based on color and race allowed this country to tap the talents of 100% of her people, and in so doing, expand and strengthened the pool of talent in defense of the liberties of us all.

The audacity of Truman's decision and his vision, were controversial at the time, but the wisdom of it paved the way not only or a winning military, but a nation's opportunity to live up to its promise. The valor of many of those who served was overlooked or downplayed at the time, as the nation undertook the slow adjustment to the change Truman encouraged. We are just now, after a Shaw University study and the reexamination of some of their contributions, acknowledging the role and heroism of some of those soldiers. Just last year, the President awarded medals of honor to seven black Americans for their valor in World War II.

Truman recognized the value of diversity. It lay not only in the singular talent and contributions of some, but in the collective vigor of the whole. Our great nation has been forged by the sacrifice of Americans of every stripe, by the values which define us as one people. The military services have led the country in providing opportunities for excellence, and the defense of our country has benefitted from that leadership. Excellence and honor, valor and patriotism are values which bring us together as Americans, and shape our national character. Truman's decision made us a ''More Perfect Nation'' and continues to this day to be a shinning example of leadership.

I urge my colleagues to join me in sponsoring this resolution, and in doing so celebrating the diversity of our nation's Armed Forces.

Mr. WARNER. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD at the appropriate place as if read.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Con. Res. 104), with its preamble, reads as follows:

Whereas 50 years ago on July 28, 1948, President Truman issued Executive Order No. 9981 that stated that it is essential that there be maintained in the Armed Services of the United States the highest standards of democracy, with equality of treatment and opportunity for all those who serve in our country's defense;

Whereas President Truman declared that there shall be equality of treatment and opportunity for all persons in the Armed Services without regard to race, color, religion, or national origin;

Whereas soon after the Executive order was issued American soldiers fighting in Korea led the way to a fully integrated Army;

Whereas after the enactment of the Civil Rights Act of 1964, the Armed Forces resolved to implement the legislation as a new opportunity to provide all members of the Armed Forces with freedom from discrimination within and outside its military communities;

Whereas the efforts of the Armed Forces to ensure the equality of treatment and opportunity for its members contributed significantly to the advancement of that goal for all Americans;

Whereas minorities serve today in senior leadership positions throughout the Armed Forces, as officers, senior non-commissioned officers, and civilian leaders; and

Whereas the Armed Forces have demonstrated a total and continuing commitment to ensuring the equality of treatment and opportunity for all persons in the Total Force, both military and civilian: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) commends the United States Armed Forces for its efforts, leadership, and success in providing equality of treatment and opportunity; and

(2) recognizes the commemoration by the Department of Defense on July 24, 1998, of the 50th anniversary of the integration of the Armed Forces.

NAZI WAR CRIMES DISCLOSURE ACT

Mr. WARNER. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 323, S. 1379.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1379) to amend section 552 of title V, United States Code and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

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 inserting in lieu thereof the following:

[SEC. 4. EXPEDITED PROCESSING OF REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

[(a) DEFINITIONS.—In this section, the term—

[(1) ''Nazi war criminal record'' has the meaning given the term under section 552(h)(1) of title 5, United States Code (as added by section 2(a)(2) of this Act); and

[(2) ''requester'' means any person who was persecuted in the manner described under section 552(h)(1)(A) of title 5, United States Code (as added by section 2(a)(2) of this Act), who requests a Nazi war criminal record.

[(b) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

[SEC. 5. EFFECTIVE DATE.

[The amendments made by this Act shall apply to requests under section 552 of title 5, United States Code (known as Freedom of Information Act requests) received by an agency after the expiration of the 90-day period beginning on the date of enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nazi War Crimes Disclosure Act''.

SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

(a) DEFINITIONS.—In this section the term—

(1) ''agency'' has the meaning given such term under section 551 of title 5, United States Code;

(2) ''Interagency Group'' means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) ''Nazi war criminal records'' has the meaning given such term under section 3 of this Act; and

(4) ''record'' means a Nazi war criminal record.

(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group the heads of agencies who the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term ''Nazi war criminal records'' means records or portions of records that—

(1) pertain to the activities of any person with respect to which the United States Government, in its sole discretion, has grounds to believe—

(A) occurred, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(i) the Nazi government of Germany;

(ii) any government in any area occupied by the military forces of the Nazi government of Germany;

(iii) any government established with the assistance or cooperation of the Nazi government of Germany; or

(iv) any government which was an ally of the Nazi government of Germany; and

(B) involved the ordering, incitement, assistance, or other participation in the persecution of any person because of race, religion, national origin, or political opinion; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their

heirs or assigns or other legitimate representatives.

