Centers (SLRC), authorized by the Act, meet a great need by fostering collaboration among literacy agencies and increasing local capacity to deliver literacy services. SLRCs have created linkages within the literacy community, but these linkages are threatened because of a lock of federal funds.

As our world becomes more complex, the need for literacy becomes greater and the skills needed continue to expand. Thanks to the National Literacy Act, our understanding of the magnitude of illiteracy has increased, and it is clear that sadly, there is still more to be done.

An immense need still exists. The most recent statistics available indicate that 80 percent of adults cannot synthesize information from complex material. More than 53 million Americans are unable to locate a single piece of information in a short text. More than 56 million Americans cannot do simple arithmetic. Millions of Americans are unable to locate, understand or use information from written materials; millions of Americans lack quantitative skills. That means they cannot complete a job application, or use a bus schedule, or complete a bank deposit slip.

Action is needed now if we are to achieve the national education goal: that by the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in global economy and exercise the rights and responsibilities of citizenship. I urge my colleagues to

support literacy programs through the appropriations process and through efforts to promote the achievement of literacy in their communities. Advancing literacy initiatives is a crucial investment in our future.●

TRIBUTE TO ALEX MANOOGIAN, 1901–96

● Mr. LEVIN. Mr. President, on July 10, Michigan lost one of its greatest citizens, a very humble man of great wealth, an immigrant who embodied all that is good about America, a man of 95 years who still had plans to make life better for people.

Alex Manoogian came to this country in 1920 to escape the oppression of the Armenian people. A few years after his arrival, he founded what is today one of Michigan's most successful business firms, Masco Corporation. But it is the rest of the story that made Alex Manoogian a giant, not only in Michigan but in the United States and in the world, as well.

He touched the lives of young people with educational facilities here and abroad. Cultural and educational institutions in Detroit, Ann Arbor, Armenia and Jerusalem welcomed his generous endowments. If Armenians suffered in America, his adopted land, or in his homeland of Armenia, he was there to help. He founded the Armenian General Benevolent Union to address the catastrophes that befell his people.

The Supreme Patriarch and Catholicos of All Armenians came from Yerevan to preside at the funeral of Alex Manoogian. He described him as a Christian, an Armenian and an American. A Christian, whose deep faith kept him involved in the church for 80 of his 95 years—and he built St. John's Armenian Church in Southfield, MI, one of the most glorious edifices in our community with its golden dome that glows in the sunlight. An Armenian, who never forgot the persecution of his people and the need to continue to touch their lives. An American, who loved this country passionately and who gave back much, much more than he ever took.

I loved meeting with Alex Manoogian. He spoke simply, eloquently and with great intensity about those things that mattered to him. I will always cherish our many discussions. We will all miss him.●

BOONDOGGLE FOR THE NRA

● Mr. SIMON. Mr. President, the Senate recently approved a Defense authorization bill for fiscal year 1997 that includes an indefensible allotment of tax dollars to a slightly camouflaged version of the earlier Civilian Marksmanship Program.

I have written on this subject in a column that is sent to newspapers in Illinois, and I ask that it be reprinted here to call the attention of my colleagues to this questionable line item.

The column follows:

AN INCOMPREHENSIBLE, IRRESPONSIBLE, BAFFLING BOONDOGGLE FOR THE NRA

(By Senator Paul Simon)

Buried in the annual Defense Department authorization bill is an outrageous gift of $77 million that will benefit something called the Corporation for the Promotion Rifle Practice and Firearms Safety.

This corporation is the new ''private'' incarnation of the old National Rifle Association-backed Civilian Marksmanship Program. This program was intended to make sure people could shoot straight in case they entered the military. In recent years, however, it has simply funneled cash, weapons and ammunition to private gun clubs, thanks to the power of the NRA. Until a federal judge ruled it unconstitutional in 1979, gun clubs which participated in this program were required to be NRA members.

Under public pressure to eliminate this useless and wasteful program, Congress ''privatized'' the program last year.

In fact, the corporation is private in name only. When the corporation becomes fully operational in October of this year it will be *given* by the Army:

176,218 rifles the Army views as outmoded, but valued at $53,271,002.

Computers, vehicles, office equipment and other related items valued by the Army at $8,800,000.

146 million rounds of ammunition valued by the Army at $9,682,656.

$5,332,000 in cash.

That totals $77,085,658.

Our friends in the National Rifle Association strongly back this measure and it appears to be a boondoggle for them.

What the Army should do with outmoded weapons is to destroy them. Our government has a theoretical policy that it does not sell federally owned weapons to the public. The Civilian Marksmanship Program violates this policy, and the new corporation would continue to violate it.

Why we should be subsidizing rifle practice—which is the theory behind this—baffles me. Hardly any of those who will use the weapons will enter into the armed forces. The Defense Department did not request this.

I had never fired a rifle or handgun before entering the Army, and with minimal training I became a fair-to-good marksman.

Sen. Frank Lautenberg of New Jersey and I tried to eliminate this incomprehensible expenditure from the bill and we got only 29 votes for our amendment. The NRA still has power.

We should be reducing the numbers of weapons in our society, not increasing them.

A government policy of destroying weapons and not selling outmoded guns to the public is sound.

While rifles are not the primary weapons for crime—pistols are—some of those 176,000 weapons will get into the hands of people who should not have them. If 1 percent reach someone who is irresponsible, that is 1,760 weapons.

Let me in advance extend my sympathy to the families of the people who will be killed by these weapons. The will be needless victims of this folly.●

MEMORIALIZING MICHIGAN VICTIMS OF TWA FLIGHT 800

● Mr. ABRAHAM. Mr. President, on behalf of Michigan I would like to express my deep regret at the loss of several Michigan residents who lost their lives in the explosion of TWA Flight 800 near New York. We still do not know what happened to flight 800, and therefore do not yet know if there are culprits behind it who must be brought to justice. But we do know that the lives of fine people have been lost before their time.

Mr. President, six people with close ties to Michigan died in this crash. They were Courtney Johns, an 18-year-old Bloomfield Hills Marian High School graduate, headed for Paris on an exchange program. Dr. Ghassan and Mrs. Nina Haurani, citizens and parents in Grosse Pointe Shores, starting a brief European vacation. Celine Rio, an 11-year-old French girl returning to her home after a 3-week visit as part of a national cultural exchange program. Tracy Anne Hammer, a doctoral student in veterinary science and microbiology at Michigan State University, who was to give a speech on cardiac disease in doberman pinschers before a professional audience. And Elaine Loffredo, a Michigan native who gave up a career in nursing for the excitement of air travel.

Mr. President, these people touched the hearts of many around them, in Michigan and elsewhere. Courtney Johns was a class leader in high school who was headed to Villanova University in the fall. She leaves behind grieving friends and a family devastated by the loss of this young, promising life. Ghassan and Nina Haurani were known in their community as loving parents and good neighbors. Termed ''joyous, giving people,'' they, too, leave behind them grieving friends and a family that will miss them terribly. Tracy Anne Hammer, traveling with her mother, was well on her way to a promising career, was, indeed to launch that career in France, when she was taken from us, her family and friends. Celine Rio, a young girl on the edge of adolescence, had learned about America and had gained a second family in the Winters, her exchange program hosts. Now the Winters and her many other friends in America must join family and friends in France in lamenting the loss of this young spirit. And Elaine Loffredo, who found such joy in air travel and in the people she met—I am told that meeting Mother Theresa was a highlight of her career—was taken from her husband and other family and friends, by this explosion.

Mr. President, these were fine people, leading fine lives until they were taken from us. I know I speak for my entire State of Michigan when I tell families and friends of those we have lost that we share their loss, and that our thoughts and prayers are with them.●

WHITEWATER INVESTIGATION WAS A COSTLY PARTISAN GAME

● Mr. SIMON. Mr. President, the Special Committee To Investigate Whitewater Development Corporation And Related Matters recently transmitted its final report.

I have written about this costly, partisan game in a column that is sent to newspapers in Illinois, and I submit it

here to call the attention of my colleagues to this political exercise that contributed nothing.

The column follows:

WHITEWATER INVESTIGATION WAS A COSTLY PARTISAN GAME

(By Senator Paul Simon)

The Senate Whitewater investigation resulted in a political exercise that contributed nothing, except to add to public cynicism and confirming the already widespread belief that in Congress we are playing partisan games rather than tending to the nation's and the public's real needs.

Obviously some people broke the law in the Whitewater events, but the evidence indicated neither a violation of the law nor of ethical standards by Bill Clinton or Hillary Clinton while he served either as President or as Governor of Arkansas.

But the misuse of the FBI files is another matter. Both the White House and the FBI are at fault. The President probably is not personally involved, but it happened in his White House and administration and it should not be treated as a minor mess-up by the President or his staff. The misuse of police powers by governments is as old as governments themselves, and something that must be constantly guarded against.

The abuse of the FBI files comes at a time when there are two other abuses.

One is the Senate investigation which spent almost $2 million, received testimony from 139 witnesses, and took more time than any investigation of a sitting President in our history—longer than the Watergate or Iran-Contra hearings. ''Where there is smoke there must be fire'' is an old saying, but those hearing were designed to create smoke. Not only is there a product of questionable worth, we took testimony from many individuals who never in their lives thought they would testify before a Senate Committee, such as secretaries. Some were terrified by the combination of coming before a committee and being on national television.

A second abuse is the multiplying like rabbits of special counsels—really special prosecutors—with no limits on their expenses and their ability to use huge resources from the FBI and other agencies. I voted for the law creating the special counsel, but now I sense we need a better answer.

Since the FBI and the work of U.S. attorneys fall under the jurisdiction of the Attorney General, my sense is that we should review the possibility of a change in how we structure that office. It differs from other cabinet posts in its broad police and prosecutorial responsibilities, and the recent FBI debacle and the runaway habits of the special prosecutors, might provide an incentive to the next Congress and President to look at this question.

For example, we might have an Attorney General appointed for a 10-year term, with a small bipartisan group giving the President a list of five names to choose from, and also giving him the ability to request a new list of names if he found them unsatisfactory, but still requiring confirmation by the Senate. And then have no special prosecutors.

This is not a criticism of Janet Reno, who is a much-above-average Attorney General. Another example of a good appointment is President Gerald Ford's naming of Ed Levi, then president of the University of Chicago. No one felt that at any time Gerald Ford could get Ed Levi to do anything but what he believed was in the best interests of the nation. That is the way it should be.

My hope is that out of the present ministorms something constructive can happen.

THE AGRICULTURE APPROPRIATIONS BILL

• Mr. CONRAD. Mr. President, I wish to make a few remarks regarding the fiscal year 1997 appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs, which the Senate passed nearly unanimously yesterday.

This appropriations bill is arguably the most important for my State of North Dakota. Agriculture is my State's No. 1 industry, accounting for over one third of our annual economic activity. This bill provides important funding for many USDA activities important to my State, including valuable research, rural development, and, of course, commodity programs. I want to express my appreciation to the chairman and ranking member of the subcommittee for the excellent work they have performed putting this bill together.

Senator COCHRAN and Senator BUMPERS have an extremely difficult task balancing the needs of many important programs funded by this bill with the very difficult budget situation we are facing as we strive to balance the budget. I know the committee received a great number of requests to provide funding for programs and activities that are important to the agricultural sector of our economy, and I realize they could not possibly fund every program or activity at the levels requested. I do want to express my appreciation for the support the committee has provided for the programs in this bill, especially in light of their overall allocation.

I also want to express my appreciation for the help of the staff of the Appropriations Committee, Becky Davies, Hunt Shipman, Galen Fountain, and Jimmie Reynolds, for their excellent work on behalf of the chairman and ranking member.

Mr. President, at this point I would like to comment briefly on two important programs, and express my desire that the House-Senate conference committee will support the programs at the funding level provided in the Senate bill.

First, I want to express my strong support for the funding provided in the Senate version of this bill for the State mediation grants program within the Department of Agriculture. The Senate Appropriations Committee has provided $2 million for this important program, and I commend subcommittee Chairman COCHRAN and Senator BUMPERS for including funding for this program. Regretfully, the House of Representatives did not provide any funding for the State mediation grants program. It is my hope that Senate and House conferees will realize the benefits of this program and fund the State mediation grants program at $2 million.

The State mediation program was created in response to the agricultural crisis of the late 1980's, and the program continues to be valuable to farmers and ranchers today. Mediation programs enable farmers and ranchers to meet with their creditors or the local Farmers Home Administration office in a confidential atmosphere which promoted civil discussion, mutual understanding, and it most cases, a fair settlement.

The scope of the State mediation grants program was expanded when the United States Department of Agriculture's [USDA] Reorganization Act of 1994 became law. Now, farmers and ranchers in States which have certified State mediation programs may choose mediation in a variety of disputes with USDA, such as conservation compliance, wetland determinations, and grazing rights.

