

SENATE—Thursday, July 25, 1996

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we begin this day praying with the psalmist, "Teach me to do Your will, for You are my God; Your Spirit is good."—Psalm 143:10. In a world of people with mixed motives and forces of evil seeking to distract us, we thank You that we know You are good. It is wonderful to know that You will our good, seek to help us know what is good for our loved ones and our Nation. You constantly are working things together for our good, arranging circumstances for what is ultimately best for us. We never have to worry about Your intentions. You know what will help us grow in Your grace and what will make us mature leaders.

Today, we want to be filled so full of Your goodness that we will know how to discern Your good for our decisions. Bless the Senators. Make them good leaders by Your standards of righteousness. Remind us that our Nation's greatness is in being good. Help us confront mediocrity at any level that keeps us from Your vision for our Nation; recruit us for the battle of ethical and social goodness. We make another verse of the psalmist our life-time motto "May goodness and mercy follow me all the days of my life and I will dwell in the house of the Lord forever." Amen.

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

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3540, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3540) making appropriations for foreign operations and export financing in and related programs for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 5017, to require information on cooperation with United States antiterrorism efforts in the annual country reports on terrorism.

Coverdell amendment No. 5018, to increase the amount of funds available for international narcotics control programs.

The PRESIDENT pro tempore. There will now be 30 minutes of debate equally divided on the McCain amendment No. 5017.

The able Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will immediately resume consideration of the foreign operations appropriations bill. Under the agreement reached last night, the Senate will begin 30 minutes of debate on the McCain amendment No. 5017 regarding antiterrorism efforts. Senators can expect a rollover vote on or in relation to that amendment no later than 10 o'clock this morning, if all debate time is used.

Additional amendments are anticipated. Therefore, Senators can expect votes throughout the session of the Senate today. The majority leader has indicated that he hopes to complete action on this bill today. I might say that I think that is entirely possible. We have a number of amendments that are anticipated to be offered that would be acceptable, and there is really no reason why we should not be able to complete this bill today. The leader then plans to turn to the consideration of the VA-HUD appropriations bill following final passage of this bill.

Mr. President, I see the Senator from Arizona here. I will yield the floor.

Mr. LEAHY. Mr. President, if the Senator from Arizona will yield. Mr. President, I wish to compliment the distinguished Senator from Arizona, who had worked with this amendment last night and could have asked for a vote last night. I asked him if he might be willing to withhold while we discussed it further with him. I know there have been some discussions. I note that because the Senator from Arizona showed his usual courtesy and cooperation, I wish to thank him here on the Senate floor.

With that, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Arizona is recognized.

PRIVILEGE OF THE FLOOR

Mr. MCCAIN. Mr. President, I ask unanimous consent that Greg Suchan, a fellow on my staff, be granted the privilege of the floor during the discussion of H.R. 3540.

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

AMENDMENT NO. 5017, AS MODIFIED

Mr. MCCAIN. Mr. President, I thank the Senator from Vermont and his staff

for working with us last night on this particular amendment. In accordance with the previous unanimous-consent agreement, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment will be so modified.

The amendment (No. 5017), as modified, is as follows:

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

INFORMATION ON COOPERATION WITH UNITED STATES ANTI-TERRORISM EFFORTS IN ANNUAL COUNTRY REPORTS ON TERRORISM

SEC. 580. Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)—
(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and
(C) by adding at the end the following:

"(3) with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

"(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting and punishing the individual or individuals responsible for the act; and

"(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

(4) With respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B)." and

(2) in subsection (c)—
(A) by striking "The report" and inserting "(1) Except as provided in paragraph (2), the report";

(B) by indenting the margin of paragraph (1) as so designated, 2 ems; and
(C) by adding at the end the following:

"(2) If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form".

Mr. MCCAIN. Mr. President, I thank the Senator from Vermont for his cooperation. I think we have reached an agreeable resolution to this issue, which achieves the goal I was trying to accomplish. I think it satisfies the concerns not only of the Senator from Vermont had, but also of the administration.

Mr. President, this amendment would require the Secretary of State, as part of his annual report to Congress on global terrorism, to provide information on the extent to which foreign governments are cooperating with U.S. requests for assistance in investigating terrorist attacks with Americans. The Secretary will also be required to provide information on the extent to which foreign countries are cooperating with U.S. efforts to prevent further terrorist attacks against Americans.

The recent terrorist attack in Dhahran demonstrates the importance of cooperation of other governments in investigating and preventing terrorism against Americans. The proposed amendment would of course cover terrorist attacks against Americans or U.S. interests abroad, such as the Riyadh bombing last year or the assassination of two State Department employees in Karachi. It would also cover terrorist attacks in the United States, either by foreign terrorists or domestic terrorists operating with foreign assistance. For example, if the destruction of TWA flight 800 proves to be a terrorist act—and at this time we do not know that it was—the amendment would ensure that we know whether other countries are cooperating with the United States in investigating the crash and bringing to justice those responsible.

As part of his annual report on terrorism, the Secretary of State is already required by law to report on the counterterrorism efforts of countries where major international terrorist attacks occur and on the response of their judicial systems to matters relating to terrorism against American citizens and facilities. I believe it would be very useful to add to this report important information about how foreign governments are responding to U.S. requests for cooperation in investigating and preventing terrorist attacks against Americans.

Moreover, the executive branch is already required to provide information on other countries' antiterrorism cooperation. Section 330 of the recently enacted antiterrorism bill prohibits the export of defense articles or services to a country that the President certifies is not cooperating fully with U.S. antiterrorism efforts. Such cooperation must certainly include investigating terrorists acts against Americans. If such information is reasonable and useful in the context of military cooperation, then I see no reason why similar information cannot be provided for all other countries who are not the recipients of U.S. defense equipment or services.

The State Department has expressed reservations about the earlier drafts of this amendment, which included a requirement for certification along the lines of the anti-terrorism bill. Working with the Senator from Vermont, we

have addressed this concern by requiring that the Secretary's report provide information, rather than a certification.

Another concern raised by the State Department is that there may be times when other countries, for reasons of their own, might not want it made public that they are cooperating with our anti-terrorism efforts. The amendment, therefore allows the Secretary to provide this information in a classified manner when it will enhance foreign countries' cooperation.

But international terrorism is a global problem that must be addressed by the joint efforts of all civilized states. If the United States seeks the cooperation of other countries in pursuing those who commit acts of terrorism against Americans, then I believe the Congress and the American people have a right to know whether foreign governments are indeed cooperating with the United States.