(b) RELEASE OF RECORDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a statute, treaty, or international agreement.

(3) APPLICATION OF EXEMPTIONS.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Senate Committee on the Judiciary.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701 of the National Security Act of 1947 (50 U.S.C. 431) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Subsection (a) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of the Nazi War Crimes Disclosure Act.''.

SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term ''requester'' means any person who was persecuted in the manner described under section 3(a)(1)(B) of this Act who requests a Nazi war criminal record.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

AMENDMENT NO. 2782

Mr. WARNER. Senator DEWINE and Senator LEAHY have a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DEWINE, for himself and Mr. LEAHY, proposes an amendment numbered 2782.

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 ''Nazi War Crimes Disclosure Act''.

SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTERAGENCY WORKING GROUP.

(a) DEFINITIONS.—In this section the term—

(1) ''agency'' has the meaning given such term under section 551 of title 5, United States Code;

(2) ''Interagency Group'' means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) ''Nazi war criminal records'' has the meaning given such term under section 3 of this Act; and

(4) ''record'' means a Nazi war criminal record.

(b) ESTABLISHMENT OF INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group, which shall remain in existence for 3 years after the date the Interagency Group is established.

(2) MEMBERSHIP.—The President shall appoint to the Interagency Group individuals whom the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section, including the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, the head of any other agency the President considers appropriate, and no more than 3 other persons. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

(c) FUNCTIONS.—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

(3) submit a report to Congress, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

(d) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.

(a) NAZI WAR CRIMINAL RECORDS.—For purposes of this Act, the term ''Nazi war criminal records'' means classified records or portions of records that—

(1) pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government established with the assistance or cooperation of the Nazi government of Germany; or

(D) any government which was an ally of the Nazi government of Germany; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

(b) RELEASE OF RECORDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a treaty or international agreement.

(3) APPLICATION OF EXEMPTIONS.—

(A) IN GENERAL.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. The exemptions set forth in paragraph (2) shall constitute the only authority pursuant to which an agency head may exempt records otherwise subject to release under paragraph (1).

(B) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption listed in subparagraphs (B) through (I) of paragraph (2) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701(a) of the National Security Act of 1947 (50 U.S.C. 431) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of this Act.

SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term ''requester'' means any person who was persecuted in the manner described under section 3(a)(1) of this Act who requests a Nazi war criminal record.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

Mr. DEWINE. Mr. President, I am very pleased that the Senate is about to pass S. 1379, the Nazi War Crimes Disclosure Act. I introduced this legislation along with my friend from New York, Senator MOYNIHAN, and fifteen of my colleagues on November 5 of last year. Our Judiciary Committee Chairman, Senator HATCH, and the Ranking Member, Senator LEAHY, strongly support this bill. Indeed, I want to thank Senator LEAHY and his staff for their tireless work in helping to bring this legislation to the floor. As an authority on the Freedom of Information Act, or ''FOIA'' (pronounced FOYA), Senator LEAHY has made very useful suggestions that I have incorporated into the substitute. These changes satisfy privacy concerns raised by FOIA and Privacy Act professionals. Finally, I want to underscore that we would not be here today without Senator MOYNIHAN and his staff. He has brought to our work the unique insights on the classification system that he gained as chairman of the Commission on Protecting and Reducing Government Secrecy Classification.

The Nazi War Crimes Disclosure Act represents what I hope will be the culmination of work begun in the last Congress to release U.S. government-held records of Nazi war criminals, the Nazi Holocaust and the trafficking of Nazi-held assets.

Just two years ago, we celebrated the 50th anniversary of the end of the Second World War, and with it, the end of the Nazis' death grip on an entire continent. Since that time, searingly detailed accounts of the Nazi Holocaust have provided more and more evidence of the true magnitude of the atrocities that were committed.

We have learned so much. Yet, if the last few years are any indication, we still have a great deal more to learn.