The demand for this mediation program continues to exist. Nineteen States have certified State mediation programs, and USDA is working with more States to establish certified programs. Mediation is a proven method of sensible and economical dispute resolution. In producers' disputes with USDA, mediators provide the voice of reason and help all parties take a realistic approach to the administration of Federal programs and the requirements of compliance.

A group of my colleagues, both Republicans and Democrats, joined me in a letter to Chairman COCHRAN earlier this year, requesting full funding for the State mediation grants program. It is my hope that Senate and House conferees will realize the benefits of this program and fund the State mediation grants program at the Senate-passed level of $2 million.

Mr. President, I also want to indicate my support for the funding provided in the Senate version of this appropriations bill for the Alternative Agricultural Research and Commercialization [AARC] Corporation, and express my hope that the conferees on this legislation will be able to fund AARC at the Senate-passed level.

This level of funding is justified by the major opportunities for developing markets for alternative agricultural products, and by evidence that the AARC program is providing the necessary bridge from private sector research to commercialization for these products. AARC is a venture capital fund designed to boost farm income by commercializing new uses for agricultural products. Recipients of AARC funds repay AARC's investment, plus a risk charge. AARC's system is revolutionary because it provides actual business financing and hands-on business and technical assistance, as well as competitive research grants and links with the public and private sectors.

In my view, AARC has only begun to tap the potential for commercializing new products in the domestic market. AARC promotes new industrial uses of our farmers' commodities like fiber board from wheat straw, windshield wiper fluid from ethanol, cat litter from waste peanut hulls, and many others. Finding new uses for our commodities and promoting value-added

enterprises in our rural communities are important ways AARC can help promote more jobs, higher incomes, and fresh opportunities in rural America. In AARC's first 3 years in operation, the Center invested $22.3 million in 54 projects in 28 states, matched by more than $75 million from private partners—a 3 to 1 match.

It is my hope that conferees will realize the benefits of the AARC Corporation, and provide funding at the Senate-passed level of $10 million.●

A MISSTEP BY THE UNITED STATES

● Mr. SIMON. Mr. President, the United States unfortunately has openly opposed a second term for United Nations Secretary-General Boutros Boutros-Ghali.

I have written about this hard-working, effective leader in a column that is sent to newspapers in Illinois, and I submit it here to call to the attention of my colleagues this policy that has not made us any friends.

The column follows:

A MISSTEP BY THE UNITED STATES

(By Senator Paul Simon)

Suppose a local Rotary Club had the community's most wealthy and powerful citizen, Sam Smith, as a member. Imagine that the Rotarians had a dues system that reflected the ability to pay, so that wealthy Sam Smith paid more in dues than any other Rotarian.

To complicate the story, Sam Smith is far back in the payment of his dues, so far back that the money he owes amounts to almost the total budget of the club for a year.

The president of the Rotary Club is up for reelection, and most of the members want him reelected, but Mr. Big, Sam Smith, says no.

How popular do you think Sam Smith would be with the other Rotarians? Would his influence rise or fall? And what will the other Rotarians do in their election of a president?

The story is true.

Only the ''club'' is called the United Nations.The wealthy deadbeat member is called Sam, Uncle Sam. Most of the UN members believe that Secretary General Boutros-Ghali is doing a good job, despite being hampered by approximately $1.4 billion that the United States owes but has not paid.

But the United States has made clear that we want to veto his reelection as Secretary-General.

The other nations, already too often unimpressed by our uncertain leadership in foreign policy, are not pleased with what we are doing, believing it is dictated by domestic political considerations.

In 1978, President Jimmy Carter designated me as one of the delegates to a two-month session of the Untied Nations, and I have followed the UN and its work with more than casual interest.

My impression is that overall the United Nations performs a vital service and a good job, not perfect, and that Boutros-Ghali has been a hard-working, effective leader—hampered in part by the United States talking to a great game, but not paying our dues.

Egypt is the home of the Secretary-General, and as an Egyptian he is also an African. Africa sometimes is called ''the dark continent.'' It is more accurately described as the ignored continent.

One little-known fact is the gradual spread of democracy in Africa, some of them fledgling democracies that deserve more encouragement from the United States and other nations.

African countries take pride in having Boutros-Ghali as the Secretary-General.

Our opposition to him is coupled with other realities that they see: President Clinton has never visited Africa. Secretary of State Warren Christopher has not visited any sub-Saharan country since he has been Secretary, compared to 24 visits to Syria.

Our inattention, coupled with our unfortunate open opposition to the reelection of the Secretary-General, has not made us any friends.

FOOD QUALITY PROTECTION ACT

● Mr. LUGAR. Mr. President, yesterday the Senate gave final approval to the Food Quality Protection Act (H.R. 1627). This legislation will reform the scientifically outdated Delaney clause. I ask to have printed in the RECORD letters of support from commodity groups, the Food Chain Coalition, Farm Bureau, and environmental and consumer organizations as well as a letter from Senator KASSEBAUM and a statement from the American Crop Protection Association.

The letters follow:

JULY 24, 1996.

Hon. RICHARD LUGAR,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to urge you to support H.R. 1627 the ''Food Quality Protection Act'' when it is considered by the Committee. The effort to achieve food safety reform, which assures an abundant, affordable, and safe food and fiber supply has been difficult, and we applaud all those who worked to help reach an acceptable compromise.

It is important that farmers continue to have the greatest availability of crop production products which are safe, affordable and effective to ensure that they are able to meet the nation's demand for food and fiber. While we had concerns initially with some provisions in the bill, the diligent work by the Committee and assurances from EPA and USDA that the new higher standard of protection will be interpreted with common sense and reason have reassured us that this is meaningful change.

The Delaney Clause is outdated and could possibly cause the loss of many crop protection products which pose no significant health or safety risk. This legislation represents the best opportunity in a decade to modernize the Delaney Clause and strengthen federal food safety protection. We will continue to work with you to see that the new legislation accomplishes these goals and urge prompt Senate action.

Thank you for your attention to this matter.

Sincerely,

American Soybean Association, National Association of Wheat Growers, National Cotton Council of America, National Corn Growers Association, National Barley Growers Association.

FOOD CHAIN COALITION,
July 23, 1996.

Hon. RICHARD G. LUGAR,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Last week, representatives of the Administration, industry and the environmental community reached compromise agreement on H.R. 1627, ''The Food Quality Protection Act,'' after several weeks of negotiations. This bill represents the best opportunity in a decade to modernize the Delaney Clause and strengthen our nation's food laws.

As Americans working to produce, process and market our nation's food supply, we urge the Senate to act promptly to pass this compromise agreement. We applaud the announcement by the Senate Agriculture Committee that it will markup the legislation on Wednesday, July 24.

There is virtually unanimous agreement that an overhaul of the outdated Delaney clause for pesticide residues is long overdue. With the very limited number of legislative days remaining this year, the need for action to accomplish that objective is now more urgent than ever.

EPA recently proposed disallowing the use of five pesticides on a number of crops under the Delaney Clause, even though the agency has repeatedly stated its belief that those pesticides pose no significant health risk to consumers. By April 1997, EPA is due to determine whether to disallow up to 40 additional uses; without corrective action, farmers could lose the use of a number of safe and effective crop protection tools that keep the American food supply abundant and affordable.

The compromise version of ''The Food Quality Protection Act'' has received bipartisan praise from both the House and Senate, including Senate Agriculture Chairman Lugar, as well as from EPA Administrator Carol Browner and Vice President Albert Gore. Key Republican and Democratic leaders have stated that it is their goal to see this legislation passed and signed into law by the President this year. We urge its prompt adoption by the Committee.

Sincerely,

Agricultural Council of California; Agri Bank; Agri-Mark, Inc.; Agway, Inc.; American Bankers Association; American Crystal Sugar Company; American Farm Bureau Federation; American Meat Institute; American Feed Industry Association; Apricot Producers of California; Atlantic Dairy Cooperative; Biscuit & Cracker Manufacturers Association; Blue Diamond Growers; California Tomato Growers Association, Inc.; Californian Pear Growers; Chemical Specialties Manufacturers Association; Chocolate Manufacturers Association; Gold Kist, Inc; Grocery Manufacturers of America; GROWMARK; Harvest States; Independent Bakers Association; International Apple Institute; International Dairy Foods Association; Kansas Grain and Feed Association; Kraft Foods, Incorporated; Land O'Lakes; Michigan Agribusiness Association; Milk Marketing Inc; National Agricultural Aviation Association; National Cattlemen's Beef Association; National Confectioners Association; National Council of Farmer Cooperatives; National Farmers Union; National Food Processors Association; National Grain and Feed Association; National Grain Trade Council; National Grange; National Grape Co-operative Association, Inc.; National Pasta Association; Nebraska Cooperative Council; North American Export Grain Association; Oklahoma Grain and Feed Association; Produce Marketing Association; Pro-Fac Cooperative; SF Services, Inc.; Snack Food Association; South Dakota Association of Cooperatives; Southern States Cooperative; Tortilla Industry Association; USA Rice Federation; United Fresh Fruit

and Vegetable Association; Upstate Milk Cooperatives, Inc.; Utah Council of Farmer Cooperatives; Wisconsin Agri-Service Association.

July 23, 1996.

DEAR REPRESENTATIVE: Last week, the House Commerce Committee reported by a vote of 45–0 compromise language on H.R. 1627, ''The Food Quality Protection Act.'' We congratulate Chairman Bliley, Chairman Bilirakis, Mr. Dingell, Mr. Roberts, Mr. Waxman and many other members of the House who have worked to resolve the ''Delaney paradox'' and the problems it presents for farmers and consumers.

Although the agreement contains provisions we do not support, it does address many issues which are of critical importance to agriculture:

Safety Standard: The bill replaces the antiquated, ''zero tolerance'' Delaney standard with a health-based ''safe'' standard for food pesticide residues. ''Safe'' is defined as ''reasonable certainly of no harm'' which is interpreted as a one in a million additional lifetime risk. This is a standard which is essentially the same as the ''negligible risk'' standard in the original bill. This key provision removes the threat of unjustified cancellation of more than 50 safe crop protection products which are now jeopardized by the Delaney Clause.

Benefits Consideration: Tolerances could be exceeded to avoid a significant disruption in domestic production of an adequate, wholesome and economical food supply or if the pesticide protects consumers from a greater health risk. Benefits consideration is broadened from current law in that it is extended from raw agricultural products to include processed food. However, benefits consideration is limited under the agreement to 10 times a negligible risk for one year or more than two times a negligible risk over a lifetime. Although Farm Bureau does not support this new limitation, we are pleased that the bill preserves benefits consideration and extends it to processed food.

National Uniformity: The bill establishes national uniformity for food pesticide residues. States could not adopt tolerances which are more stringent than those set by EPA, except with respect to tolerances established through benefits consideration. In those circumstances, states would be required to petition EPA and establish that there was an imminent dietary risk to the public.

Minor Use Pesticides: It is our understanding that the FIFRA provisions of H.R. 1627 which have been reported by the House Agriculture Committee will be attached to the Commerce Committee provisions. Included are new incentives and streamlined procedures for so-called ''minor crop'' chemicals—crop protection products whose relatively small market does not justify the high cost of registration. This provision is essential to fruit, vegetable and horticultural growers in virtually every state.

Miscellaneous Provisions: Although we support the above provisions, Farm Bureau has some concerns with certain provisions of the Committee agreement. These include provisions relating to estrogenic effects of agricultural chemicals, infants and children, civil penalties for food adulteration and a ''right to know'' provision for consumers.

At this time, no one can determine with certainty the long-term, cumulative impact of these changes on specific commodities and on the availability of crop protectants necessary for farmers to produce the wide variety of safe, affordable and abundant agricultural commodities that the public demands. While we support many of the reforms in this package, we also recognize that there will be unanticipated problems stemming from regulatory and business implementation of this legislation. On balance, however, we believe that this legislation represents an improvement over current law and we support moving the legislation to the Senate.

RICHARD W. NEWPHER,
Executive Director, Washington Office.

JULY 18, 1996.

Hon. THOMAS J. BLILEY, Jr.
Chairman, Committee on Commerce, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The following environmental, education, public health, and consumer advocacy organizations would like to offer our support for the compromise substitute amendment for H.R. 1627, ''The Food Quality Protection Act of 1995'' that goes a long way towards better protecting the health of consumers from toxic pesticides on their food.

The compromise addresses the deadlock between the industry who oppose the Delaney clause and the organizations that support better protection for children and the public health, by establishing a comprehensive federal program to make pesticide levels in food and the environment safe for infants and children. The bill establishes a health-based standard and a strict timetable for pesticide tolerance setting that adheres tightly to the recommendations of the 1993 National Academy of Sciences Committee on Pesticides in the Diets of Infants and Children.

Although we are pleased with the extent to which the bill was changed to better protect public health, we have reservations with the sections that will allow benefits consideration for cancer-causing pesticides and preemption of states rights to set more protective tolerances than federal limits for pesticides. We are hopeful that these provisions will be revised upon further consideration of this legislation.