Just last week, I met with the family of a young American woman, Alisa Flatow, who was killed by an Islamic Jihad truck bomb in the Gaza Strip last year. According to Alisa's father, Stephen M. Flatow of West Orange, NJ, when President, Clinton sent an FBI team to investigate the attack, the Palestinian authority refused to cooperate with the FBI. "As a result," Mr. Flatow writes in a letter to me supporting this amendment, "the people responsible for planning my daughter's death have not been apprehended."

Mr. President, I ask unanimous consent that at this point a letter from Stephen M. Flatow, of West Orange, NJ, be printed in the RECORD.

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

WEST ORANGE, NJ,
July 15, 1996.

Re H.R. 3540.
Senator JOHN MCCAIN,
Russell Senate Office Building, Washington,
DC.

DEAR SENATOR MCCAIN: It was a pleasure to meet you last Thursday on the steps of the Longworth Building. I wholeheartedly support your amendment to the Foreign Operations Appropriations Bill, H.R. 3540, as it deals with crimes against Americans in foreign countries.

Following the death of my 20-year-old daughter, Alisa, in April 1995, President Clinton ordered an FBI team to Israel and Gaza to investigate the circumstances of her murder by the Islamic Jihad. While the Israelis cooperated fully, to my family's chagrin the Palestinian Authority would not cooperate with the FBI team. As a result, the people responsible for planning my daughter's death have not been apprehended.

It seems now that for the second time the Saudis are blocking a similar investigation by Americans of a crime involving the deaths of Americans. My sympathies are with the families of the victims of terror and my prayers are for the capture and proper adjudication of the perpetrator's guilt.

I am confident that, with your perseverance, justice will be done.

Sincerely,

STEPHEN M. FLATOW.

Mr. McCAIN. Mr. President, I might add that this refusal to cooperate with the FBI is not mentioned at all in the State Department's 1995 report on international terrorism. But this is an excellent example of the type of information that I believe the executive branch should routinely provide to the Congress and to the American people.

I urge my colleagues to support this amendment. Again, Mr. President, this is not my original proposal. I would have liked to have seen a certification process. I understand the concerns raised by the Senator from Vermont and by the State Department. I am pleased as always to have the opportunity to work with him, as, clearly, this issue of terrorism transcends any party or political viewpoint.

As I said earlier in my remarks, I do not know if the tragedy of TWA flight 800 was an act of terror or not. I was pleased to note this morning, as we all were, that the black boxes were recovered, which, in the opinion of most experts, will give us the kind of factual evidence we need to reach a conclusion. But whether flight TWA 800 was an act of terror or not, the reality is that terror has now become part of the world scene and the American scene.

Any expert that you talk to will clearly state that you could not attack terrorism where the act of terror takes place. You attack it at the root and the source of the act itself. That means going to places where the training, equipping, and arming takes place. It also means obtaining the cooperation of every other civilized nation and taking whatever action is necessary to go to the source of this act of terrorism.

Mr. President, as I said, I am not drawing any conclusions, nor would I advocate any course of action, because there is a wide range of options that are open to an American President and Congress in the event that an act of terror is perpetrated on American citizens.

It is instructive to note that some years ago, when there was a bomb in a cafe in Germany, that a previous administration was able to identify the source of that act of terror. A bombing raid was mounted and successfully carried out in Libya, and since that time, Mr. Qadhafi has been rather quiet. It does not mean that Mr. Qadhafi has abandoned his revolutionary zeal, but it was certainly a cautionary lesson to Mr. Qadhafi and his friends.

I do not say that is the remedy in every case of an act of terror. I think that there are a wide range of options, such as economic sanctions and others, that are open to us. But if we do not act in response to acts of terror, and if we do not act in a cooperative fashion, then it is virtually impossible to address these acts of terror in an effective fashion.

Mr. President, I thank my colleagues, the Senator from Vermont and the Senator from Kentucky, for their assistance on this amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I believe that there is strong support for the amendment of the Senator from Arizona. I know that I am one supporting it. Again, I compliment him for the effort that he has made on this.

I also understand that as a result of efforts to get some Senators back in here, that we will probably not have this vote until 10 o'clock. I know that meets the satisfaction of leadership. So I might just make a couple of general comments on the bill along the lines of what I did yesterday.

This legislation reflects the best compromise that we are able to make in the Senate in the committee and a compromise between the distinguished Senator from Kentucky and myself in this legislation. We had an effort with in a very small limit and a very small allocation. The allocation itself reflected the best efforts of the distinguished chairman of the overall Appropriations Committee, Senator HATFIELD.

But I think that, Mr. President, we have to ask ourselves at some point just how long we can go down this road. No matter what the administration is, Republican or Democrat, we are going to have to face up to the responsibility of world leadership when we are the most powerful and wealthiest democracy known to history. We have seen steady cuts in the area of foreign aid. Maybe it is politically popular to go back home and talk about those cuts, but let us look at what we have with the conservative, tight-fisted, anti-foreign-aid rhetoric of the Reagan administration.

President Reagan's budgets were almost 40 percent higher in foreign aid than President Clinton's. President Bush's were. Frankly, those budgets reflected reality. The rhetoric did not reflect reality. The budget reflected more reality. But we have been so caught up with the rhetoric. The rhetoric of the Reagan administration rarely reflected their spending priorities. But we have gotten so caught up with the rhetoric that we have now made the spending priorities a reality. As a result, we are not reflecting our responsibilities. Some are just pure economic sense.

If we help in the development of these other countries, that is usually the biggest and fastest growing market

for our export products. We create jobs in the United States. The more exports we can create, the more jobs we create, and our fastest growing and biggest potential market is in the Third World. That is why Japan and so many other countries spend more money than the United States does as part of their budget in these other parts of the world, because they know that with the United States stepping out of that they can step in. They are creating jobs. We lose American jobs. They create Japanese jobs, European jobs, and otherwise. They probably sit there and laugh and cannot understand why we believe our own rhetoric and give up these potential jobs. But they will take them over.

Then we have another area, and it is a moral area. We have less than 5 percent of the world's population; we use more than 50 percent of the world's resources. Don't we as a country have a certain moral responsibility to parts of the world?

In some parts of the world, the annual—think about this for a moment, Mr. President—in some parts of the world, the annual per capita income of a person is less than one page of the cost of printing the CONGRESSIONAL RECORD for this debate. We have already spent in the debate this morning by 10 minutes of 10 more than the per capita income of parts of the world where we help out with sometimes 25 cents per capita, sometimes even 20 cents per capita. Are we carrying out our moral responsibility as the wealthiest, most powerful nation on Earth?

We can look at pure economic sense. It makes little economic sense to us. We lose jobs as we cut back. We lose export markets as we cut back. But we also have some moral responsibility. Most Americans waste more food in a day than a lot of these hungry countries, the sub-Saharan countries and others, will ever see on their tables. We spend more money on diet preparations in this country than most of these nations will ever see to feed their newborn children or their families.