After the fall of communist rule, Russia and several former Soviet-bloc nations opened volumes of secret files on Nazi war crimes. Argentina has cooperated in the public release of its files. British government records are being declassified and made available for public scrutiny. And over the course of last year, Swiss banks and the Swiss government have been under intense international pressure to make a full accounting of unclaimed funds belonging to Holocaust victims, as well as Nazi assets that may have once belonged to Holocaust victims.

Mr. President, here at home, our own government has been gradually making records available about what it knew of Nazi-related activities and atrocities. Last year, a government-conducted study revealed new information about what the U.S. Government knew regarding the transfer and flow of funds held by Nazi officials. This report found that the U.S. government was aware that the Nazi mint took gold stolen from European central banks and melted it together with gold obtained in horrible fashion—gold obtained from tooth-fillings, wedding bands and other items seized from death-camp victims.

Mr. Chairman, the photos I have on display are several aerial U.S. intelligence photographs taken in 1944 of Auschwitz, with prisoners being led to the gas chambers. These pictures were discovered by photo analysts from the Central Intelligence Agency in 1978. They confirm what we had heard from the Polish underground that a ''death camp'' did in fact exist at Auschwitz. They also demonstrated that our government had photographs of these camps as these atrocities were occurring.

These pictures tell a grisly story. How many more such pictures or documents exist? With the legislation before us, we intend to answer that question.

Both Congress and the President have taken action to promote the release of government-held records during this tragic era. On April 17, 1995, the President issued an executive order calling for the release of national security data and information older than 25 years. Late in the 104th Congress, thanks to the tireless efforts of my friend from New York, Senator MOYNIHAN, and Representative CAROLYN MALONEY and several others, we passed a sense of the Congress resolution, which stated that all U.S. Government agencies should make public any records in its possession about individuals who are alleged to have committed Nazi war crimes. The President agreed, noting that learning the remaining secrets about the Holocaust is clearly in the public interest.

The Nazi War Crimes Disclosure Act is designed to put the concerns expressed by the last Congress into strong action. First, the bill would allow for expedited processing of FOIA requests of survivors of Nazi persecution. These individuals are growing older every day, and the time remaining for them to obtain answers to the questions that have troubled them for five decades will soon come to an end. We owe it to those who suffered—and to those who seek to prevent future genocides—to disclose fully and completely all the records in the United States on this issue.

Second, the bill would establish the Nazi War Criminal Records Interagency Working Group. This Working Group would to the greatest extent possible locate, identify, inventory, declassify and make available for the public all Nazi war records held by the United States. This means that all materials would be required to be released in their entirety unless a Federal agency head concludes that the release of all or part of these records would compromise privacy or national security interests. The agency head must notify Congress of any determination to not release records. Thus, we in the Senate would be in a position to review the material being withheld to ensure that it was being done for valid reasons consistent with this legislation.

The Director of the Holocaust Museum, the Archivist of the United States, and the Historian of the Department of State are specifically appointed to sit on the task force because of their unique expertise on this subject. Further, to help the interagency

group complete its task, the President is authorized to appoint the head of any other Agency and up to three additional people with expertise on this subject who can assist with the identification and disclosure of relevant documents.

This pro-active search is necessary, because a full government search and inventory has never been completed. For example, some documents that surfaced this spring were found among materials related to Southeast Asia.

Our bill is targeted toward two classes of Nazi-related materials: First, war crimes information regarding Nazi persecutions; and two, any information related to transactions involving assets of Holocaust and other Nazi victims.

In summary, what we are trying to do with this bill is strike a clear balance among our government's legitimate national security interests, the legitimate privacy interests of individuals, and the people's desire to know the truth about Nazi atrocities. These records, once released, will be held in a repository at the National Archives.

Let me enumerate several changes which we have made since the bill was unanimously reported out by the full Judiciary Committee last March:

Section 3(b)3(B) was revised to make clear that the standard of judicial deference currently accorded to agency classification decisions under exemption (b)(1) of the FOIA applies to exemption decisions rendered by Heads of Agency's making a withholding decision under Section 3(b). As the Committee of Conference recognized when exemption (b)(1) was amended in 1974, executive departments responsible for national defense and foreign policy matters have unique insights into what possible adverse effects might occur as a result of public disclosure of a particular classified record. Accordingly, it is expected that federal courts, in reviewing a decision by an Agency head that disclosure and release of a Nazi War Record would be harmful to a specific interest identified in an exemption herein, will accord substantial weight to an agency's affidavit or other submission concerning the record in question.