Our support for this bill is contingent upon the understanding that the bill will not be changed in any way that would allow for a weakening of public health protections.

Again we would like to extend our thanks and appreciation to the members of Congress and their staff who played a part in producing this bill.

Sincerely,

American Preventative Medical Association; Center for Science in the Public Interest; Citizen Action; Environmental Working Group; National Audubon Society; National Wildlife Federation; National Parent Teacher Association; Natural Resources Defense Council; Physicians for Social Responsibility; Public Voice; World Wildlife Fund.

AMERICAN CROP PROTECTION ASSOCIATION PRAISES COMPREHENSIVE FOOD SAFETY ACTION

WASHINGTON, DC, July 24, 1996.—The American Crop Protection Association voiced its support of the ''Food Quality Protection Act of 1996,'' a bi-partisan bill to reform the nation's food safety laws that Tuesday was passed by the House of Representatives 417–0.

Jay J. Vroom, ACPA president, said, ''The action is an overwhelming affirmation of the value and benefits of modern agricultural technology to the consumer, our children and the American farmer. With our allies and friends across food and agriculture, the crop protection industry is proud to have helped lead the way for modern, science-based food safety reform.''

The Senate is expected shortly to follow the House's lead and vote to replace the 1958 Delaney clause with a single safety standard for pesticide residues on both raw and processed foods. Under the legislation, which was more than 10 years in the making, pesticides will be deemed safe when they are approved by the Environmental Protection Agency as meeting a new, health-based safety standard, defined as a ''reasonable certainty of no harm.''

The bill mandates implementation by the EPA of the 1993 recommendations of the National Academy of Sciences for providing additional safeguards for infants and children. ''The Academy's recommendations have been at the heart of ACPA's fight for food safety reform,'' said Vroom. ''This is particularly gratifying victory for us because it assures that modern, sound science will undergird our food safety laws and that farmers will continue to have the tools to produce the most abundant and affordable supplies of food and fiber in the world.''

Regarding industry's relationship with the EPA, Vroom said, ''We want to continue the productive working dialogue we have established with the Agency during the course of negotiations for this legislation. For example, one of our hopes is to successfully conclude work underway by EPA, ACPA and other registrant groups to provide additional user fee resources to the Agency for enhancing new product application decision making.''●

WELFARE REFORM

● Mr. BINGAMAN. Mr. President, 2 days ago I voted against the so called welfare reform bill which passed the Senate. I wish to explain my reasons for that vote.

The time has come to change the Nation's welfare system. We should enact much-needed, workable reforms, such as requiring all able-bodied recipients to work, turning welfare offices into employment offices, providing adequate child care and requiring strong child support enforcement. While the bill just passed by the Senate achieves some of these goals, it does so in a way that I believe will ultimately end up doing more harm than good. And the damage will be done not only to innocent children but to State and local governments and to taxpayers, who may end up bearing even more of the burden than they currently do.

Last fall, I voted for welfare reform legislation in the expectation that we could develop a better bill. A good bill would encourage adults to work without threatening the well-being of children or unduly burdening the States that need welfare assistance most. It would enable flexible planning at the State and local levels, without dismantling the social safety net.

Unfortunately, the highly political environment in which we find ourselves has not permitted the development of such a bill. The forces of reaction in our country have persuaded many that the main cause of our problems is welfare cheats and the current election campaign has spawned a competition between politicians to prove their machismo by getting tough.

The conference report that emerged on HR4 last fall was a worse bill than what the Senate had previously passed.

I joined over a quarter of the Senate who voted for the Senate welfare reform bill but rejected the changes made in the conference report. I said then that we should not trade in an admittedly imperfect system for one that is certainly not better, and perhaps may prove much worse. The same is true today.

I have been persuaded by the process of debate and projections on the likely impact of this bill on my State that this welfare bill will do far more harm than good. It will cause hardship to State and local governments, throw more than a million more children into poverty and hurt rather than help the Nation's efforts at true welfare reform.

The bill will clearly increase the burden on States and local governments. Poor States will, as always, be particularly hard hit. For example, the bill requires progressively more hours of work, from a greater percent of each State's case load every year, with States losing cumulatively more funding each year they fail to hit their targets. While I am a strong proponent of work requirements as an integral part of welfare reform, I am skeptical of this approach. And I am not alone. The National Governors' Association [NGA] feels it will be very hard to meet these targets, especially because the bill allows few exemptions for those who will have the hardest time finding work. And if a State fails to meet these difficult targets they lose funding for the next year's program. The irony of this penalty is that the punishment assures that the violation will occur again and again, as a State has less and less Federal money each year to try and meet their employment targets. This leaves states with two choices—use state and local funds for education, training, and child care, or throw more people off the roles so it will be easier to hit their percentage targets.

The nonpartisan Congressional Budget Office has said that, over 6 years, this bill falls $12 billion short of the funding needed to meet the work requirements of this legislation, and about $2.4 billion short in child care resources. New Mexico is particularly at risk if this bill does not live up to its promise. It is one of the few States in which the welfare caseload is currently increasing, even though the benefits paid are below the national average. Who will be forced to pick up the shortfall? State and local governments will.

Further, last year in New Mexico, 239,000 recipients in 87,000 households relied on food stamps. About $28 billion in savings realized by this bill will be in food stamps. Such cuts to funding benefits erode the integrity of the safety net. I say again that we are trading in an imperfect system for one that may prove much worse.

Legal immigrants are clearly among those who will be hurt by passage of this bill. I support the immigration bill now in Congress and its effort to make immigrants and their sponsors responsible for immigrants' welfare. But this bill goes far beyond those provisions. There are over 3,000 aged or disabled legal immigrants receiving SSI benefits in New Mexico who may abruptly be cut off if this bill becomes law, and thousands more immigrants who have no sponsor for any number of reasons who may also lose benefits under this bill.

In the course of this debate, the Senate rejected an amendment that would have permitted States to use funds from their Federal block grant to offer vouchers to maintain basic non-cash benefits such as food, clothing, and shelter for children if their parents' benefits expire after 5 years. The refusal of the Senate to allow States to provide such vouchers will hurt New Mexico, where one third of the children less than 6 years old—almost 50,000—live in families with incomes below the poverty level.

Ours is a great Nation, enjoying low unemployment and real prosperity. Our common goal is to ensure that all Americans willing to work hard have the opportunity to share that prosperity. We all want to eliminate public assistance as a way of life while preserving temporary protections for those truly in need of help. But we must figure out a way to do this without denying the basic needs of innocent children for food, clothing, and shelter, and without driving State and local governments further into debt.●

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 440, S. 1577.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1577) to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1998, 1999, 2000, and 2001.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1577) was deemed read the third time and passed, as follows:

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION.

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (F) by striking out ''and'' after the semicolon;

(2) in subparagraph (G) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

''(H) $10,000,000 for fiscal year 1998;

''(I) $10,000,000 for fiscal year 1999;

''(J) $10,000,000 for fiscal year 2000; and

''(K) $10,000,000 for fiscal year 2001.''.

EXTENDING MOST-FAVORED-NATION TREATMENT FOR CAMBODIA

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 398, H.R. 1642.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1642) to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) despite recent increases in acts of repression by the Cambodian Government and growing government corruption that has contributed to substantial environmental degradation, Cambodia has made some progress towards democratic rule after 20 years of undemocratic regimes and civil war, and is striving to rebuild its market economy;

(2) extension of unconditional most-favored-nation treatment would assist Cambodia in developing its economy based on free market principles and becoming competitive in the global marketplace;

(3) establishing normal commercial relations on a reciprocal basis with Cambodia will promote United States exports to the rapidly growing Southeast Asian region and expand opportunities for United States business and investment in the Cambodian economy; and

(4) expanding bilateral trade relations that includes a commercial agreement may promote further progress by Cambodia on human rights and democratic rule and assist Cambodia in adopting regional and world trading rules and principles.

SEC. 2. EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF CAMBODIA.

(a) HARMONIZED TARIFF SCHEDULE AMENDMENT.—General note 3(b) of the Harmonized Tariff Schedule of the United States is amended by striking ''Kampuchea''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the effective date of a notice published in the Federal Register by the United States Trade Representative that a trade agreement obligating reciprocal most-favored-nation treatment between Cambodia and the United States has entered into force.

SEC. 3. REPORT TO CONGRESS.

The President shall submit to the Congress, not later than 18 months after the date

of the enactment of this Act, a report on the trade relations between the United States and Cambodia pursuant to the trade agreement described in section 2(b).

Mr. MCCAIN. Mr. President, I am very pleased that the full Senate will soon approve H.R. 1642, a bill to grant MFN to Cambodia. I would like to thank the chairman of the Finance Committee for his help in seeing it through. He promised to do so last October and has been true to his word. My hope now is that the other body will quickly approve the minor alterations in the findings and send the bill to the President for his signature.

Traditionally, we have only restricted trade with Communist countries, and since 1975, only select Communist countries which prevent the free emigration of their people. The only other countries with restricted access to the American market are proven international aggressors and terrorist nations such as Iran and Iraq. Cambodia is no longer Communist and it does not restrict the free emigration of its people. It is certainly not in the category of rogue nations. I think the committee and the Senate has acted appropriately not to impose restrictions on Cambodia more appropriate for other eras and other nations.

Although it did not change the real substance of the bill, the committee did alter the findings. I would not have done so—not because I do not share Senator ROTH's concerns or the other concerns raised in the findings already approved by the other body. I do share concerns about the development of Cambodian democracy, government corruption, an human rights abuses. I encouraged the committee not to amend the bill principally because I thought it should be sent to the President as quickly as possible.

I should point out to my friends in Cambodia that they would do very well to heed the concerns expressed in the findings of this bill and in the accompanying report. They are the same concerns which led to the adoption in the other body of H. Res. 345. Those who pay close attention to Cambodia have been concerned about the direction of Cambodian politics. It is true that the Cambodian people have a freely elected government, freedom of speech and freedom of association. It is also true, however, that each of these democratic institutions has at one time or another come under attack from the coalition government.

The Senate is today approving unconditional most-favored-nation status for Cambodia. It is only fair that it do so. But the Cambodia Government should be under no illusions. Granting MFN to Cambodia should not be interpreted as disinterest in the course of Cambodian democracy. The United States Senate is committed to helping democracy and human rights to flourish in Cambodia. Our efforts will not end with this vote.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (H.R. 1642), as amended, was deemed read the third time and passed.

SMALL BUSINESS INVESTMENT COMPANY IMPROVEMENT ACT OF 1996

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 455, S. 1784.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1784) to amend the Small Business Investment Act of 1958, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Improvement Act of 1996''.

SEC. 2. DEFINITIONS.

(a) SMALL BUSINESS CONCERN.—Section 103(5) of the Small Business Investment Act of 1958 (15 U.S.C. 662(5)) is amended by inserting before the semicolon the following: '', except that, for purposes of this Act, an investment by a venture capital firm, investment company (including a small business investment company) employee welfare benefit plan or pension plan, or trust, foundation, or endowment that is exempt from Federal income taxation—

''(A) shall not cause a business concern to be deemed not independently owned and operated;

''(B) shall be disregarded in determining whether a business concern satisfies size standards established pursuant to section 3(a)(2) of the Small Business Act; and

''(C) shall be disregarded in determining whether a small business concern is a smaller enterprise''.

(b) PRIVATE CAPITAL.—Section 103(9) of the Small Business Investment Act of 1958 (15 U.S.C. 662(9)) is amended to read as follows:

''(9) the term 'private capital'—

''(A) means the sum of—

''(i) the paid-in capital and paid-in surplus of a corporate licensee, the contributed capital of the partners of a partnership licensee, or the equity investment of the members of a limited liability company licensee; and

''(ii) unfunded binding commitments, from investors that meet criteria established by the Administrator, to contribute capital to the licensee: Provided, That such unfunded commitments may be counted as private capital for purposes of approval by the Administrator of any request for leverage, but leverage shall not be funded based on such commitments; and

''(B) does not include any—

''(i) funds borrowed by a licensee from any source;

''(ii) funds obtained through the issuance of leverage; or

''(iii) funds obtained directly or indirectly from any Federal, State, or local government, or any government agency or instrumentality, except for—

''(I) funds invested by an employee welfare benefit plan or pension plan; and

''(II) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the licensee);''.