So I ask, Mr. President, at some point when you feel good about the rhetoric of going home, Members feel good about the rhetoric of going home and talking about how they are opposed to foreign aid, they ought also to look in their soul and conscience and ask what they are doing. And, if they are not touched in their soul and their conscience, then also talk to the business people in their State and say: "We are doing this even though we are cutting off your export jobs, even though we are cutting out American jobs by doing this."

There is an interesting op-ed piece in the Burlington Free Press of July 24 by George Burrill, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Burlington Free Press, July 24, 1996]

U.S. FOREIGN AID HELPS AMERICANS AT HOME
(By George Burrill)

Of all the budget cuts enacted last year, none was more damaging than the reductions in foreign assistance. Fortunately, the hemorrhaging appears to have stopped. The Senate is now acting on the foreign operations spending bill, which will increase the funding slightly over this year's level. In James Jeffords and Patrick Leahy, Vermont is fortunate to have two senators who understand the role of foreign assistance in improving the economic security of Americans. Both serve on the appropriations subcommittee with jurisdiction over foreign operations, and both have supported the programs that helped create future markets for U.S. exports.

One poll last year showed that nearly six out of 10 Americans incorrectly believed that the U.S. spends more on foreign aid than on Medicare. In fact, the government collects only about \$11 per person each year from income taxes to pay for foreign assistance.

Most people know that foreign aid can be humanitarian. But few Americans realize that 80 percent of the total foreign assistance budget is spent right here in the United States, on American goods and services—more than \$10 billion in 1994. This translates to about 200,000 U.S. jobs. For example, Cormier Textile Products in Maine provided tarps for disaster relief and temporary housing in Africa.

Closer to home, I am working on a project to enhance the computer capabilities of the Egyptian parliament. What kind of computers? IBM—which has over 6,000 employees in Essex Junction.

Today, exports account for 10 percent of the entire U.S. economy—double the level of a decade ago. In 1983, the jobs of five million workers depended on U.S. exports. Today, that number has reached 12 million.

The fastest growing markets for U.S. goods and services are in the developing world. Between 1990 and 1995, exports to developing countries increased by nearly \$100 billion, creating roughly 1.9 million jobs in the United States.

This increase in U.S. exports to the developing world is no accident. Most of the foreign assistance that we spend on developing countries today goes toward making them good customers tomorrow. The American economy is growing today mainly because other countries want and can afford to buy our products and services.

U.S. foreign assistance now focuses on encouraging six reforms in developing countries.

First, we encourage reform of developing countries' overall economic policy. For example, in the Czech Republic, we assisted in the transition from a command economy to a free-market system. The United States helped the Czech government create a healthy economic environment for investors, which included a balanced government budget, low inflation and low unemployment. With over 10 million mostly urban and well-educated consumers, reforming the Czech economy has meant an 11 percent increase in U.S. exports there between 1993 and 1994.

Second, we encourage developing countries to dismantle laws and institutions that prevent free trade. Guatemala now exports specialty fruits, vegetables, and flowers—and

the increased buying power of Guatemalans has meant a 19 percent increase in U.S. exports there every year since 1989.

Third, we are helping to privatize state-dominated economies. This dismantling of state-run industries is an important means of attracting foreign investment. A \$3 billion U.S. government investment to support privatization in the Indonesian energy sector has led to a \$2 billion award to an American firm for Indonesia's first private power contract. In fact, the U.S. foreign assistance budget has enabled U.S. companies to dominate the global market for private energy.

Fourth, U.S. foreign assistance encourages developing countries to establish business codes, regulated stock markets, fair tax codes and the rule of law. Foreign assistance helps create the stable business environments that U.S. companies need in order to cooperate effectively.

Fifth, we are helping to educate a new class of consumers in developing regions. When the United States helps educate a population, we help develop the skills needed in modern economy and a solid middle class with a vested interest in seeing economic reforms succeed.

Sixth, we help build small businesses. Community-run lending programs administered by the U.S. government are expanding small businesses and increasing per capita income in many developing countries.

The United States spent relatively more on foreign economic aid in the 1960s and '70s than it does today. The economy activity we are seeing in the developing world is tightly linked to the work the U.S. government carried out 20 and 30 years ago. Although the private sector is ultimately responsible for economic growth, the government's work is critical. At the very least, our goal should be to match the mean level of total U.S. economic assistance of the 1960s—about \$18 billion a year.

America is at a crossroads. We can choose to make a smart investment now or pay a steep price later. The relatively small amount of money we spend on foreign economic assistance serves as an engine for our future economic growth.

Mr. LEAHY. So, Mr. President, let us go on with this debate, as we will. As I said, I support the amendment of the distinguished Senator from Arizona. But let us understand that there are issues here beyond what might be in the applause line at a town meeting back home or at a service club meeting when you say, "By God, we are taking the money away from those foreigners and putting it right here in America." We are not doing that really. When we cut back on all our programs for development and for democracy around the world, we cut back on the potential of American jobs in export, we cut back our own security, we increase the potential that our men and women will be sent into trouble spots worldwide, but also we ignore our moral responsibilities as a country with 5 percent of the world's population using over 50 percent of the world's resources.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCAIN. Mr. President, I ask unanimous consent to add Senator HUTCHISON and Senator COHEN as cosponsors of this amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

The question occurs on amendment No. 5017, as modified, offered by the Senator from Arizona [Mr. McCAIN]. 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 New York [Mr. D'AMATO] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUE] and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

I further announce that the Senator from New York [Mr. MOYNIHAN] is absent on official business.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 96, nays 0, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—96

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frahm	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Grams	Nickles
Bradley	Grassley	Nunn
Breaux	Gregg	Pell
Brown	Harkin	Pressler
Bryan	Hatch	Pryor
Bumpers	Hatfield	Reid
Burns	Heflin	Robb
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thomas
Domenici	Kyl	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone
Feingold	Lott	Wyden

NOT VOTING—4

D'Amato
Inouye

Lautenberg
Moynihan

The amendment (No. 5017), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, for the information of Members of the Senate, Senator COVERDELL has an amendment pending which we are going to lay aside and immediately go to an amendment to be offered by the distinguished Senator from Maine.

I see Senator COVERDELL is on the floor. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, just from a housekeeping point of view from this side of the aisle, if we have Democrats who have amendments, I wish they would contact me. We want to be as cooperative with the distinguished chairman as possible and slot these in. I would be happy to go to third reading in the next 15 minutes, if we could. I do not think that is possible. But I urge Senators to move as quickly as possible if they have amendments and get them up and go forth.