Records held by the Office of Special Investigations (OSI) of the Department of Justice are specifically exempted. Nonetheless, because of the substantial expertise at OSI, it can reasonably be expected that OSI will be asked to assist with the review of records held by other agencies. OSI is currently engaged in an effort to close ongoing investigations and prosecutions of alleged war criminals. Thus, to ensure that the high priority investigations continue and all relevant documents found during the search are quickly reviewed for declassification, my colleagues and I have asked the Appropriations Committee to provide a small increase of $2 million in OSI's budget to enable the staff to take on and complete both of these tasks.

Section 2(b)(1) has been revised to extend the life of the interagency group from one to three years in recognition of the fact that there are extensive document holdings that must be reviewed. The bulk of this work should be done in the first year. The three year life of the Working Group cannot become an excuse to proceed slowly.

This bill not only addresses the acts of Nazi War Criminals, but also addresses those who transferred, sold or otherwise disposed of assets involuntarily taken from persecuted persons by, under the direction of, or on behalf of, or under the authority of the former Nazi Government of Germany or any nation then allied with that government.

This bill is a bipartisan effort to ensure the Federal Government has done all it can to ensure Holocaust victims and their families can obtain the answers they need.

The clock is running, and time is running out for so many victims of the Holocaust. They, and history itself, deserve to know as much as possible about this tragic chapter in the story of humanity.

I thank my colleagues for their strong support for this legislation.

Mr. HATCH. Mr. President, as an original cosponsor of S. 1379, the Nazi War Crimes Disclosure Act, I am very pleased that the Senate is about to pass this important piece of legislation. I congratulate Senator DEWINE and Senator LEAHY for their bipartisan effort in drafting a bill which addresses the legitimate concerns of federal agencies which will be subject to this legislation, while at the same time ensuring that the original intent and purpose of the law is carried out. Passage of the Nazi War Crimes Disclosure Act will facilitate the speedy gathering and release of documents in the possession of the government which relate to the persecution of, and theft of assets from, the many millions of victims of Nazi atrocities.

Our government has an obligation to locate, and make public, documents in the government's possession which shed light on Nazi war criminals, their nefarious allies, and their crimes. Over the fifty-three years since the defeat of Germany and its cohorts, and the discovery of the atrocities committed in the name of Naziism, we have learned a great deal about the organization, operation, and financial structure of that regime. However, recent revelations concerning the acts of certain Swiss banks in the laundering of Holocaust victims' assets show us how much more there is to learn.

By passing this bill, we are providing a means of access to information that will be of invaluable assistance in providing answers to those seeking to learn about the past. But just as importantly, by studying that information and learning the lessons of history, we can help ensure that such actions will never be repeated in the future.

Mr. MOYNIHAN. Mr. President, today the Senate takes an important step in the search to unfold the events of the holocaust by adopting the Nazi War Crimes Disclosure Act. This bill requires the disclosure of classified information, currently held by the United States government, regarding individuals who participated in Nazi war crimes, and stolen assets of the victims of Nazi war crimes. The bill also requires a government-wide search of records to ensure the release of as many relevant documents as possible.

Researchers seeking information on Nazi war criminals and the assets of their victims will have unprecedented access to relevant materials in the possession of the United States government, which until now have remained classified. It is my view that these documents have been held far too long. Well beyond the time when their disclosure might have posed a threat to national security—if indeed such disclosure ever did.

While reviewing relevant material for declassification, officials will be required to maintain a strong presumption that relevant material should be declassified. This is based on the ''balancing test'' included in the bill which presumes that the public interest in the release of Holocaust records outweighs the damage to national security that might reasonably be expected to result from disclosure. This provision is in keeping with the Report of the Commission on Protecting and Reducing Government Secrecy which recommended that such a balancing test be applied in all classification decisions.

With the passing of time it becomes ever more important to document Nazi war crimes, lest the enormity of those crimes be lost to history. The greater access which this legislation provides will add clarity to this subject. I applaud those researchers who continue to pursue this important work. Those who suffered from the Holocaust are reaching the end of their life-span. We owe it to them to make available as much information about that terrible period as possible. This is our solemn task.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing this important legislation, the ''Nazi War Crimes Disclosure Act,'' S. 1379. Last year, Congress passed a resolution calling upon federal agencies to make public any records in their possession about individuals who are alleged to have committed Nazi war crimes. I agree with the original sponsors of this bill, Senators MOYNIHAN, DEWINE, KOHL, D'AMATO, DODD and HATCH, who said in a Dear Colleague letter in October, 1997, that this bill ''would put last year's words into action.''