(c) NEW DEFINITIONS.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended by striking paragraph (10) and inserting the following:

''(10) the term 'leverage' includes—

''(A) debentures purchased or guaranteed by the Administration;

''(B) participating securities purchased or guaranteed by the Administration; and

''(C) preferred securities outstanding as of October 1, 1995;

''(11) the term 'third party debt' means any indebtedness for borrowed money, other than indebtedness owed to the Administration;

''(12) the term 'smaller enterprise' means any small business concern that, together with its affiliates—

''(A) has—

''(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this Act to that business concern; and

''(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this Act to that business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses); or

''(B) satisfies the standard industrial classification size standards established by the Administration for the industry in which the small business concern is primarily engaged;

''(13) the term 'qualified nonprivate funds' means any—

''(A) funds directly or indirectly invested in any applicant or licensee on or before August 16, 1982, by any Federal agency, other than the Administration, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term 'private capital';

''(B) funds directly or indirectly invested in any applicant or licensee by any Federal agency under a provision of law enacted after September 4, 1992, explicitly mandating the inclusion of those funds in the definition of the term 'private capital'; and

''(C) funds invested in any applicant or licensee by one or more State or local government entities (including any guarantee extended by those entities) in an aggregate amount that does not exceed—

''(i) 33 percent of the private capital of the applicant or licensee, if such funds were committed for investment before the date of enactment of the Small Business Investment Company Improvement Act of 1996; or

''(ii) 20 percent of the private capital of the applicant or licensee, if such funds were committed for investment on or after the date of enactment of the Small Business Investment Company Improvement Act of 1996;

''(14) the terms 'employee welfare benefit plan' and 'pension plan' have the same meanings as in section 3 of the Employee Retirement Income Security Act of 1974, and are intended to include—

''(A) public and private pension or retirement plans subject to such Act; and

''(B) similar plans not covered by such Act that have been established and that are maintained by the Federal Government or any State or political subdivision, or any agency or instrumentality thereof, for the benefit of employees;

''(15) the term 'member' means, with respect to a licensee that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company; and

''(16) the term 'limited liability company' means a business entity that is organized and operating in accordance with a State limited liability company statute approved by the Administration.''.

SEC. 3. ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES.

(a) LIMITED LIABILITY COMPANIES.—Section 301(a) of the Small Business Investment Act of 1958 (15 U.S.C. 681(a)) is amended in the first sentence, by striking ''body or'' and inserting ''body, a limited liability company, or''.

(b) ISSUANCE OF LICENSE.—Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. 681(c)) is amended to read as follows:

''(c) ISSUANCE OF LICENSE.—

''(1) SUBMISSION OF APPLICATION.—Each applicant for a license to operate as a small business investment company under this Act shall submit to the Administrator an application, in a form and including such documentation as may be prescribed by the Administrator.

''(2) PROCEDURES.—

''(A) STATUS.—Not later than 90 days after the initial receipt by the Administrator of an application under this subsection, the Administrator shall provide the applicant with a written report detailing the status of the application and any requirements remaining for completion of the application.

''(B) APPROVAL OR DISAPPROVAL.—Within a reasonable time after receiving a completed application submitted in accordance with this subsection and in accordance with such requirements as the Administrator may prescribe by regulation, the Administrator shall—

''(i) approve the application and issue a license for such operation to the applicant if the requirements of this section are satisfied; or

''(ii) disapprove the application and notify the applicant in writing of the disapproval.

''(3) MATTERS CONSIDERED.—In reviewing and processing any application under this subsection, the Administrator—

''(A) shall determine whether—

''(i) the applicant meets the requirements of subsections (a) and (c) of section 302; and

''(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this Act;

''(B) shall take into consideration—

''(i) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;

''(ii) the general business reputation of the owners and management of the applicant; and

''(iii) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

''(C) shall not take into consideration any projected shortage or unavailability of leverage.

''(4) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, approve an application and issue a license under this subsection with respect to any applicant that—

''(i) has private capital of not less than $3,000,000;

''(ii) would otherwise be issued a license under this subsection, except that the applicant does not satisfy the requirements of section 302(a); and

''(iii) has a viable business plan reasonably projecting profitable operations and a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 302(a).

''(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a).''.

(c) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.—Section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)) is repealed.

SEC. 4. CAPITAL REQUIREMENTS.

(a) INCREASED MINIMUM CAPITAL REQUIREMENTS.—Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) is amended by striking ''(a)'' and all that follows through ''The Administration shall also determine the ability of the company,'' and inserting the following:

''(a) AMOUNT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each licensee shall be not less than—

''(A) $5,000,000; or

''(B) $10,000,000, with respect to each licensee authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administration under this Act.

''(2) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, permit the private capital of a licensee authorized or seeking authorization to issue participating securities to be purchased or guaranteed by the Administration to be less than $10,000,000, but not less than $5,000,000, if the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

''(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Administrator shall—

''(A) determine whether the private capital of each licensee is adequate to assure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles; and

''(B) determine that the licensee will be able''.

(b) EXEMPTION FOR CERTAIN LICENSEES.—Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) is amended by adding at the end the following new paragraph:

''(4) EXEMPTION FROM CAPITAL REQUIREMENTS.—The Administrator may, in the discretion of the Administrator, exempt from the capital requirements in paragraph (1) any licensee licensed under subsection (c) or (d) of section 301 before the date of enactment of the Small Business Investment Company Improvement Act of 1996, if—

''(A) the licensee certifies in writing that not less than 50 percent of the aggregate dollar amount of its financings after the date of enactment of the Small Business Investment Company Improvement Act of 1996 will be provided to smaller enterprises; and

''(B) the Administrator determines that—

''(i) the licensee has a record of profitable operations;

''(ii) the licensee has not committed any serious or continuing violation of any applicable provision of Federal or State law or regulation; and

''(iii) such action would not create or otherwise contribute to an unreasonable risk of default or loss to the United States Government.''.

(c) DIVERSIFICATION OF OWNERSHIP.—Section 302(c) of the Small Business Investment Act of 1958 (15 U.S.C. 682(c)) is amended to read as follows:

''(c) DIVERSIFICATION OF OWNERSHIP.—The Administrator shall ensure that the management of each licensee licensed after the date of enactment of the Small Business Investment Company Improvement Act of 1996 is sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee.''.

SEC. 5. BORROWING.

(a) DEBENTURES.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended in the first sentence, by striking ''(but only'' and all that follows through ''terms)''.

(b) THIRD PARTY DEBT.—Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended to read as follows:

''(c) THIRD PARTY DEBT.—The Administrator—

''(1) shall not permit a licensee having outstanding leverage to incur third party debt that would create or contribute to an unreasonable risk of default or loss to the Federal Government; and

''(2) shall permit such licensees to incur third party debt only on such terms and subject to such conditions as may be established by the Administrator, by regulation or otherwise.''.

(c) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—Section 303(d) of the Small Business Investment Act of 1958 (15 U.S.C. 683(d)) is amended to read as follows:

''(d) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing that not less than 20 percent of the aggregate dollar amount of the financings of the licensee will be provided to smaller enterprises.''.

(d) CAPITAL IMPAIRMENT REQUIREMENTS.—Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended to read as follows:

''(e) CAPITAL IMPAIRMENT.—Before approving any application for leverage submitted by a licensee under this Act, the Administrator—

''(1) shall determine that the private capital of the licensee meets the requirements of section 302(a); and

''(2) shall determine, taking into account the nature of the assets of the licensee, the amount and terms of any third party debt owed by such licensee, and any other factors determined to be relevant by the Administrator, that the private capital of the licensee has not been impaired to such an extent that the issuance of additional leverage would create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.''.

(e) EQUITY INVESTMENT REQUIREMENT.—Section 303(g)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(4)) is amended by striking ''and maintain''.

(f) FEES.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b), in the fifth sentence, by striking ''1 per centum'', and all that follows before the period at the end of the sentence and inserting the following: ''1 percent, plus an additional charge of .50 percent per annum which shall be paid to and retained by the Administration'';

(2) in subsection (g)(2), by striking ''1 per centum,'' and all that follows before the period at the end of the paragraph and inserting the following: ''1 percent, plus an additional charge of .50 percent per annum which shall be paid to and retained by the Administration''; and

(3) by adding at the end the following new subsections:

''(i) LEVERAGE FEE.—With respect to leverage granted by the Administration to a licensee, the Administration shall collect from the licensee a nonrefundable fee in an amount equal to 3 percent of the face amount of leverage granted to the licensee, payable upon the earlier of the date of entry into any commitment for such leverage or the date on which the leverage is drawn by the licensee.

''(j) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this section shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures and participating securities under this Act.''.

SEC. 6. LIABILITY OF THE UNITED STATES.

Section 308(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687(e)) is amended by striking ''Nothing'' and inserting ''Except as expressly provided otherwise in this Act, nothing''.

SEC. 7. EXAMINATIONS; VALUATIONS.

(a) EXAMINATIONS.—Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended in the first sentence by inserting ''which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations,'' after ''Investment Division of the Administration,''.

(b) VALUATIONS.—Section 310(d) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(d)) is amended to read as follows:

''(d) VALUATIONS.—

''(1) FREQUENCY OF VALUATIONS.—

''(A) IN GENERAL.—Each licensee shall submit to the Administrator a written valuation of the loans and investments of the licensee not less often than semiannually or otherwise upon the request of the Administrator, except that any licensee with no leverage outstanding shall submit such valuations annually, unless the Administrator determines otherwise.

''(B) MATERIAL ADVERSE CHANGES.—Not later than 30 days after the end of a fiscal quarter of a licensee during which a material adverse change in the aggregate valuation of the loans and investments or operations of the licensee occurs, the licensee shall notify the Administrator in writing of the nature and extent of that change.

''(C) INDEPENDENT CERTIFICATION.—

''(i) IN GENERAL.—Not less than once during each fiscal year, each licensee shall submit to the Administrator the financial statements of the licensee, audited by an independent certified public accountant approved by the Administrator.

''(ii) AUDIT REQUIREMENTS.—Each audit conducted under clause (i) shall include—

''(I) a review of the procedures and documentation used by the licensee in preparing the valuations required by this section; and

''(II) a statement by the independent certified public accountant that such valuations were prepared in conformity with the valuation criteria applicable to the licensee established in accordance with paragraph (2).

''(2) VALUATION CRITERIA.—Each valuation submitted under this subsection shall be prepared by the licensee in accordance with valuation criteria, which shall—

''(A) be established or approved by the Administrator; and

''(B) include appropriate safeguards to ensure that the noncash assets of a licensee are not overvalued.''.

SEC. 8. TRUSTEE OR RECEIVERSHIP OVER LICENSEES.

(a) FINDING.—It is the finding of the Congress that increased recoveries on assets in liquidation under the Small Business Investment Act of 1958 are in the best interests of the Federal Government.

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration;

(2) the term ''Administration'' means the Small Business Administration; and

(3) the term ''licensee'' has the same meaning as in section 103 of the Small Business Investment Act of 1958.

(c) LIQUIDATION PLAN.—

(1) IN GENERAL.—Not later than October 15, 1996, the Administrator shall submit to the Committees on Small Business of the Senate and the House of Representatives a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation, including assets of licensees in receivership or in trust held by or under the control of the Administration or its agents.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include a timetable for liquidating the liquidation portfolio of small business investment company assets owned by the Administration, and shall contain the Administrator's findings and recommendations on various options providing for the fair and expeditious liquidation of such assets within a reasonable period of time, giving due consideration to the option of entering into one or more contracts with private sector entities having the capability to carry out the orderly liquidation of similar assets.

SEC. 9. BOOK ENTRY REGISTRATION.

Subsection 321(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended by adding at the end the following new paragraph:

''(5) Nothing in this subsection shall prohibit the utilization of a book entry or other electronic form of registration for trust certificates.''.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SMALL BUSINESS INVESTMENT ACT OF 1958.—The Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended—

(1) in section 303—

(A) in subsection (a), by striking ''debenture bonds,'' and inserting ''securities,'';

(B) by striking subsection (f) and inserting the following:

''(f) REDEMPTION OR REPURCHASE OF PREFERRED STOCK.—Notwithstanding any other provision of law—

''(1) the Administrator may allow the issuer of any preferred stock sold to the Administration before November 1, 1989 to redeem or repurchase such stock, upon the payment to the Administration of an amount less than the par value of such stock, for a repurchase price determined by the Administrator after consideration of all relevant factors, including—

''(A) the market value of the stock;

''(B) the value of benefits provided and anticipated to accrue to the issuer;

''(C) the amount of dividends paid, accrued, and anticipated; and

''(D) the Administrator's estimate of any anticipated redemption; and

''(2) any moneys received by the Administration from the repurchase of preferred stock shall be available solely to provide debenture leverage to licensees having 50 percent or more in aggregate dollar amount of their financings invested in smaller enterprises.''; and

(C) in subsection (g)(8)—

(i) by striking ''partners or shareholders'' and inserting ''partners, shareholders, or members'';

(ii) by striking ''partner's or shareholder's'' and inserting ''partner's, shareholder's, or member's''; and

(iii) by striking ''partner or shareholder'' and inserting ''partner, shareholder, or member'';

(2) in section 308(h), by striking ''subsection (c) or (d) of section 301'' each place that term appears and inserting ''section 301'';

(3) in section 310(c)(4), by striking ''not less than four years in the case of section 301(d) licensees and in all other cases,'';

(4) in section 312—

(A) by striking ''shareholders or partners'' and inserting ''shareholders, partners, or members''; and

(B) by striking ''shareholder, or partner'' each place that term appears and inserting ''shareholder, partner, or member'';

(5) by striking sections 317 and 318, and redesignating sections 319 through 322 as sections 317 through 320, respectively;

(6) in section 319, as redesignated—

(A) in subsection (a), by striking '', including companies operating under the authority of section 301(d),''; and

(B) in subsection (f)(2), by inserting ''or investments in obligations of the United States'' after ''accounts'';

(7) in section 320, as redesignated, by striking ''section 321'' and inserting ''section 319''; and

(8) in section 509—

(A) in subsection (a)(1), by striking the second sentence; and

(B) in subsection (e)(1)(B), by striking ''subsection (c) or (d) of section 301'' and inserting ''section 301''.