Mr. McCONNELL. Mr. President, very quickly, there are 28 amendments that we are currently aware of. At least seven of those we now know we can accept. So we should be able to move along here with dispatch.

I see the Senator from Georgia is on the floor. Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 5018

Mr. COVERDELL. Mr. President, I ask unanimous consent to add Senator THURMOND and Senator HATCH as cosponsors to amendment No. 5018.

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

Mr. COVERDELL. Mr. President, I ask for the yeas and nays on amendment No. 5018.

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

The yeas and nays were ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Coverdell amendment be temporarily laid aside.

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

AMENDMENT NO. 5019

(Purpose: To promote the improvement of the lives of the peoples of Burma through democratization, market reforms and personal freedom)

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

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself, Mrs. FEINSTEIN, Mr. CHAFEE, and Mr. MCCAIN, proposes amendment numbered 5019.

Mr. COHEN. 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 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 entry 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 dialogue 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;

(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.

Mr. COHEN. Mr. President, this is one of the so-called Burma amendments. I will take a few moments to explain the nature of what I am seeking to achieve.

I am offering this amendment on behalf of myself, Senator FEINSTEIN, and Senator CHAFEE, and Senator MCCAIN. Let me begin, Mr. President, by stating that nothing that we do or say on the floor of the Senate today is going to magically bring democracy, freedom and prosperity to the long-suffering people of Burma.

Burma's history, since gaining independence after World War II, has been a series of oppressive regimes unable to set the Burmese economy on its feet, unwilling to grant the peoples of Burma the democracy and justice that motivated their heroic struggle for independence in the years leading up to the British withdrawal.

When decades of isolation and economic mismanagement gave way in the late 1980's to a transitional period under military rule, there was a slight glimmer of hope that Burma might finally be moving toward a more bright and democratic future. But stolen elections, student riots, and the jailing of democratic politicians, including the Nobel Prize winning leader of the democracy movement, Aung San Suu Kyi, soon made clear freedom's day had not yet arrived for Burma.

Over the past 5 years, Burma's military junta, the State Law and Order Restoration Council, or SLORC, as it is called—its acronym—has pursued policies of economic restructuring, leading to economic growth. But its continued oppressive tactics and the oppression of the forces of democracy, the use of conscripted labor, and the quest to pacify ethnic unrest in various parts of the country have all brought us to where we are today.

Mr. President, the amendment that I am offering seeks to substitute language that the Foreign Operations Subcommittee has offered in this bill.

While I disagree with the subcommittee's approach to the issue, I would like at this time to pay personal recognition to Senator MCCONNELL for his longstanding dedication to the issue of Burmese freedom. It is an issue little discussed in the Senate until recently. I think that the considerable attention the issue now receives owes a great deal of credit to Senator MCCONNELL's persistence to this issue. So I want to commend him for his untiring efforts, drawing our attention to this issue.

I want to also recognize Senator MCCAIN and Senator KERRY of Massachusetts for their sustained involvement in the debate over America's Burma policy.

Mr. President, the choice today is not whether the subcommittee's approach or the one that I am offering in this amendment is going to turn Burma into a functioning democracy overnight. Neither will accomplish that. And it is not a question of who is more committed to improving the lives of the Burmese people or who has greater respect for the tireless eloquence and courage of Aung San Suu Kyi. All of us involved in this matter respect Suu Kyi immensely and share her aspirations for a democratic and prosperous future for the Burmese people.

But the question is, does the approach laid out by the subcommittee increase America's ability to foster change in Burma and strengthen our hand and allow the United States to engage in the type of delicate diplomacy needed to help a poor and oppressed people obtain better living standards, political and civic freedoms, and a brighter future as a dynamic Asian economy—one of the next of the so-called Asian Tigers?

I think, Mr. President, with all due respect, the answer is no. By adopting the subcommittee language the Senate will be sending the following message:

That the United States is ready to relinquish all of its remaining leverage in Burma;

That America is shutting every door and cutting off all of its already-depleted stake in Burma's future;

That the Congress is ready to further bind the hands of this and any future administrations, taking away those tools of diplomacy—incentives, both in a positive and negative sense—which are crucial if we are ever going to hope to effect change in a nation where our words and actions already carry diminished clout.

All of us deplore the behavior of the Burmese junta. We all sense the plight of the Burmese people. We know the United States must support the forces of democratic change in Burma. I fully support the appropriation in this year's foreign operations bill to aid the democrats in the struggle.

I think we have to recognize the reality of the situation in Burma and our influence over there. Burma is not identical to previous situations in which the United States has successfully pressured governments who are antithetical to our values of democracy and freedom.

First, let me say Burma is not South Africa. Burma is not South Africa. Back in the 1970's and 1980's, the oppressive nature of the apartheid regime in South Africa led the Senate to impose heavy sanctions and isolation to end the regime. In order to do that, we had the support of not only our Western European allies but of the front-line nations, those surrounding South Africa, who also lent their support and joined in the effort to bring an end to apartheid.

Unlike South Africa in the 1970's and 1980's, Burma is not surrounded by nations ready to shun it. As a matter of fact, Burma's neighbors and other states in the region reject the view that isolating Burma is the best means to encourage change. They are pursuing trade and engagement, and will do so regardless of what we do or say. Those nations over there who are closest and in closest proximity are maintaining their relations with Burma, seeking to bring about change over a period of time. Isolating Burma is simply not going to work, and we will not have the support of our allies. We will not have the support of our Asian friends.

Second, Burma is not Iran. Do not make that comparison to Iran. The Revolutionary Islamic Government of Iran is known as a sponsor of terrorism and promoter of sectarian unrest throughout the Middle East and beyond. Not only does Iran flout the rights of its own citizens, it sponsors international terrorism, works to un-

dermine neighboring governments and pursues the development of nuclear weapons. As a result of this, Iran is largely a pariah state. While we might have disagreements with our friends and allies around the world regarding our Iranian policy or our policy toward Iran, there is general recognition that the revolutionary government there is pursuing policies contrary to the interests of regional stability and peace.

There is no such consensus on the Burmese junta. While many of their neighbors express irritation about the refugee flow caused by the SLORC's ongoing battles with the various ethnic groups, they view the efforts to oust SLORC as a threat to peace and stability in the region. The subcommittee's proposal will not make American policy more effective or make possible a more cooperative policy or regional consensus in dealing with SLORC.

Let me say that Burma is not China. I do not happen to be a particular supporter of the Clinton administration's China policy in general. A central tenet of the policy is that the United States can threaten sanctions on Chinese exports to the United States in order to convince the government of Beijing to live up to its agreements. We have had a longstanding debate over our policy with respect to China. I know many people might disagree with the administration's proposal.