The substitute amendment we consider today requires creation of an interagency working group to collect and release classified Nazi war crime records within one year, and gives Nazi war crime victims expedited access to these records under the Freedom of Information Act (FOIA). These victims

are growing older and we should ensure that if they are interested in seeing these records, their requests should be honored as speedily as possible.

I first became aware of this bill when I testified in June 1996 at a hearing before the House Government Reform and Oversight Committee (GRO). That hearing focused on my Electronic FOIA amendments, which were enacted later that year, and the Nazi War Crimes Disclosure Act, H.R. 1281, which had been introduced by that Committee's Ranking Member, Representative CAROLYN MALONEY.

Moving oral testimony and written statements were presented at that hearing about the need for full disclosure by federal agencies about what our government knew, and when, about Nazi atrocities and the criminals who committed those atrocities. Rabbi Marvin Hier (the Dean and Founder of the Simon Wiesenthal Center), the Jewish Community Relations Council, the Anti-Defamation League, the Orthodox Union, the American Jewish Committee, and others, committed to teaching the lessons of the Holocaust expressed their strong support for full disclosure of Nazi war crime records. War Crimes Disclosure Act, Health Information Privacy Protection Act, and S. 1090, Electronic Freedom of Information Improvement Act of 1995: Hearing on H.R. 1281 and S. 1090 before the Subcomm. on Government Management, Information, and Technology of the House Comm. on Government Reform and Oversight, 104th Cong., 2d Sess. 17–30 (1996).

To the extent that records pertaining to Nazi war criminals remain classified over fifty years since the end of the war, we should take action to disclose those records. No Nazi war criminal should be protected by government secrecy rules. This is what happened with government records pertaining to Kurt Waldheim: the Central Intelligence Agency withheld critical information from researchers about Waldheim's collaboration with the Nazis, even as other government agencies were placing him on the list of individuals forbidden to enter our country because of suspected war crimes. Moreover, an extensive Justice Department report on Waldheim completed in 1987 was then kept secret for six long years, before Attorney General Reno, in response to a FOIA lawsuit, released the document in 1994. The United States government should not help Nazi war criminals keep their past crimes secret. This bill is an important step to ensure our government does not.

Senator DEWINE and I worked closely on a substitute amendment to this bill that was offered in the Judiciary Committee and favorably reported on March 5, 1998, with the unanimous backing of Committee Members. Further refinements to the bill are reflected in the Manager's amendment considered by the Senate today to address the legitimate concerns raised by the Department of Justice, our intelligence agencies, press associations and others who use the FOIA regularly, as well as those who have a personal stake and interest in full disclosure of Nazi War crime records.

The bill calls for the Nazi War Criminal Records Interagency Working Group to be created by the President shortly after enactment and authorizes this Group to operate for three years. The Working Group will include as members the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, and heads of agencies selected by the President. In addition, the President may select from the private sector up to three other persons whom he considers appropriate to assist in completely and effectively carrying out the functions of the Interagency Group.

The Interagency Group is tasked under the bill with locating, identifying, inventorying, recommending for declassification and making available to the public at the National Archives and Records Administration all classified Nazi War criminal records in the possession of federal agencies, and submit to Congress, including to the Senate Committee on the Judiciary and the House Committee on GRO, a report describing its activities. While the bill requires that these tasks be completed within one year, the Interagency Group is authorized for a full three years in the event that certain of these tasks require additional time. The bill also authorizes the appropriation of any necessary funds.

The original Senate bill defined the records of suspected Nazis subject to disclosure so broadly that it could conceivably have covered many irrelevant records, such as social security records, medical records or tax records, even though such records may have had nothing to do with the person's possible activities as a Nazi. This raised certain privacy issues as well as concerns about the burden on federal agencies to collect, review and disclose records, which had no bearing on the person's activities as a Nazi or our government's knowledge of that person's war crimes.

The Manager's amendment addresses these concerns by limiting the records subject to disclosure to classified Nazi war criminal records and retaining an exemption for those records, or parts thereof, that would ''constitute a clearly unwarranted invasion of personal privacy.''