(b) AMENDMENT IN OTHER LAW.—Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by striking ''301(d)'' and inserting ''301''.

SEC. 11. AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) POWERS OF THE ADMINISTRATOR.—Section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)) is amended by striking the colon and all that follows before the semicolon at the end of the paragraph and inserting the following: '': Provided, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 20(p)(3) of the Small Business Act (15 U.S.C. 631 note) is amended by striking subparagraph (B) and inserting the following:

''(B) $300,000,000 in guarantees of debentures; and''.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today in support of S. 1784, The Small Business Investment Company Improvement Act of 1996. This bill proposes numerous changes to the Small Business Investment Act of 1958 designed to improve, strengthen, and expand the availability of investment capital under the Small Business Administrations's Small Business Investment Company (SBIC) program.

S. 1784 builds on the improvements of the SBIC program contained in the law passed by Congress in 1992 by making the following changes to reduce the risk of SBIC defaults and losses to the Federal government:

1. Increases the level of private capital needed to obtain an SBIC license from SBA.

2. Requires experienced and qualified management for all SBICs.

3. Requires diversification between investors and the management team.

In addition, S. 1784 makes these important changes to the Small Business Investment Act to increase the availability of investment capital to small businesses:

1. Increases fees paid by SBICs which reduces the credit subsidy rate.

2. Eliminates the distinction between SBICs and SSBICs, while grandfathering'' successful SSBICs into the new program.

3. Places a greater emphasis on SBIC investments in smaller enterprises or smaller small businesses.

In 1958, Congress first approved the Small Business Investment Act creating Small Business Investment Companies, which are private investment companies licensed by SBA, whose sole activity is to make investments in small businesses. An SBIC raises private capital which is matched by additional funds guaranteed by SBA. The

private capital and SBA-guaranteed funds are invested by SBICs in small businesses.

SBICs fill a void that is not addressed by private venture capital firms, most of which are so large they are usually unwilling to make investments in smaller firms, which generally seek investments in the range of $500,000 to $2.5 million each. Since the beginning of the SBIC program, nearly $12 billion has been invested in approximately 77,000 small businesses. Some SBICs make equity investments in small businesses, while others make long-term loans, which are frequently coupled with rights to purchase an equity interest in the company, sometimes called warrants''. The lending-type'' or debenture SBICs provide long-term financing that is generally not available from banks or private venture capital firms.

Today, there are 185 active regular SBICs and 89 Specialized SBICs (SSBICs) in the SBIC program. SSBICs invest only in minority owned and controlled businesses. Together, these SBICs and SSBICs have raised nearly $4 billion in private capital and have received $1.02 billion in SBA-guaranteed funds.

Today's SBIC program has been shaped in large part by the Small Business Equity Enhancement Act of 1992. The genesis of this important legislation resulted from the hard work of SBA's Investment Capital Advisory Council, a public-private working group formed in 1991 to address the problems confronting the SBIC program. The 1992 Act produced the first major change in the SBIC program since it's formation in 1958. It created the Participating Security program, which incorporates some of the best practices of the private venture capital industry. The 1992 act came about in response to the persistence of my good friend and colleague from Arkansas, Senator BUMPERS, who as chairman of the Committee on Small Business held a series of hearings focusing attention on the problems under the program. The result of the Act was to strengthen the SBIC program and to correct serious weaknesses that had been exposed by well publicized problems of the past.

Since the 1992 Act became law, more than 30 new participating security SBICs with nearly $500 million in private capital have been licensed by SBA, and 17 new SBICs with over $200 million of private capital have been licensed as debenture SBICs.

There is a significant difference between the SBICs licensed before the 1992 Act and the SBICs licensed under the more strict guidelines set forth under the 1992 Act. While the 1992 Act increased the minimum private capital threshold for licensing to $2.5 million for each debenture SBIC and $5 million for each new participating security SBIC, SBA has imposed even more strict standards in its regulations. Under the SBA rules, debenture SBICs must have a minimum of $5 million in private capital and participating security SBICs must have $10 million in private capital.

Since the 1992 Act has created two distinct types of SBICs, it allows for investments to be tailored to meet the needs of small businesses. For example, when a small business needs a loan and can meet projected interest payments, the traditional lending-type or debenture SBICs are available to make debt investments. For small businesses that need non-interest bearing investment capital, the participating security SBICs can offer an equity-type investment which anticipates an extended period of time, such as two to three years, before the small business is expected to begin repayment of this investment. In this latter case, interest payments are deferred until the investments begin to generate a positive return. Under the Participating Security program, the Federal government's return is not limited to repayment of principal and interest—it can also share in the profits of the SBIC.

During this Congress, I have chaired three hearings investigating the success and problems associated with the SBIC program. Testimony before the Senate Committee on Small Business has been supportive and positive. Numerous small business entrepreneurs have testified about their inability to obtain investment capital from banks and other traditional investment sources, and SBICs are frequently their only source of investment capital. Last year, Jerry Johnson, the Chief Executive Officer of Williams Brothers Lumber Co. located near Atlanta, testified that not one bank in the Atlanta area would speak with him about asset-based lending. After a lengthy search, he and his partner turned to Allied Capital Corp., a Washington, D.C.-based SBIC. Within 60 days of their first contact with Allied Capital Corp., Mr. Johnson was able to conclude his financing arrangement. Being able to clear this financing hurdle with the help of an SBIC, Mr. Johnson's company has grown significantly, adding many new employees and increasing its tax base.

Often, we hear about major success stories like Federal Express and the Callaway golf club co. that received SBIC funding at critical times in their early growth stages. It is, however, far more likely that businesses like the Williams Brothers Lumber Co. will be the typical beneficiaries of the SBIC program. These are ''Main Street'' enterprises located across America who have looked to traditional money sources and been turned away. The SBIC program is filling this niche—a large niche to say the least—that picks up where banks fear to tread and Wall Street is not interested because the investment size is too small. There are thousands of companies like Williams Brothers Lumber Company across the country that need investment financing to support growth and new jobs and have nowhere to turn but to the SBIC program to meet their demand for capital.

During the past year, the Committee on Small Business has received a great deal of information about the need to strengthen the SBIC program. In July 1995, Patricia Cloherty, Chair of SBA's private sector SBIC Reinvention Council, testified on the Council's recommendations to strengthen and expand the program. In addition, last summer the National Association of Investment Companies forwarded to the Committee on Small Business a copy of their recommendations to improve the SSBIC program, which was also submitted to SBA's SSBIC Advisory Council.

The involvement of the private sector in analyzing the performance of the SBIC program and the insight provided by these recommendations are commendable - and very helpful to this Committee. In 1995, the SBIC Reinvention Council recommended that new fees be imposed to lower the credit subsidy rate so that the program can provide a significant increase in leverage to licensed SBICs. It also recommended certain administrative changes to improve the management and operations of the SBIC program.

The National Association of Investment Companies (NAIC), which represents SSBICs, also recommended in 1995 that all statutory and regulatory distinctions between SBICs and SSBICs be eliminated, including the deletion of all references to social or economic disadvantage'' from the Small Business Investment Act. NAIC proposed creating a single, combined SBIC program that would retain an important focus on investments in small business at the smaller end of the eligible size standards. They recommended sensible improvements to make more investment capital available to more small businesses and proposed to remove the current restrictions that prohibit Specialized SBICs from investing in companies not owned by socially or economically disadvantaged persons. S. 1784 includes many of their recommendations.

NEW FEES FOR SBICS

The President's FY 1997 budget request included a recommendation that fees paid by SBICs be increased to finance a significant reduction in the credit subsidy rate. The Office of Management and Budget, recognizing the positive effect of some of the regulatory changes already implemented by SBA, now is using a lower projected default rate, thereby reducing the credit subsidy rate for debenture and participating security licensees under the SBIC program.

The Administration's recommendation to lower the credit subsidy rate by increasing fees is similar to one made last year in their amended FY 1996 budget request for the 7(a) Guaranteed Business Loan Program. Accompanying their request for a fee increase were statements by SBA about how well the 7(a) program was performing.

What happened following SBA's positive predictions for the 7(a) program

has been alarming. Based in part on SBA's glowing report card on the 7(a) program, Congress passed legislation to raise fees and lower the subsidy rates of the program. The changes became law in October 1995, which is about the same time SBA and OMB were beginning to work on their most recent budget request which raises the 7(a) credit subsidy rate by 150% and the cost of the program by $180 million. This higher cost is the direct result of greater losses from loan defaults and lower recoveries from liquidations.

As Chairman of the Committee on Small Business, I believe it is prudent for Congress to take steps so that we do not allow a repeat of the 7(a) problem with the SBIC program. Based on our experience last year, Congress should not approve any decrease in the credit subsidy rate through the increase of fees without taking some corresponding steps to strengthen the safety and soundness of the SBIC program.

SBICS IN LIQUIDATION

In addition, evidence before the Committee on Small Business about the failure of SBA to maximize its recoveries from failed SBICs is alarming. SBA acknowledges there are assets with a value of approximately $500 million tied up with SBICs in liquidation. To make this situation even more alarming, many of these failed SBICs have been in liquidation for over ten years, including one that was transferred into liquidation on January 5, 1967.

S. 1784 directs SBA to submit to the Senate and House Committees on Small Business, no later than October 15, 1996, a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation. This plan should include a timetable for liquidating the liquidation portfolio of assets owned by SBA.

In addition, SBA needs to take a hard look at how it manages failed SBICs that are in receivership. It is not a sufficient explanation for SBA to claim it is at the mercy of the court system in winding up the affairs of SBICs in receivership. In each case, the court acts in response to SBA's petition, has named SBA the receiver, and SBA has retained independent contractors to act as principal agents for the receivership. These principal agents are paid hourly and appear to have little or no incentive to wind up the affairs of an SBIC. In fact, the opposite is true, and the real incentive appears to be to drag out the receivership as long as possible. Based on SBA replies to requests for information from the Committee on Small Business, we have learned that these principal receivers agents bill significant hours each year. In FY 1995, one principal agent billed over 3,200 hours for one year, the equivalent of over 8 hours per day for 365 days. Other principal agents billed over 2,500 hours each for FY 1995.

At the time of the Committee's inquiry into these billing practices, SBA gave no indication that it felt they were unusual. It is clear to me that without incentives to complete action on these SBICs in receivership, the current system used by SBA will allow these abuses to continue. Although the Committee did not reach a consensus on my proposal to create an incentive based system to improve recoveries from SBICs in receivership, we will continue to monitor SBA's performance closely in this area.

For several months starting late last year, the Committee worked on draft legislation to strengthen and enhance the SBIC program. S. 1784, the Small Business Investment Company Improvement Act of 1996, is the result. It incorporates recommendations from SBA's SBIC Reinvention Council, the National Association of Investment Companies, the National Association of Small Business Investment Companies, and the President's FY 1997 budget request.

S. 1784 was approved by the Senate Committee on Small Business by a unanimous 18–0 vote. It makes substantial progress toward our goal of strengthening the SBIC program, while allowing the program to expand, providing more investment capital to small businesses as the cost and risk to the government declines. It was only after nearly 18 months of study and investigation that we were able to produce such a bill. S. 1784 is sound legislation that improves the safety and soundness of the SBIC program and makes more investment capital available to small businesses. And it accomplishes all of these goals while reducing the risk of loss to the government. It is for these reasons that I recommend to my colleagues that they vote in favor of S. 1784.

Mr. President, I ask unanimous consent that a section-by-section analysis of this bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This Act may be cited as the ''Small Business Investment Company Improvement Act of 1996''.

SECTION 2. DEFINITIONS

The definition of ''small business concern'' is amended to make clear that investments from venture capital firms or pension plans in small businesses do not affect the small business' size standard as set forth under the Small Business Act.

A new term, ''smaller enterprise'' is included in the Act. A smaller enterprise is a business with net financial worth no greater than $6 million and an average net income of no more than $2 million.

''Qualified non-private funds'' are defined as funds invested by state or local governments in SSBIC's. The bill limits the amount of qualified private, non-private funds that can be included in the private capital of an SBIC. No more than 20% of private capital can be qualified non-private funds invested on or after June 30, 1996. 33% of private capital can be from these funds if invested prior to June 30, 1996.