I recall, for example, when President Bush was in the White House, there was strong opposition coming from the Democratic side to having anything to do with China, because we wanted to impose sanctions because of their terrible record on human rights. I recall many Members stood on this floor and talked about the butchers of Beijing, kowtowing to the Chinese, and imposing this policy of sanctions. President Clinton, when he was candidate Clinton, adopted that policy. Then, when he took office, he saw it was not going to work. We did not have the support of our allies. We did not have the support of our other friends in Asia.

So the administration changed its policy toward China, and it is because of that we have some leverage; we have considerable leverage because the Chinese export many billions of dollars of goods to this country. So now, by engaging the Chinese, we are able to exercise some influence in some areas of concern to the United States, including human rights, but also with respect to our intellectual property rights, which we feel have been violated time and time again.

So we cannot compare this to China because we do not have that kind of policy leverage over Burma. We do not have the kind of export-import relationship with Burma that we have with China, so we do not have the leverage to help in bringing about change.

For all of the reasons I am suggesting, it is important we create a Burma

policy in tune with the realities of Burma today and not the examples of South Africa, Iran or China. The alternative that I offer today sets a course for a coherent American Burma policy which upholds our values and, at the same time, expresses our interests in regional stability. It does, however, make American values and interests clear in a way that gives the administration flexibility in reacting to changes, both positive and negative, with respect to the behavior of the SLORC.

In addition, I hope that the amendment I propose would not only allow for exceptions to the subcommittee's proposal, but I want to create some conditionality here, Mr. President. I propose to allow exceptions to the policy of no assistance to Burma in three critical areas.

First, humanitarian assistance: We do not want to impose sanctions that are basically going to be directed against the people, the Burmese people. That is only going to impoverish them more. So I would have no sanctions across the board in terms of including humanitarian assistance.

Second, there is an exception for counternarcotics effort. The counternarcotics provision, I think, is important, because, as Senator MCCAIN has pointed out on so many occasions, the real victims of a failure to crack down on the narcotics trade in Burma are the millions of Americans who are harmed, both directly and indirectly, by our Nation's epidemic drug abuse.

Burma is estimated to be the source of two-thirds of the world's production of heroin. So, does it make sense for us to eliminate all efforts to have a counternarcotics program in Burma? Are we not serving our national interests by at least maintaining some policy consistent with trying to stop the flow, interdict the flow, find other alternatives for the Burmese people to replace their crops with other types of crops?

My amendment would allow a limited counternarcotics effort in Burma. It is certified to be in our national security interests in accord with our human rights concerns.

The subcommittee's bill would prohibit all counternarcotics efforts in Burma. My amendment would not end the flow of heroin, but I think at least it does not throw in the towel in an effort to stem that poisonous stream. The amendment I offered recognizes that, to be effective, American policy in Burma has to be coordinated with our Asian friends and allies. This is not the case of the unilateral actions offered by the subcommittee.

Mr. President, I have traveled in recent years throughout Southeast Asia, and I have discussed foreign policy, certainly, with many of the leaders there. Frankly, they do not see eye to eye with our policies. That does not

mean that we have to necessarily conform our policies to the way in which they view the situation in Burma, but it does mean that we should look on each and every occasion to consult with and, when possible, cooperate with the other nations of ASEAN, if we hope to effect change in Burma.

It seems to me that we can get on the floor, point to the oppression of the Burmese junta, and we can satisfy ourselves that we are seeking to punish them. But if, in fact, we do not have the support of our allies, and we do not have the support of those neighbors in the region friendly to us who are seeking to work us with on a multilateral basis, then we can stomp on this stage here and produce no visible effect or improvement on behalf of the Burmese people.

Burma is located in one of the most dynamic regions of the world. It is the most dynamic region of the world. I suggest, Mr. President, that we have seen the flowering of democracy and freedom in parts of the world where values were quite alien to those that we support. We have seen developments, for example, in South Korea and Taiwan that have proven democracy can evolve out of formally authoritarian regimes. The same thing can happen in Burma. The best way to do that is to adopt a policy which gives the President some tools to influence the situation. The subcommittee's proposal is all sticks, no carrots. What we seek to do is give the President some limited flexibility to improve the situation on behalf of the Burmese people.

I hope my colleagues will recognize this is not an effort to contradict what the subcommittee seeks to achieve, but rather provides the President with flexibility. It does not matter whether you support this President or not.

Someone asked me whether or not I was carrying the water of the administration. Let me say, Mr. President, I have never considered myself to be a waterboy for anybody. I have never carried water for any administration, if I thought it was simply seeking to accommodate the administration. I think there is only one team. There is not a Republican or Democratic team; there is only one team when it comes to foreign policy. We all ought to be on the same side.

We ought to try to develop a bipartisan approach to foreign policy. I am not seeking to carry the water of the administration, any more than I have in the past, when I was accused of not acting on behalf of an administration. What we need to have is a policy which this President or, what I hope to be President Dole after the next election, has the flexibility to achieve the goals that we all desire, and that is the promotion of democracy and humanitarian relief.

Mr. MCCONNELL. I thank my colleague from Maine for his thoughtful presentation.

I know there are some others on the floor who would like to speak. Let me make a few observations here at the outset of the debate. My good friend from Maine mentioned that we had consulted with leaders in the area. The one leader that we have not consulted with is the duly elected leader of Burma, Aung San Suu Kyi. Her party won 82 percent of the vote in 1990. She is the legitimately elected head of a Burmese Government that has not been allowed to function. It has not been allowed to function because the State Law and Order Restoration Council simply disallowed the election, put her under house arrest until July 1995, and she still effectively is in that state. They say she is not under arrest anymore, but, in fact, she stays at home most of the time. That is the safest place to stay. She has to sort of smuggle out messages to the rest of the world.

So the one leader we have not consulted, Aung San Suu Kyi, has an opinion about the proposal in the foreign operations bill. The duly elected leader of Burma, receiving 82 percent of the vote, thinks that the approach in the underlying bill is the way to go. Maybe the other people in Indonesia, Korea, Philippines, and other places do not think it is the way to go, but the one who won the election, the Western-style supervised election in 1990, thinks that the only thing that will work are sanctions.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. MCCONNELL. Not yet. Mr. President, let me say that in terms of the pain to American business, there are only two companies, both of them oil companies, that are in there and plan to stay. Everybody else is pulling out. One oil company decided not to deal with this regime. Eddie Bauer pulled out, and Liz Claiborne pulled out. The retailers do not want to have anything to do with this crowd, which exists for the sole purpose of terrorizing its own citizens. They have a 400,000-person army, armed to the teeth, not because of any expansionist goal, but to suppress and abuse their own citizens. That is all they do. So if you want to do business in Burma, you cut a deal with the State Law and Order Restoration Council and you enrich them.