The bill now defines ''Nazi war criminal records'' as those classified records or portions of records pertaining to persons who, from March 23, 1933 through May 8, 1945, under the direction or in association with the Nazis ordered, incited, assisted or otherwise participated in the persecution of any person on account of their race, religion, national origin or political opinion, as well as to any transaction involving the assets of those persecuted persons when the transaction involved assets taken without their consent or the consent of their heirs. Determination of the classified records that fall within the scope of the bill is given to the ''sole discretion'' of the agencies in possession of the records.

The original bill would have amended the FOIA with a new section of Nazi war crime records containing ten newly-created exemptions separate from those under the current FOIA. I have spent many years fighting for more openness in government. I was very concerned that creating these new exemptions might set a dangerous precedent—though entirely unintentional on the part of the original sponsors—of expanding FOIA exemptions. At a minimum, these new exemptions would have created confusion about how the current FOIA exemptions were to be interpreted and applied. These concerns about the new exemptions have been resolved by taking the work of the Interagency Group out of the FOIA and making its activities the subject of a free standing law.

The Interagency Group is required to release the classified Nazi war criminal records covered by the bill in their entirety, subject to ten enumerated exemptions. The first exemption in section 3(b)(2)(A) of the bill is for records or parts thereof that ''constitute a clearly unwarranted invasion of personal privacy.'' This is the same standard used in the sixth exemption of the Freedom of Information Act (FOIA, 5 U.S.C. 552(b)(6)). In the FOIA context, the phrase enunciates a policy of a balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to government records. Committee reports underlying the original FOIA of 1966 indicate that the exemption is to protect ''intimate'' or ''personal'' details in files such as those maintained by the Veterans Administration (now the Department of Veterans Affairs), the Department of Health, Education, and Welfare (now the Department of Health and Human Services and the Department of Education), and the Selective Service System. As with the other FOIA exemptions, the personal privacy exception in the FOIA is permissively applied, and it has come to be understood that the balancing of interests tilts in favor of disclosure.

Transferring the FOIA experience to the use of the same phrase in exemption (A) of the Nazi War Crimes Disclosure Act, it is the intent that the same balancing of interests—between the protection of an individual's private affairs from unnecessary public scrutiny and the preservation of the public's right to government records—occur when the disclosure of Nazi war criminal records is under consideration. The exemption may be used to protect intimate or personal details, such as an individual's medical history, marital status, legitimacy of children, family fights or domestic affairs, and sexual inclination or associations. While the

right to privacy of deceased persons is not entirely settled, we expect the Department of Justice and other agencies to follow the majority rule that death extinguishes a person's privacy rights. Indeed, I note that ''[t]he Department of Justice has long followed this rule as a matter of policy.'' U.S. Dep't of Justice, Freedom of Information Act Guide & Privacy Act Overview, September 1997.

Thus, the personal privacy exemption in the bill is to be permissively applied, and the balancing of interests tilts in favor of disclosure.

Likewise, the balancing of the other Nazi War Crimes Disclosure Act exemptions tilts in favor of disclosure. Section 3(b)(3)(A) of the bill states that, in applying exemptions (B) through (J), ''there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records.'' The bill conditions exercise of all the exemptions, including the privacy exemption in section 3(b)(2)(A), by an agency head on a determination that the disclosure and release would be harmful to a specific interest identified in the exemption. To facilitate oversight of this legislation, an agency head who makes this determination is required to report the application of the exemption promptly to the appropriate Committees of the Congress, including the Senate Committee on the Judiciary and the House Committee on GRO.

The original bill contained a presumption that public disclosure of the Nazi war crime records outweighs national security interests. The Department of Justice questioned whether this provision, and others, raised separation of powers concerns by encroaching on the Presidential prerogative to decide what records and information should be classified to protect national security. The presumption was modified during Committee consideration of the bill simply to make clear that the public interest would be served by disclosure and release of the subject records.

The bill does not provide a blanket exemption for classified material, but instead lists a number of particular national security concerns that could warrant nondisclosure. The Justice Department may continue to have constitutional separation of powers concerns that the bill substitutes congressional rules for the President's executive order on the classification of documents. This would be unfortunate and unjustified.