For the first time, the Small Business Investment Act is amended to include ''limited liability company'' as the one of the business entities that can qualify to be an SBIC. Current statute allows corporations and partnerships to be SBICs. The ''limited liability company'' is a relatively new business entity that is being organized for raising venture capital.

SECTION 3. ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

This bill includes provisions to speed up the processing of applications from business entities who want to be licensed by SBA as an SBIC. It requires SBA to provide the applicant with a written report detailing status of the application within 90 days of receipt of the application. In addition it states that no application can be denied because Congress has not appropriated sufficient funds to meet leverage demands.

This bill also permits SBA to approve a new license applicant which has not less than $3 million in private capital so long as the applicant meets all other licensing requirements. Once approved as a licensee, however, the SBIC would not be eligible for leverage until its private capital reaches $5 million.

Section 301(d) of the Small Business Investment Company Act of 1958 is repealed.

SECTION 4. CAPITAL REQUIREMENTS

Under this bill, the minimum capital requirements for new license applicants is increased. To be a debenture licensee, new applicants must have $5 million in private capital. To be a participating security licensee, new applicants must have $10 million in private capital; however, SBA is given the discretion to approve a participating security applicant if it has less than $10 million but more than $5 million so long as SBA determines that approval of that applicant would not create or otherwise contribute to an unreasonable risk of default or loss to the federal government.

This bill also grandfathers existing licensees in the program and includes provisions under which they will be exempt from the increased capital requirement. Licensees with a record of regulatory compliance and profitable operations will continue to be eligible for leverage, based upon the exercise of SBA discretion. Any licensee which continues to receive leverage under this exemption must certify that 50% of its aggregate dollar investments are going to smaller enterprises.

The bill directs SBA to ensure that each licensee licensed after enactment of this bill maintains diversification between the management and ownership of the licensee. This is a safety and soundness measure design to maintain independence and objectivity in the financial management and oversight of the investment and operations of the SBIC.

SECTION 5. BORROWING

This provision requires SBA to regulate SBICs closely to ensure that they do not incur excessive third party debt which would create or contribute to an unreasonable risk of default or loss to federal government. In addition, this provision requires that each SBIC, regardless of its size, invest at least 20% of its aggregate dollar investments in smaller enterprises.

This section also requires SBA to ensure that no SBIC receives leverage when it is under capital impairment. This will be a judgment call by SBA which will take in to consideration the nature of assets of the SBIC and the amount and terms of any third party debt owed by the SBIC.

This section also includes two increases in fees to be paid by SBICs to SBA. First, SBICs would pay an annual charge of 50 basis point on the value of all outstanding leverage granted after the effective date. In addition, the non-refundable up-front fee which is currently 2% would be increased to 3% of new leverage amounts.

SECTION 6. LIABILITY OF THE UNITED STATES

This section restates and clarifies the limits of liability on SBA under this program.

SECTION 7, EXAMINATIONS; VALUATIONS

This is a section designed to improve the examination and oversight function of SBA to enhance the safety and soundness of the program. It requires each SBIC to adopt valuation criteria set forth by SBA to be used for establishing the values of loans and investments of each SBIC. This section requires that an independent certified accountant approved by SBA review these valuations at least once a year to ensure that these requirements are being met.

SECTION 8. TRUSTEE OR RECEIVERSHIP OVER LICENSEES

This section states that it is the finding of the Congress that increased recoveries of assets in liquidation under the SBIC program are in the best interest of the Federal Government. Not later than October 15, 1996, SBA is directed to submit to the Senate and House Committees on Small Business a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation. This plan in to include a timetable for liquidating the liquidation portfolio of assets owned by SBA.

SECTION 9. BOOK ENTRY REGISTRATION

This section permits the use of electronic means for registration of trust certificates.

SECTION 10. TECHNICAL AND CONFORMING AMENDMENTS

An SBIC preferred stock buy back program was authorized by Congress effective November 1, 1989. This bill directs that any monies received by SBA under this repurchase program shall be used solely to guarantee debenture leverage for SBICs that maintain an investment protfolio with 50% of its investments in smaller enterprises.

SECTION 11. AUTHORIZATION OF APPROPRIATIONS

This section increases the authorization for debenture leverage from $200 million to $300 million for FY 1997.

SECTION 12. EFFECTIVE DATE

This Act and any amendments will become effective on the date of enactment.

SECTION 13. EXTENSION OF SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

This section provides for a one year extension of the Small Business Competitiveness Demonstration Program Act, which would otherwise expire on September 30, 1996.

AMENDMENT NO. 5090

Mr. MURKOWSKI. Mr. President, I understand there is an amendment at the desk offered by Senators BOND and BUMPERS. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. BOND, for himself, and Mr. BUMPERS, proposes an amendment numbered 5090.

On page 49, line 4, add the following new section:

SEC 13, EXTENSION OF SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''September 30, 1996'' and inserting ''September 30, 1997''.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 5090) was agreed to.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to, the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table, and any statement relating to the bill be placed at the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 1784), as amended, was deemed read the third time and passed, as follows:

S. 1784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Improvement Act of 1996''.

SEC. 2. DEFINITIONS.

(a) SMALL BUSINESS CONCERN.—Section 103(5) of the Small Business Investment Act of 1958 (15 U.S.C. 662(5)) is amended by inserting before the semicolon the following: '', except that, for purposes of this Act, an investment by a venture capital firm, investment company (including a small business investment company) employee welfare benefit plan or pension plan, or trust, foundation, or endowment that is exempt from Federal income taxation—

''(A) shall not cause a business concern to be deemed not independently owned and operated;

''(B) shall be disregarded in determining whether a business concern satisfies size standards established pursuant to section 3(a)(2) of the Small Business Act; and

''(C) shall be disregarded in determining whether a small business concern is a smaller enterprise''.

(b) PRIVATE CAPITAL.—Section 103(9) of the Small Business Investment Act of 1958 (15 U.S.C. 662(9)) is amended to read as follows:

''(9) the term 'private capital'—

''(A) means the sum of—

''(i) the paid-in capital and paid-in surplus of a corporate licensee, the contributed capital of the partners of a partnership licensee, or the equity investment of the members of a limited liability company licensee; and

''(ii) unfunded binding commitments, from investors that meet criteria established by the Administrator, to contribute capital to the licensee: *Provided,* That such unfunded commitments may be counted as private capital for purposes of approval by the Administrator of any request for leverage, but leverage shall not be funded based on such commitments; and

''(B) does not include any—

''(i) funds borrowed by a licensee from any source;

''(ii) funds obtained through the issuance of leverage; or

''(iii) funds obtained directly or indirectly from any Federal, State, or local government, or any government agency or instrumentality, except for—

''(I) funds invested by an employee welfare benefit plan or pension plan; and

''(II) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the licensee);''.

(c) NEW DEFINITIONS.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended by striking paragraph (10) and inserting the following:

''(10) the term 'leverage' includes—

''(A) debentures purchased or guaranteed by the Administration;

''(B) participating securities purchased or guaranteed by the Administration; and

''(C) preferred securities outstanding as of October 1, 1995;

''(11) the term 'third party debt' means any indebtedness for borrowed money, other than indebtedness owed to the Administration;

''(12) the term 'smaller enterprise' means any small business concern that, together with its affiliates—

''(A) has—

''(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this Act to that business concern; and

''(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this Act to that business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses); or

''(B) satisfies the standard industrial classification size standards established by the Administration for the industry in which the small business concern is primarily engaged;

''(13) the term 'qualified nonprivate funds' means any—

''(A) funds directly or indirectly invested in any applicant or licensee on or before August 16, 1982, by any Federal agency, other than the Administration, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term 'private capital';

''(B) funds directly or indirectly invested in any applicant or licensee by any Federal agency under a provision of law enacted after September 4, 1992, explicitly mandating the inclusion of those funds in the definition of the term 'private capital'; and

''(C) funds invested in any applicant or licensee by one or more State or local government entities (including any guarantee extended by those entities) in an aggregate amount that does not exceed—

''(i) 33 percent of the private capital of the applicant or licensee, if such funds were committed for investment before the date of enactment of the Small Business Investment Company Improvement Act of 1996; or

''(ii) 20 percent of the private capital of the applicant or licensee, if such funds were committed for investment on or after the date of enactment of the Small Business Investment Company Improvement Act of 1996;

''(14) the terms 'employee welfare benefit plan' and 'pension plan' have the same meanings as in section 3 of the Employee Retirement Income Security Act of 1974, and are intended to include—

''(A) public and private pension or retirement plans subject to such Act; and

''(B) similar plans not covered by such Act that have been established and that are maintained by the Federal Government or any State or political subdivision, or any agency or instrumentality thereof, for the benefit of employees;

''(15) the term 'member' means, with respect to a licensee that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company; and

''(16) the term 'limited liability company' means a business entity that is organized and operating in accordance with a State limited liability company statute approved by the Administration.''.

SEC. 3. ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES.

(a) LIMITED LIABILITY COMPANIES.—Section 301(a) of the Small Business Investment Act of 1958 (15 U.S.C. 681(a)) is amended in the

first sentence, by striking ''body or'' and inserting ''body, a limited liability company, or''.

(b) ISSUANCE OF LICENSE.—Section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. 681(c)) is amended to read as follows:

''(c) ISSUANCE OF LICENSE.—

''(1) SUBMISSION OF APPLICATION.—Each applicant for a license to operate as a small business investment company under this Act shall submit to the Administrator an application, in a form and including such documentation as may be prescribed by the Administrator.

''(2) PROCEDURES.—

''(A) STATUS.—Not later than 90 days after the initial receipt by the Administrator of an application under this subsection, the Administrator shall provide the applicant with a written report detailing the status of the application and any requirements remaining for completion of the application.

''(B) APPROVAL OR DISAPPROVAL.—Within a reasonable time after receiving a completed application submitted in accordance with this subsection and in accordance with such requirements as the Administrator may prescribe by regulation, the Administrator shall—

''(i) approve the application and issue a license for such operation to the applicant if the requirements of this section are satisfied; or

''(ii) disapprove the application and notify the applicant in writing of the disapproval.

''(3) MATTERS CONSIDERED.—In reviewing and processing any application under this subsection, the Administrator—

''(A) shall determine whether—

''(i) the applicant meets the requirements of subsections (a) and (c) of section 302; and

''(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this Act;

''(B) shall take into consideration—

''(i) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;

''(ii) the general business reputation of the owners and management of the applicant; and

''(iii) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

''(C) shall not take into consideration any projected shortage or unavailability of leverage.

''(4) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, approve an application and issue a license under this subsection with respect to any applicant that—

''(i) has private capital of not less than $3,000,000;

''(ii) would otherwise be issued a license under this subsection, except that the applicant does not satisfy the requirements of section 302(a); and

''(iii) has a viable business plan reasonably projecting profitable operations and a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 302(a).

''(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a).''.

(c) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.—Section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)) is repealed.

SEC. 4. CAPITAL REQUIREMENTS.

(a) INCREASED MINIMUM CAPITAL REQUIREMENTS.—Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) is amended by striking ''(a)'' and all that follows through ''The Administration shall also determine the ability of the company,'' and inserting the following:

''(a) AMOUNT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each licensee shall be not less than—

''(A) $5,000,000; or

''(B) $10,000,000, with respect to each licensee authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administration under this Act.

''(2) EXCEPTION.—The Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, permit the private capital of a licensee authorized or seeking authorization to issue participating securities to be purchased or guaranteed by the Administration to be less than $10,000,000, but not less than $5,000,000, if the Administrator determines that such action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

''(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Administrator shall—

''(A) determine whether the private capital of each licensee is adequate to assure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles; and

''(B) determine that the licensee will be able''.

(b) EXEMPTION FOR CERTAIN LICENSEES.—Section 302(a) of the Small Business Investment Act of 1958 (15 U.S.C. 682(a)) is amended by adding at the end the following new paragraph:

''(4) EXEMPTION FROM CAPITAL REQUIREMENTS.—The Administrator may, in the discretion of the Administrator, exempt from the capital requirements in paragraph (1) any licensee licensed under subsection (c) or (d) of section 301 before the date of enactment of the Small Business Investment Company Improvement Act of 1996, if—

''(A) the licensee certifies in writing that not less than 50 percent of the aggregate dollar amount of its financings after the date of enactment of the Small Business Investment Company Improvement Act of 1996 will be provided to smaller enterprises; and

''(B) the Administrator determines that—

''(i) the licensee has a record of profitable operations;

''(ii) the licensee has not committed any serious or continuing violation of any applicable provision of Federal or State law or regulation; and

''(iii) such action would not create or otherwise contribute to an unreasonable risk of default or loss to the United States Government.''.

(c) DIVERSIFICATION OF OWNERSHIP.—Section 302(c) of the Small Business Investment Act of 1958 (15 U.S.C. 682(c)) is amended to read as follows:

''(c) DIVERSIFICATION OF OWNERSHIP.—The Administrator shall ensure that the management of each licensee licensed after the date of enactment of the Small Business Investment Company Improvement Act of 1996 is sufficiently diversified from and unaffiliated with the ownership of the licensee in a manner that ensures independence and objectivity in the financial management and oversight of the investments and operations of the licensee.''.