So in terms of the pain to American business, if this sanctions measure went into effect, it would affect only two companies—not like South Africa, in which my friend and colleague from Maine supported the South African sanctions bill, as did I. My friend from Maine voted to override the President's veto, as did I. A lot of others did, too, a good number of Senators who are still in the Senate on both sides of the aisle. That was actually a painful decision because there was a lot of American investment in South Africa that had to pick up and leave. There is no

question about whether South African sanctions worked. They worked. Now, I know there is a feeling around here on the part of some that sanctions never work. The truth of the matter is that sometimes they do and sometimes they do not. We have to pursue these issues one at a time, in a pragmatic way, and consider what is appropriate in a given country.

I say to my friend from Maine, and others, that we did not start proposing unilateral sanctions the first year. I have been working on this issue for a couple of years, most of the time sort of by myself, because there are no Burmese-Americans to get us all interested in this. America is a melting pot, and a lot of Americans who came from other places get interested in foreign assistance bills. Whether they are Jewish-Americans, Ukrainian-Americans, Polish-Americans, they take an interest, or Armenian-Americans. There are not many Burmese-Americans. So this issue has not been on the radar screen here. But, as a practical matter, this is one of the most, if not the most, because it ranks up there with North Korea, repressive regimes in the world.

It has been 6 years since the election. The Bush administration did not pay any attention to the election, and neither is the Clinton administration. The problem I have with the proposal of my friend from Maine—and I know it is well-intentioned and popular with the other countries in ASEAN—is that I do not think it will have any impact, I say with all due respect, because the present administration has shown no interest in doing anything significant.

As I understand the proposal of my friend from Maine, it would, in effect, mean increasing aid to SLORC, since the Senate voted 50 to 47 in November to put off aid for narcotics. We all understand that the American interest in Burma is not because we have a lot of Burmese citizens; it is because we have a lot of Burmese heroin. If you wanted to look at it from a purely domestic point of view, that is the interest in Burma.

So I guess the question is whether there would be a serious narcotics enforcement effort by this crowd running Burma.

Mr. LEAHY. If the Senator will yield, I think I know the answer.

Mr. MCCONNELL. I yield for a quick observation.

Mr. LEAHY. I think it would be safe to say that if past performance is any indication—and I think it is an indication—there would not be any help in stopping the heroin traffic by the group that runs it. I think the indication is that a number of them are benefiting very directly from this heroin traffic, as the Senator from Kentucky has pointed out before.

Mr. MCCONNELL. The Senator from Vermont is right on the mark. Since SLORC seized power, opium production

has doubled and seizures dropped 80 percent. The warlord, Khun Sa, has had a complete safe haven. That is the kind of cooperation we are getting from the State Law and Order Restoration Council, which runs Burma with an iron hand.

Now, some will suggest that unilateral sanctions are a radical step. Well, there is precedent for it, and my friend from Maine mentioned some of the other countries. In many of them, we subsequently had help from others. I think it is reasonable to assume that if the United States takes the lead, we will not be alone. We will not be alone. Things are beginning to stir in the European Union, the European Parliament, and European companies. Two European companies pulled out just in the last week or so. So the movement is beginning.

If America will lead, there will be a lot of followers, not initially with ASEAN, I agree with my friend from Maine. They have the biggest investment there. I can see why they do not want to change the status quo. They are doing just fine. It is probably a lot easier for countries that do not have huge investments there to choose not to invest if they do not already have big investments. Certainly, it is not going to be much of a hit to U.S. business to take this step. But it is a beginning. It is a beginning.

We have pursued unilateral sanctions against Libya, Iran, and Cuba. So we have done this before. It is not completely unique. It is not a radical step. It has been 6 years, Mr. President, since the election over there—6 years of terrorism and murder, and the ASEAN countries are doing business and everybody else is ignoring it.

It seems to me, at this point, it is not reasonable to assume that this sort of constructive engagement is going to improve. There has been no improvement—none in 6 years. First, the Bush administration and then this administration either (a) has ignored the problem or (b) tried to engage in constructive engagement.

There are plenty of other Senators who would like to speak. I just wanted to lay out for the Senate, as we begin the debate, what the committee position suggests is not a particularly radical step. This is truly one of a handful of pariah regimes in the world. If the United States doesn't lead, who will?

I yield the floor.

Mr. THOMAS. Mr. President, I rise in full support of the COHEN amendment to the Burma provisions of H.R. 3540.

As the chairman of the Subcommittee on East Asian and Pacific Affairs, I strongly object to the present language in the committee substitute amendment. My problems with the provision are both procedural and substantive.

First, on the procedural issue, this matter is clearly one for an authorizing committee to consider, not—with

all due respect—an appropriating committee. The subject matter of the provision is clearly legislative in nature; it has absolutely nothing to do with funding. Consequently, it has no business being included in an appropriations bill. In the House, this provision would be subject to a point of order on that grounds alone, and would have been formerly in the Senate too until the recent Hutchinson precedent.

Second, if enacted into law, the provision would create a significant change in our relationship with Burma. Although I will readily admit that our present relationship with Burma is not especially deep, the imposition of mandatory economic sanctions would certainly downgrade what little relationship we have. Moreover, it would affect our relations with many of our allies in Asia as we try to corral them into following our lead. Finally, and I have heard precious little from the manager of the bill on this, it would have a substantial and detrimental impact—to the tune of many millions of dollars—on several United States businesses with investments in Burma.

Consequently, the provision and its possible ramifications are a matter which should be carefully considered by the authorizing committees of jurisdiction: the Committee on Banking and the Committee on Foreign Relations. To date, Mr. President, neither committee has had that opportunity. The Banking Committee held a hearing on Burma sanctions several weeks ago. At that hearing, the committee heard from only the first of three witness panels; the first panel consisted of supporters of the legislation, while the second and third consisted of the administration—which is opposed to the bill—and sanctions opponents. The remainder of the hearing has been indefinitely postponed. Under those circumstances, I do not believe that it can be said that the Banking Committee has had an opportunity to fully consider the matter.

As for the Foreign Relations Committee, neither the full committee nor my subcommittee has held a hearing on Burma or the sanctions provisions in this Congress. We were prevented from holding hearings on the Burma sanctions bill of the Senator from Kentucky [Mr. MCCONNELL] because the Parliamentarian ruled it was preferable only to Banking. Yet despite the fact that the provision strikes at the very heart of bilateral relations with Burma, neither Senator MCCONNELL or his staff has ever even discussed this matter with me or the chairman of the full Foreign Relations Committee. When Congress acts it should do so only after careful and considered deliberation, something lacking in this case, and not by a last-minute attachment to appropriations legislation.