The 1997 Report of the Commission on Protecting and Reducing Government Secrecy Classification (hereafter, the ''1997 Report''), at page 15, notes that the security classification system is ''an area in which the President and the Congress 'may have concurrent authority, or in which its distribution is uncertain,'' citing *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 637 (1952). Moreover, Congress has prescribed standards to govern elements of classification and declassification in other contexts, including the Atomic Energy Act of 1954, the National Security Act of 1947, and the Assassination Records Collection Act of 1992, which the 1997 Report explains ''established broad standards for the declassification of records concerning the assassination of President Kennedy.''

''The classification . . . systems are no longer trusted by many inside and outside the Government.'' 1997 Report, at page XXI. This is particularly true with respect to classified Nazi war crimes records since, at least in the case of Kurt Waldheim, government secrecy rules were used to shield what our government knew about his Nazi collaboration from public view for too many years. I agree with the comment in the 1997 Report that ''by allowing for a fuller understanding of the past, [greater openness] provides opportunities to learn lessons from what has gone before—making it easier to resolve issues concerning the Government's past actions and helping prepare for the future.''

The bill makes clear, in section 3(b)(3)(A), that the enumerated exemptions shall constitute the only authority whereby an agency head may exempt records subject to this Act from release. This provision clarifies legislative intent that, in the case of Nazi war criminal records only, no other protective authority is controlling except the enumerated exemptions. Thus, the exemptions in section 3(b)(2) take precedence over the protective provisions of statutes such as the Privacy Act (5 U.S.C. 552a), the National Security Act of 1947 (50 U.S.C. 403–3(c)(6)), and the Central Intelligence Agency Act (50 U.S.C. 403g). Indeed, section 3(c) of the bill, expressly waives the operational file exemption contained in section 701 of the National Security Act of 1947. The amendment also eliminates the application of the exemptions of the Freedom of Information Act (5 U.S.C. 552(b)(1)–(9)); it also overrides the privacy protections of all other statues, in favor of the privacy exemption set forth in section 3(b)(2)(A). These waivers of other statutory protections and, most particularly those waivers of the National Security Act provisions, recognize the extraordinary and unique nature of the Nazi war criminal records. These records warrant this special treatment so that the United States may lead and fully participate in the growing international movement to open to public scrutiny official records on the conduct of particular governments and institutions during World War II.

In addition to the enumerated exemptions, the bill exempts from disclosure the records of the Office of Special Investigations (OSI) of the Department of Justice, which continues to investigate, prosecute and extradite suspected Nazi war criminals. Concerns about the impact of this bill on the work of OSI were raised by the Department of Justice, and others, at the original House hearing on this bill in 1996. This bill addresses those concerns and will do nothing to undermine the critical work of this section. Moreover, Senators DEWINE and I, and others, have requested that funding for OSI be increased to ensure adequate personnel are available to handle any increased workload due to the passage of this legislation.

While the number of arrests of suspected Nazi war criminals may be dwindling, some are still on the loose, as we so dramatically witnessed by the arrest in Germany just a few short months ago, in March 1998, of a man identified in news reports as Alfons Goetzfried. This suspected Nazi war criminal was a former low-ranking Gestapo officer who apparently acknowledged in prior statements personally shooting to death 500 people, including women and children, at a death camp in Poland in November 1943. The work of the OSI continues to be of vital importance.

Judicial review of agency determinations to apply the exemptions and the operations of the Interagency Group will be available under the Administrative Procedure Act. We appreciate, however, that executive agencies responsible for national defense and foreign policy matters have unique insights into the adverse effects that might occur as a result of the inappropriate public disclosure of a particular classified record. Accordingly, we expect that federal courts, in reviewing determinations by agency heads that disclosure and release of a record covered by this bill would be harmful to a specific interest identified in an exemption, will accord substantial weight to the agency's affidavit or other submission concerning the status of the disputed record. Indeed, the bill makes this expectation explicit in section 3(b)(3)(B), which states that in applying the exemptions in paragraphs (3)(b)(2)(B) through (I) dealing with specific national defense and foreign policy information, the standard of review is the same as applied to the withholding of records under the FOIA for properly classified matters.

Finally, section 4 of the bill provides for the expedited processing of FOIA requests for Nazi war criminal records by any Holocaust victims, as provided in section 552(a)(6)(E) of title 5, United States Code. We expect that any withholding of requested records due to their classified nature, under section (b)(1) of the FOIA, will be highly limited once the Working Group has been able to perform its work.

It has been a pleasure to work with Senator DEWINE on this matter in the Judiciary Committee, and with Senator MOYNIHAN and others on reaching a consensus on this important bill. This legislation is long overdue, and I urge its prompt enactment.