SEC. 5. BORROWING.

(a) DEBENTURES.—Section 303(b) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)) is amended in the first sentence, by striking ''(but only'' and all that follows through ''terms)''.

(b) THIRD PARTY DEBT.—Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended to read as follows:

''(c) THIRD PARTY DEBT.—The Administrator—

''(1) shall not permit a licensee having outstanding leverage to incur third party debt that would create or contribute to an unreasonable risk of default or loss to the Federal Government; and

''(2) shall permit such licensees to incur third party debt only on such terms and subject to such conditions as may be established by the Administrator, by regulation or otherwise.''.

(c) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—Section 303(d) of the Small Business Investment Act of 1958 (15 U.S.C. 683(d)) is amended to read as follows:

''(d) REQUIREMENT TO FINANCE SMALLER ENTERPRISES.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing that not less than 20 percent of the aggregate dollar amount of the financings of the licensee will be provided to smaller enterprises.''.

(d) CAPITAL IMPAIRMENT REQUIREMENTS.—Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended to read as follows:

''(e) CAPITAL IMPAIRMENT.—Before approving any application for leverage submitted by a licensee under this Act, the Administrator—

''(1) shall determine that the private capital of the licensee meets the requirements of section 302(a); and

''(2) shall determine, taking into account the nature of the assets of the licensee, the amount and terms of any third party debt owed by such licensee, and any other factors determined to be relevant by the Administrator, that the private capital of the licensee has not been impaired to such an extent that the issuance of additional leverage would create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.''.

(e) EQUITY INVESTMENT REQUIREMENT.—Section 303(g)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(4)) is amended by striking ''and maintain''.

(f) FEES.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b), in the fifth sentence, by striking ''1 per centum'', and all that follows before the period at the end of the sentence and inserting the following: ''1 percent, plus an additional charge of .50 percent per annum which shall be paid to and retained by the Administration'';

(2) in subsection (g)(2), by striking ''1 per centum,'' and all that follows before the period at the end of the paragraph and inserting the following: ''1 percent, plus an additional charge of .50 percent per annum which shall be paid to and retained by the Administration''; and

(3) by adding at the end the following new subsections:

''(i) LEVERAGE FEE.—With respect to leverage granted by the Administration to a licensee, the Administration shall collect from the licensee a nonrefundable fee in an amount equal to 3 percent of the face amount of leverage granted to the licensee, payable upon the earlier of the date of entry into any commitment for such leverage or the date on which the leverage is drawn by the licensee.

''(j) CALCULATION OF SUBSIDY RATE.—All fees, interest, and profits received and retained by the Administration under this section shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures and participating securities under this Act.''.

SEC. 6. LIABILITY OF THE UNITED STATES.

Section 308(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687(e)) is amended by striking ''Nothing'' and inserting ''Except as expressly provided otherwise in this Act, nothing''.

SEC. 7. EXAMINATIONS; VALUATIONS.

(a) EXAMINATIONS.—Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended in the first sentence by inserting ''which may be conducted with the assistance of a private sector entity that has both the qualifications to conduct and expertise in conducting such examinations,'' after ''Investment Division of the Administration,''.

(b) VALUATIONS.—Section 310(d) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(d)) is amended to read as follows:

''(d) VALUATIONS.—

''(1) FREQUENCY OF VALUATIONS.—

''(A) IN GENERAL.—Each licensee shall submit to the Administrator a written valuation of the loans and investments of the licensee not less often than semiannually or otherwise upon the request of the Administrator, except that any licensee with no leverage outstanding shall submit such valuations annually, unless the Administrator determines otherwise.

''(B) MATERIAL ADVERSE CHANGES.—Not later than 30 days after the end of a fiscal quarter of a licensee during which a material adverse change in the aggregate valuation of the loans and investments or operations of the licensee occurs, the licensee shall notify the Administrator in writing of the nature and extent of that change.

''(C) INDEPENDENT CERTIFICATION.—

''(i) IN GENERAL.—Not less than once during each fiscal year, each licensee shall submit to the Administrator the financial statements of the licensee, audited by an independent certified public accountant approved by the Administrator.

''(ii) AUDIT REQUIREMENTS.—Each audit conducted under clause (i) shall include—

''(I) a review of the procedures and documentation used by the licensee in preparing the valuations required by this section; and

''(II) a statement by the independent certified public accountant that such valuations were prepared in conformity with the valuation criteria applicable to the licensee established in accordance with paragraph (2).

''(2) VALUATION CRITERIA.—Each valuation submitted under this subsection shall be prepared by the licensee in accordance with valuation criteria, which shall—

''(A) be established or approved by the Administrator; and

''(B) include appropriate safeguards to ensure that the noncash assets of a licensee are not overvalued.''.

SEC. 8. TRUSTEE OR RECEIVERSHIP OVER LICENSEES.

(a) FINDING.—It is the finding of the Congress that increased recoveries on assets in liquidation under the Small Business Investment Act of 1958 are in the best interests of the Federal Government.

(b) DEFINITIONS.—For purposes of this section—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration;

(2) the term ''Administration'' means the Small Business Administration; and

(3) the term ''licensee'' has the same meaning as in section 103 of the Small Business Investment Act of 1958.

(c) LIQUIDATION PLAN.—

(1) IN GENERAL.—Not later than October 15, 1996, the Administrator shall submit to the Committees on Small Business of the Senate and the House of Representatives a detailed plan to expedite the orderly liquidation of all licensee assets in liquidation, including assets of licensees in receivership or in trust held by or under the control of the Administration or its agents.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include a timetable for liquidating the liquidation portfolio of small business investment company assets owned by the Administration, and shall contain the Administrator's findings and recommendations on various options providing for the fair and expeditious liquidation of such assets within a reasonable period of time, giving due consideration to the option of entering into one or more contracts with private sector entities having the capability to carry out the orderly liquidation of similar assets.

SEC. 9. BOOK ENTRY REGISTRATION.

Subsection 321(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687*l*) is amended by adding at the end the following new paragraph:

''(5) Nothing in this subsection shall prohibit the utilization of a book entry or other electronic form of registration for trust certificates.''.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SMALL BUSINESS INVESTMENT ACT OF 1958.—The Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended—

(1) in section 303—

(A) in subsection (a), by striking ''debenture bonds,'' and inserting ''securities,'';

(B) by striking subsection (f) and inserting the following:

''(f) REDEMPTION OR REPURCHASE OF PREFERRED STOCK.—Notwithstanding any other provision of law—

''(1) the Administrator may allow the issuer of any preferred stock sold to the Administration before November 1, 1989 to redeem or repurchase such stock, upon the payment to the Administration of an amount less than the par value of such stock, for a repurchase price determined by the Administrator after consideration of all relevant factors, including—

''(A) the market value of the stock;

''(B) the value of benefits provided and anticipated to accrue to the issuer;

''(C) the amount of dividends paid, accrued, and anticipated; and

''(D) the Administrator's estimate of any anticipated redemption; and

''(2) any moneys received by the Administration from the repurchase of preferred stock shall be available solely to provide debenture leverage to licensees having 50 percent or more in aggregate dollar amount of their financings invested in smaller enterprises.''; and

(C) in subsection (g)(8)—

(i) by striking ''partners or shareholders'' and inserting ''partners, shareholders, or members'';

(ii) by striking ''partner's or shareholder's'' and inserting ''partner's, shareholder's, or member's''; and

(iii) by striking ''partner or shareholder'' and inserting ''partner, shareholder, or member'';

(2) in section 308(h), by striking ''subsection (c) or (d) of section 301'' each place that term appears and inserting ''section 301'';

(3) in section 310(c)(4), by striking ''not less than four years in the case of section 301(d) licensees and in all other cases,'';

(4) in section 312—

(A) by striking ''shareholders or partners'' and inserting ''shareholders, partners, or members''; and

(B) by striking ''shareholder, or partner'' each place that term appears and inserting ''shareholder, partner, or member'';

(5) by striking sections 317 and 318, and redesignating sections 319 through 322 as sections 317 through 320, respectively;

(6) in section 319, as redesignated—

(A) in subsection (a), by striking '', including companies operating under the authority of section 301(d),''; and

(B) in subsection (f)(2), by inserting ''or investments in obligations of the United States'' after ''accounts'';

(7) in section 320, as redesignated, by striking ''section 321'' and inserting ''section 319''; and

(8) in section 509—

(A) in subsection (a)(1), by striking the second sentence; and

(B) in subsection (e)(1)(B), by striking ''subsection (c) or (d) of section 301'' and inserting ''section 301''.

(b) AMENDMENT IN OTHER LAW.—Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by striking ''301(d)'' and inserting ''301''.

SEC. 11. AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) POWERS OF THE ADMINISTRATOR.—Section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)) is amended by striking the colon and all that follows before the semicolon at the end of the paragraph and inserting the following: '': *Provided*, That with respect to deferred participation loans, the Administrator may, in the discretion of and pursuant to regulations promulgated by the Administrator, authorize participating lending institutions to take actions relating to loan servicing on behalf of the Administrator, including determining eligibility and creditworthiness and loan monitoring, collection, and liquidation''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 20(p)(3) of the Small Business Act (15 U.S.C. 631 note) is amended by striking subparagraph (B) and inserting the following:

''(B) $300,000,000 in guarantees of debentures; and''.

FALSE STATEMENTS PENALTY RESTORATION ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3166 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3166) to amend title 18, United States Code, with respect to the crime of false statement in a Government matter.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5091

(Purpose: To propose a substitute)

Mr. MURKOWSKI. Mr. President, I understand there is a substitute amendment at the desk offered by Senator SPECTER, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] for Mr. SPECTER, for himself, Mr. LEVIN, Mr. ROTH, Mr. NUNN, Mr. STEVENS, Mr. INOUYE, Mr. GRASSLEY, Mr. LEAHY, Mr. COHEN, Mr. KOHL, and Mr. JEFFORDS, proposes an amendment numbered 5091.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''False Statements Penalty Restoration Act''.

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Section 1001 of title 18, United States Code, is amended to read as follows:

''§ 1001. Statements or entries generally

''(a) PROHIBITED CONDUCT.—

''(1) IN GENERAL.—A person shall be punished under subsection (b) if, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Federal Government, or any department, agency, committee, subcommittee, or office thereof, that person knowingly and willfully—

''(A) falsifies, conceals, or covers up, by any trick, scheme, or device, a material fact;

''(B) makes any materially false, fictitious, or fraudulent statement or representation; or

''(C) makes or uses any false writing or document, knowing that the document contains any materially false, fictitious, or fraudulent statement or entry.

''(2) APPLICABILITY.—This section shall not apply to parties to a judicial proceeding or anyone seeking to become a party to a judicial proceeding, or their counsel, for statements, representations, or documents submitted by them to a judge in connection with the performance of an adjudicative function.

''(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned not more than 5 years, or both.''.

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) CORRUPTLY.—As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''.

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking ''Federal Government acting within his official capacity'' and inserting ''executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government''.

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''or ancillary to'' after ''any proceeding before''; and

(2) in subsection (b)—

(A) in paragraphs (1) and (2), by inserting ''or ancillary to'' after ''a proceeding before'' each place that term appears; and

(B) in paragraph (3), by adding a period at the end.

Mr. SPECTER. Mr. President, I am pleased that the Senate is acting on the False Statements Penalty Restoration Act so quickly after the substitute was reported by the Judiciary Committee. This is important legislation to safeguard the constitutional legislative and oversight roles of the Congress.

Last year, overturning a decision it had rendered in 1955, the Supreme Court of the United States held in Hubbard versus United States that section 1001 of title 18 of the United States Code, the section of the Federal criminal code prohibiting false statements, only covered false statements made to executive branch agencies. That decision put at grave risk the ability of Congress to collect correct information, as false statements to Congress could no longer be punished. Congressional oversight and investigations would clearly be threatened if those interviewed could lie with impunity. Simple requests for information by Congress, its committees and subcommittees, or its offices, could be met with lies. Investigations by the General Accounting Office could likewise be stonewalled by witnesses providing false information.

Within days of the Hubbard decision, I had introduced S. 830 to overturn that decision. Earlier this year, I introduced revised legislation, S. 1734, joined by Senator LEVIN. Joining us in introducing this important bill were Senators STEVENS, NUNN, COHEN, LEAHY, JEFFORDS, INOUYE, and KOHL. Subsequently, both Senators ROTH and GRASSLEY became cosponsors. The broad bipartisan cosponsorship of this bill by some of the Senate's leading investigators and practitioners of oversight is testimony to the threat posed by Hubbard to our ability to conduct our constitutional responsibilities.

This bill is needed not simply for the practical reasons I have briefly outlined, but because it is important to make it clear that intentional false statements to Congress are just as pernicious as those made to an agent of the executive branch. We are of equal standing with the executive and the dignitary injury to the standing of Congress done by Hubbard must be overturned promptly.