Substantively, I believe the sanctions provided for in the bill are a com-

pletely ineffective way to get Burma's attention. We all know very well that economic sanctions only work if they are multilateral. We've seen that proven time after time.

It is clear that in this case, we would be the only country imposing sanctions. All of the ASEAN countries, especially those which border Burma, have told us point blank that they will not join us in imposing sanctions. They will continue their policy of constructive engagement with Burma, and they told a recent United States mission to the area that imposing sanctions would be foolish. In fact, Mr. President, no other country I know of has agreed to go along with proposed sanctions—no other country, Mr. President.

Therefore, we are left in a position of imposing unilateral sanctions, and unilateral sanctions are just like no sanctions at all. If we prohibit United States companies from doing business in Burma, foreign business with no similar handicap will be more than happy to step in and take our place. There is very little I can think of that we are in a position to supply to Burma which couldn't be supplied by a foreign country were we removed from the arena. This was a principal argument put forward by many Senators against imposing sanctions against the People's Republic of China. I wonder how many of those Senators are now arguing in favor of sanctions against Burma?

In addition, the Burma provisions strike me as somewhat hypocritical. The Socialist Republic of Vietnam, in same region, is a Communist country that routinely violates human rights and suppresses democracy; free speech is forbidden, opponents of the government are locked up for years, just like in Burma. But Mr. President, I don't see anybody moving to impose sanctions against that government.

On the contrary, we're doing everything we can to increase U.S. business there because we believe that's the best way to effectuate change. We've seen that increased business contacts are the best way to influence China; this seeming truism is the principal reason why we continue to renew China's most-favored-nation status each year. Most Senators have apparently concluded that the same is true for Vietnam. Why, then, are we taking a different position with regards to Burma?

Mr. President, I am the first to agree that democracy needs to be restored in Burma, that SLORC has to go, and that Daw Aung Sun Suu Kyi and her party are the rightful government of that country. Unfortunately, this bill is not going to bring us one step closer to bringing that about. All it is going to do is hurt U.S. companies, put us out on a limb without the support of our allies or other countries in the region, and make us look somewhat foolish.

For these reasons, I oppose the committee amendment and support the

Cohen amendment. I strongly urge my colleagues to do likewise.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I rise in support of the Cohen amendment. I was part of a group that perfected an amendment and put out a "Dear Colleague" letter. It was similar in many respects to the Cohen amendment. It had some significant differences, and we had a broad support I believe for that amendment. But, Mr. President, we have determined—Senator NICKLES and I, and other supporters of this amendment—that the differences between the Johnston-Nickles amendment and the Cohen amendment were not sufficient so as to divide our forces. And we believe that essentially this amendment incorporates what we think is the central thrust of our amendment. So, therefore, we support it, and I urge my colleagues to do so.

Mr. President, this is a difficult question. No one defends the SLORC, the group that is running Myanmar, or Burma. It is true they are a bad regime. They are not an Iran in the sense that they do not practice state terrorism. They are not a Nazi Germany in the sense that they engage in genocide. But they are plenty bad, Mr. President, and we do not defend them.

The question is: Would it be effective to do what Senator McCONNELL has proposed? Would it be effective? Would it help achieve the end? Mr. President, I think it would do precisely and exactly the opposite.

Mr. President, to cut off American participation in Burma—not foreign participation but American participation—would be exactly the wrong thing. First of all, it is no sanction because Americans are less than 10 percent of foreign investment in Burma today and the total of foreign investment is less than Burmese send back—Burmese expatriates from around the world send back to their own country. The reason for this is because under the former leader of Burma, General Ne Win, who was there for over two decades, Burma was one of the most hermetically sealed countries on the face of the Earth. People did not go outside Burma. People did not come inside Burma. It was a totally closed not only economy but society that practiced the most cruel kind of repression; no doubt about that. It has only been in the last few years, Mr. President, that Burma has opened up at all. They have begun to let a little bit of light in. Indeed, Unocal, which is an American company, is in there together with Total, which is a French company, to develop the gas fields. Actually they want to send the gas to Thailand. The Thais are very strong supporters of this, as you might suspect.

And the question is: Is it good to have an American company, or would

it be better to have Total, the French company, have the contract? Really that is the question proposed by the McConnell approach. I submit it is better to have an American company there.

Mr. President, I talked to the President of Unocal. He personally have been talking to these people in what we call the SLORC, the State Law and Order Restoration Council, the group that is running Burma. Whether or not he has been successful, or whether or not he is beginning to be successful, you can argue. But I can tell you, Mr. President, that the President of Unocal—an American—it is better to have him in there than to have only the French because the French and the Europeans have never really helped on human rights matters. I mean they never helped on China. They never helped on other countries around the world. It is always the United States who does the propagation of democracy and human rights. We have a Louisiana company that has a subcontract there.

The South Koreans are ready, willing, and able. And, as a matter of fact, it is grooming to take their place in Burma. I ask you, Mr. President. Do you think that the South Koreans are going to be in talking about human rights and democracy? Mr. President, it is much more likely that Americans will do so. When you have a country that has been so sealed off from Western influences, from civilizing influence, from moderating influences all these years, it is important to let the light in—the cleansing light of democracy, the cleansing light of Western civilization, the dynamic forces of the free market. It is better to let those in. Then you have something with which to sanction. If, just as they are letting the light in, you suddenly shut the light off, there is neither a sanction to be had nor a loss for the Burmese in continuing with their course of conduct.

My colleague from Kentucky says that there has been no improvement at all; that they have not responded at all. Mr. President, I would say that is debatable. We asked the Burmese to do a couple of things, both of which they did. We asked them to release Aung San Suu Kyi. They did, as my colleague from Kentucky says. She is not under house arrest. She stays at home because it is the safest place. Maybe so. But we asked them to do that, and they did that. She is not in prison. That is not much but it is something we asked them to do, and they did it.

We asked them to release the Members of Parliament. Most of them have been released. Several hundred have been released. There are a number which remain in prison. They say there is no Member of Parliament in prison, and rather cynically they are able to justify that by saying they decertified those Members of Parliament.

So I do not mean to make the case that the Burmese are responding completely, or responding in good faith, or that there is great reason to hope. But, Mr. President, there is some progress and some measurable progress where there was none before. When Ne Win was running that country, you could not even get American news media in; a member of the news media. Now, Mr. President, there is at least reason to hope.