Mr. WARNER. I ask unanimous consent the amendment be agreed to, the bill be considered read a third time and

passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The Amendment (No. 2782) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 1379), as amended, was considered read the third time and passed.

REMOVAL OF INJUNCTION OF SECRECY

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on June 19, 1998, by the President of the United States:

Treaty With Estonia on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 105–52).

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

Mr. WARNER. I further ask that the treaty be considered as having been read the first time, that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Estonia on Mutual Legal Assistance in Criminal Matters, signed at Washington on April 2, 1998. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activity more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including ''white-collar'' crime and drug-trafficking offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution, and collection of fines; and rendering any other form of assistance not prohibited by the laws of the Requested State.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 19, 1998.*

Mr. WARNER. Mr. President, that concludes the matters on behalf of the distinguished majority leader and the Democratic leader. Therefore, the Chair, I am sure, will soon recognize the distinguished Senator from North Dakota for purposes of a presentation to the Senate for a period not to exceed 15 minutes.

ORDERS FOR MONDAY, JUNE 22, 1998

Mr. WARNER. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday, June 22. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2057, the Department of Defense authorization bill.

I now ask unanimous consent that at 3 p.m. on Monday, the Senate proceed as under the previous order into executive session for the consideration of Executive Calendar No. 596.

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

PROGRAM

Mr. WARNER. For the information of all Senators, the Senate will reconvene on Monday at 12 noon and resume the defense authorization bill. It is hoped that Members will come to the floor to offer and debate amendments on the defense bill under short time agreements. As ordered, at 3 o'clock, the Senate will begin 2 hours of debate on the nomination of Susan Mollway to be a U.S. district judge. It is expected that the first vote of Monday's session will occur at 5 p.m. on the confirmation of that nomination.

The Senate may have an additional rollcall vote on Monday on or in relation to a pending amendment to the defense authorization bill. Therefore, the next rollcall votes will occur at 5 p.m. on Monday, June 22.

As a reminder to all Members, a cloture motion was filed today to the DOD bill. The cloture vote will occur on Tuesday, June 23, hopefully before 12 noon. Under rule XXII, Senators have until 1 p.m. on Monday to file first-degree amendments.

The majority leader would like to remind all Members that the Independence Day recess is fast approaching. Cooperation of all Members will be necessary for the Senate to complete work on many important items, including the defense authorization bill, the appropriations bills, the Higher Education Act, the conference report on the Coverdell education bill, and any other legislative or executive items that may be cleared for action.

ORDER FOR ADJOURNMENT

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of our distinguished colleague, Senator DORGAN, for up to 15 minutes.

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

The Chair recognizes the Senator from North Dakota.

SOLID FARM POLICY

Mr. DORGAN. Mr. President, I had not intended to come to the floor to make a few comments today until I read a story about a press conference that was held in the Senate here yesterday by some Senators about farm policy. A group of Senators held a press conference on farm policy of this country and said, ''We've got a good, solid farm policy. The problem is not the farm bill. The problem is the farm bill is not being implemented properly.''

We have a good, solid farm policy? Are they kidding? What planet are they living on if they think we have a good, solid farm policy? What we have is a new farm policy written by people who don't know much about farming and it is called the Agricultural Market Transition Act, and what it is transitioning is family farmers straight out of business.

Farm families are going broke in our State in record numbers. In fact, there are more auction sales of family farmers this year than ever before, and they have had so many auction sales of family farmers in North Dakota that they have had to call auctioneers out of retirement to handle the sales.

There is a lot more than statistics about losing these farmers. Farmers plant a seed in the spring and then hope it will grow. They hope it doesn't hail and insects don't come and the crop doesn't get diseased. And if it does come above the ground and then eventually if they escape all those weather disasters, they harvest in the fall and they hope maybe they will get a decent price for their crop.

These families struggle hard, they work hard and they risk everything they have. Guess what? This current farm policy is a mess. We have prices that are in the tank for grain, and family farmers out there, who are raising grain and trying to take it to the market these days, discover that they have lost their shirts. And then we have people saying that we have a good, solid farm policy.

I had a farm meeting in North Dakota and a fellow stood up. He was a big rugged fellow, kind of a husky build. He had kind of a black beard. He stood up and he started speaking. He