Support for this bill comes not only from many of our colleagues. The Justice Department has been very supportive and quite helpful in crafting several of the bill's provisions. The Judiciary Committee heard from Deputy Assistant Attorney General Robert Litt in support of extending the coverage of section 1001 to Congress and the courts. I am grateful to the Criminal Division and the Office of Legal Counsel of the Justice Department for their assistance and insight in crafting the provisions of this bill, especially parts of section 2 and section 4.

The bill contains four substantive provisions, which I would like to summarize and briefly explain to my colleagues, so that they may fully understand the impact of this bill.

First is the provision to amend section 1001 of title 18 of the United States Code to prohibit false statements to executive agencies and departments, Congress, and the Federal courts. This provision is central to this bill. It is intended to restore section 1001 to its pre-Hubbard status. Any knowing and willful false statement that is material which is made to Congress, including any committee or subcommittee, staff of any member or committee or subcommittee acting in their official capacity, or any component or office of Congress shall be punishable under section 1001. For 40 years, this was the law of the land and there was no abuse. There is no evidence that between 1955 and 1995, the rights of individuals to provide information to Congress, to petition Congress, or to testify before Congress were chilled because of the application of section 1001 to false statements made to Congress. My research finds no prosecutions of any constituent, for example, furnishing false information to a Member of Congress. Thus, the bill does not contain any exceptions to the general rule that any knowing, willful, and material false statement to Congress will be punishable under section 1001.

The bill also prohibits false statements made to the Federal courts. Prior to Hubbard, the Federal courts had created a ''judicial function'' exception to section 1001 to carve out from the coverage of the law false statements made in the course of advocacy before a court. In order to capture the pre-Hubbard application of section 1001, this bill will codify for the first time a judicial function exception to section 1001. The language of the exception was suggested by the Justice Department, although it contains an additional limitation on which I insisted, which was to limit the application of the exception to false statements made to a judge in the performance of an adjudicative function.

The bill will exempt from the coverage of section 1001, any statement made by a party to litigation or anyone seeking to become a party, or their counsel, to a judge acting in an adjudicative capacity. In general, the only individuals making statements in court are witnesses, who are already under oath and thereby subject to prosecution for perjury, and parties and their counsel. Knowing, willful and material false statements made by parties or their counsel ought to be exempt for several reasons. First, we do not want to chill committed advocacy in court on behalf of any party. Our adversary system requires unfettered advocacy, which application of section 1001 could chill. In addition, our adversary system means that there is an opponent who

can call a false statement to the court's attention, supplying a necessary antidote. That is not the case in congressional hearings, during which there may not be anyone to point out and correct false statements. Thus, a similar exemption is not warranted for congressional proceedings. Finally, courts retain adequate alternatives to punish and deter false statements, including the contempt power and lesser sanctions provided for in the Federal Rules of Civil and Criminal Procedure and in the courts' inherent power. Congress lacks these alternative sanctions, which is yet another reason for not including a similar exemption for congressional proceedings.

The judicial function exception applies only to false statements made to a judge exercising its adjudicative authority, and not when it is exercising administrative authority. For example, the submission of a false bill to a judge by a lawyer for payment under the Criminal Justice Act would be punishable under the revised section 1001, because the false statement would not be made to the court in its adjudicative function. Also punishable would be applications for membership in the bar of a particular Federal court. The reason for the distinction is that many of the safeguards derived from the adversarial system that might call the false statement to the judge's attention are not present, warranting application of section 1001.

The next three sections of the bill are derived from legislation introduced by Senators LEVIN, NUNN, and INOUYE. TWO OF THEM PASSED THE SENATE IN 1988 BUT WERE NOT ENACTED.

Section three of the bill will overturn a 1991 decision of the United States Court of Appeals for the District of Columbia Circuit in United States versus Poindexter. In that case, the D.C. Circuit held that the statute prohibiting obstruction of Congress applies only to persons who attempt to obstruct a congressional inquiry indirectly through another person, and not to witnesses themselves. The bill would overturn this decision and clarify that an individual acting alone could be liable for obstructing Congress.

The next section of the bill is intended to clarify when the Senate may enforce a subpoena against an officer or employee of the executive branch who asserts a privilege in response to a Senate subpoena. The intent is to make it clear that judicial enforcement is available when a person is asserting a privilege personal to him or her, but not when the person is asserting a governmental privilege available only to the executive branch. When a private person asserts a privilege, section 1365 of title 28 of the United States Code allows the Senate to go to court to seek to compel responses. The section does apply to any action to enforce a subpoena against an executive branch employee who declines to testify by asserting a governmental privilege. The purpose is to keep disputes between the executive and legislative branches out of the courtroom.

In order to clarify whether the privilege asserted does in fact belong to the government, thus rendering section 1365 inapplicable, or is instead a personal privilege, the bill will revise section 1365 to require that any governmental privilege asserted must be authorized by the executive branch. It is the sponsors' intention, worked out with the Justice Department, to ensure the utmost flexibility in establishing the valid assertion of a governmental privilege. No particular form is required; it simply must be clear that the executive has authorized the assertion of the privilege. In addition, the language of the provision demonstrates our intention that the person asserting the privilege will bear the burden in a judicial proceeding under section 1365 of proving that he or she was in fact authorized to assert a governmental privilege. This change will prevent rogue employees from falsely asserting a privilege and escaping efforts to compel responses.

Finally, the bill amends section 6005 of title 18 to authorize Congress to compel testimony under oath from an immunized witness in a deposition. This change will enable Members and their staff to more readily conduct preliminary investigations as part of congressional inquiries.

I want to thank the cosponsors of this bill for their assistance, particularly Senator LEVIN and Elise Bean of his staff; the chairman and ranking Member of the Judiciary Committee, Senators HATCH and BIDEN, and their staff, especially Paul Larkin and Michael Kennedy of the majority and Peter Jaffe of the minority staff; the Department of Justice; and the Senate Legal Counsel, Thomas B. Griffith, and his deputy, Morgan Frankel, for their assistance.

I look forward to resolving any differences with the House bill promptly so that this important bill can be enacted before the close of this Congress.

Mr. LEVIN. Mr. President, as a sponsor of S. 1734, the False Statements Penalty Restoration Act, I am pleased to join Senator SPECTER in urging Senate passage of H.R. 3166, the House companion legislation with a Specter-Levin substitute amendment which is the Senate text; this legislation is to restore criminal penalties for knowing, willful, material false statements made to a federal court or Congress.

Forty years ago, in 1955, the Supreme Court interpreted 18 U.S.C. 1001 to prohibit knowing, willful, material false statements not only to the executive branch, but also to the judicial and legislative branches. For 40 years, this government-wide prohibition was the law of the land, and it served this country well. But last year, in Hubbard v. United States, the Supreme Court reversed these 40 years of precedent and held that Section 1001 prohibits false statements only to the executive branch, and not to any co-equal branch.

The Supreme Court based its decision on the wording of the statute which doesn't explicitly reference either the courts or Congress. The Court noted in Hubbard that it had failed to find in the statute's legislative history ''any indication that Congress even considered whether [Section 1001] might apply outside the Executive Branch.'' [Emphasis in original.]

The obvious result of the Hubbard decision has been to reduce parity among the three branches. And the new interbranch distinctions are difficult to justify, since there is no logical reason why the criminal status of a willful, material false statement should depend upon which branch of the Federal Government received it.

Fortunately, this problem does not involve constitutional issues or require complex legislation. It is simply a matter of inserting a clear statutory reference in Section 1001 to all three branches of government.

Senator SPECTER and I each introduced bills last year to supply that missing statutory reference. This year, we decided to join forces, along with a number of our colleagues, and introduce a single bill to restore parity among the branches. We also worked closely with the Justice Department to produce a bill that the administration would support. It is this bipartisan bill, which the Judiciary Committee has approved with unanimous support, that is before you today.

The bill contains four provisions, each of which would strengthen the ability of Congress to conduct its legislative, investigative and oversight functions, as well as to restore parity among the three branches of Government.

The first provision would amend section 1001 to make it clear that its prohibition against willful, material false statements applies government-wide to all three branches. The purpose of this provision is essentially to restore the status quo prior to Hubbard.

As part of that restorative effort, the bill includes a provision codifying a long-standing judicial branch exception, developed in case law, to exempt from Section 1001 statements made during adjudicative proceedings in a courtroom, in order to ensure vigorous advocacy. The classic example justifying this exception has been to ensure that a criminal defendant pleading ''not guilty'' to an indictment does not risk prosecution under Section 1001.

The wording of this exception includes suggestions from the Justice Department and Judiciary Committee to clarify its scope and provide adequate notice of the conduct covered. The exception is limited, for example, to parties to a judicial proceeding, persons seeking to become parties, and their legal counsel. It is also limited to statements made to a judge performing an adjudicative function.

The second provision of S. 1734 would strengthen the 50-year-old statute that prohibits obstruction of Congressional

investigations, 18 U.S.C. 1505, which has also been weakened by a court case. In 1991, in a dramatic departure from other circuits, the D.C. Circuit Court of Appeals held in United States v. Poindexter that the statute's prohibition against corruptly obstructing a Congressional inquiry was unconstitutionally vague and failed to provide clear notice that it prohibited an individual's lying to Congress. The court held that, at most, the statute prohibited one person from inducing another person to lie or otherwise obstruct Congress.

The Senate bill would affirm instead the views held by the other circuits and bring the Congressional statute back into line with other Federal obstruction statutes, by making it clear that Section 1505 prohibits obstructive acts by a person acting alone as well as when inducing another to act. The bill would also make it clear that the prohibition against obstructing Congress bars a person from making false or misleading statements and from withholding, concealing, altering or destroying documents requested by Congress. The bill would, in short, restore the strength and usefulness of the Congressional obstruction statute as well as restore its parity with other obstruction statutes protecting federal investigations.

The final two sections of the bill would clarify the ability of Congress to compel testimony and documents. Both provisions are taken from a 1988 bill, S. 2350, sponsored by then Senator Rudman and cosponsored by Senator INOUYE, which passed the Senate unanimously but was never enacted into law.

The first of these two provisions would clarify when Congress may obtain judicial enforcement of a Senate subpoena under 28 U.S.C. 1365. Section 1365 generally authorizes judicial enforcement of a Senate subpoena, except when a subpoena has been issued to an executive branch official acting in his or her official capacity—an exception that seeks to keep interbranch disputes out of the courtroom. S. 1734 would not eliminate or restrict this exception, but would make it clear that the exception applies only to an executive branch official asserting a governmental privilege that he or she has been authorized to assert. The bill would make it clear that an executive branch official asserting a personal privilege or asserting a governmental privilege without being authorized to do so could not automatically escape judicial enforcement of the Senate subpoena under Section 1365.

This provision, revised from the bill as introduced, includes suggestions from the Justice Department to make it clear that an official can establish in several ways that he or she has been authorized to assert a governmental privilege including, for example, by providing a letter or affidavit from an appropriate senior government official. The provision is also intended to make it clear that the person resisting compliance with the Senate subpoena has the burden of proving that his or her action had, in fact, been authorized by the executive branch.

The fourth and final provision involves individuals given immunity from criminal prosecution by Congress. The bill would re-word the Congressional immunity statute, 18 U.S.C. 6005, to parallel the wording of the judicial immunity statute, 18 U.S.C. 6003, and make it clear that Congress can compel testimony from immunized individuals not only in committee hearings, but also in ''ancillary'' proceedings such as depositions conducted by committee members or committee staff. This provision, like the proceeding one, would improve the Senate's ability to compel testimony and obtain requested documents. It would also bring greater consistency across the government in how immunized witnesses may be questioned.

Provisions to bar false statements and compel testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances that have arisen among the branches in these areas. It rests on the premise that the courts and Congress ought to be treated as co-equal to the executive branch when it comes to prohibitions on false statements. I urge you to join Senator SPECTER, myself and our cosponsors in supporting swift passage of this important legislation.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the amendment be considered as read and agreed to, the bill be deemed read a third time, passed, as amended, the motion to reconsider be laid upon the table, and an amendment to the title which is at the desk be agreed to, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The amendment (No. 5091) was agreed to.

The bill (H.R. 3166), as amended, was deemed read the third time and passed.

The title was amended so as to read: ''To prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.''

FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT ACT OF 1995

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 339, H.R. 782.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employee Representation Improvement Act of 1996''.

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

''(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

''(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

''(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

''(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

''(A) is a claim under subsection (a)(1) or (b)(1);

''(B) is a judicial or administrative proceeding where the organization or group is a party; or

''(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.''.

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

''(i) Nothing in this section prevents an employee from acting pursuant to—

''(1) chapter 71 of title 5;

''(2) section 1004 or chapter 12 of title 39;

''(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

''(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

''(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.''.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the committee amendment, as amended, be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 782), as amended, was deemed read the third time and passed.