My friend from Kentucky says Aung San Suu Kyi, that brave woman who did in fact win the election, has backed his position. Mr. President, I tried to read everything that she has said. I stand second to none in my admiration for her. She is a very brave woman. She has risked her personal safety to stand up for freedom and democracy in Burma. And I hope eventually that she will be successful.

But I am not aware—I was going to ask my colleague from Kentucky—if she has endorsed the specific language of the McConnell amendment. Has she endorsed this specific language?

Mr. McCONNELL. I would say to my friend from Louisiana that I believe the answer to that is yes.

Let me read the quote. I have not shown her the language. She said that "Foreign investment currently benefits only Burma's military." These are direct words from Aung San Suu Kyi. "Foreign investment currently benefits only Burma's military rulers and some local interests but would not help improve the lot of the Burmese in general." She says, "Investment made now is very much against the interests of the people of Burma." She said further, these are direct quotes in May 1996, this year: "Burma is not developing in any way. Some people are getting very rich. That is not economic development." All of those are direct recent quotes.

I think it is safe to say that she hopes that we will begin these kinds of sanctions.

A further direct quote from the New York Times of July 19, 1996, direct quote: "What we want are the kind of sanctions that will make it quite clear that economic change in Burma is not possible without political change."

So I would say to my friend from Louisiana, the answer is no. I have not shown her the actual language. I am totally confident that she supports the approach that I have recommended.

Mr. JOHNSTON. Mr. President, I thank the Senator for responding on that. I think the answer to my question is—and I think the Senator was honest in saying—that Aung San Suu Kyi has neither seen nor endorsed this language, that she in fact endorsed sanctions, as the Senator from Maine [Mr. COHEN] has in his amendment. It is sanctions. One of the central questions is this. I made up a little poem. I

am not as good at poetry as the Senator from Maine is, but my little poem is this:

A sanction will not a sanction be if it hurts the sanctioner and not the sanctionee.

What that means is if all you do is cost American jobs and influence by substituting, for Unocal, Total, a French company, when Unocal is trying its best to influence the SLORC, influence the government, doing what it can, and all you are doing is getting the Americans out and putting in the French, getting the Americans out and putting in the South Koreans, then I submit that is no sanction at all.

Now, we are told by my friend from Kentucky that there is precedent for this because we have taken unilateral sanctions against Iran and Libya and Cuba.

First of all, I think these three countries are greatly distinguishable, the first two practicing terrorism all around the world, and in the case of Cuba, shooting down American planes over international airspace. Whatever else you may say about Burma, they do not practice state terrorism, nor do they threaten their neighbors.

Moreover, my friend from Kentucky says that sanctions sometimes work and sometimes do not, and he talks about the example of South Africa. They did, in fact, work in South Africa where you had a united world. The whole world was united against South Africa. In the case of Burma, the United States, to my knowledge, has not one single ally. The nations of the area, the ASEAN countries, actively oppose sanctions and actively hope that we will engage Burma not just because they want to trade with Burma, and they do, but because they believe that the best way to sanitize that regime, to encourage a dialog, to bring democracy to Burma is by beginning to engage that country.

The European Union 2 weeks ago voted not to impose unilateral sanctions. Not even the Danes, whose diplomat there died in prison under very suspicious circumstances, are willing to engage in sanctions against Burma.

The Cohen amendment seeks to have our administration get other nations of the world to engage in multilateral sanctions. Multilateral sanctions will work. If we can engage the other countries of the region and of the world to cooperate with us in sanctions, that, in fact, will be a sanction and will not be what we call friendly fire. Friendly fire, as we found out in Desert Storm and as we have always known, never hurts the other side. It hurts yourself. It decreases our influence with Burma.

So, Mr. President, I strongly urge that we pass the Cohen amendment and that we seek to help bring democracy to Burma.

Mr. McCONNELL addressed the Chair.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Kentucky.

Mr. McCONNELL. Very briefly, I just wanted to make a couple of observations with regard to the comments of my good friend from Louisiana.

Aung San Suu Kyi has a cousin, an official spokesman, who resides in the United States and heads an organization called the National Coalition of Government of the Union of Burma. He is, in effect, Aung San Suu Kyi's spokesman in our country. He is here because he has to be here. He cannot be over there and continue to breathe. I have a copy of a letter dated July 12, 1996, from him on the very issue that we are debating here this morning. Dr. Sein Win says:

The immediate imposition of economic sanctions against the ruling military junta is urgently needed. I do not take the impositions of sanctions on my country lightly.

He understands what we are talking about here.

I and the democratic forces working to liberate our country know that foreign investment serves to strengthen SLORC. It is providing SLORC with the means to finance a massive army and intelligence service whose only job is to crush international dissent.

He goes on to say:

The situation in my country has deteriorated into free fall.

He concludes by saying:

I urge you to stand on the side of 42 million freedom-loving Burmese and support economic sanctions against this rogue regime.

I certainly agree with my friend from Louisiana that the State Law and Order Restoration Council is no threat to its neighbors. It is not. It is a threat to its own citizens. That is what this is, a regime of terrorism against the Burmese people. If we do not impose sanctions unilaterally, who is going to start this? Who is going to take the lead if the United States does not? Sooner or later, if the international community is going to notice what is going on there and take some steps, it is going to happen because of American leadership.

Mr. President, I know the Senator from Missouri is anxious to speak. I will come back to this later. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today in support of the amendment by my colleague from Maine. I am very much concerned about the impact of the provisions in the underlying bill. Like most, if not all, of my colleagues, I would agree and agree wholeheartedly that the present conditions in Burma, or Myanmar, are deplorable. The conditions of SLORC cannot and should not be condoned. As I have said in the past on many occasions, their claim to govern is an illegitimate claim. Their hold on power through oppression and denial of human rights is one that I and, I believe, everyone else in this body

would like to see come to end as soon as possible.

Aung San Suu Kyi and her party won an election in 1990 and I am confident would win again if another election were held today. SLORC came to power solely due to its ability to coerce. Period. End of story.

The question that we are now trying to answer is, how do we respond to the situation? How can the United States influence the activities of SLORC to bring about change in Burma and to bring the democratically elected government of Aung San Suu Kyi back to Burma?

One approach that is taken in the foreign operations appropriations bill is to try to achieve change in Burma through total unilateral sanctions—unilateral sanctions. This approach assumes that such actions will influence and pressure SLORC to change its behavior.

I have to commend my colleagues for their eagerness, their dedication and the leadership of the Senator from Kentucky to try to see that we do something to bring about change in Burma, but I am not convinced that cutting off what little contact we do have with that country will serve the positive purpose we seek. That action, in my opinion, will do nothing to bring about change in Burma. Such sanctions would be ineffective in achieving their purpose and would solely deny the Burmese people, the ones we are trying to assist in this whole debate, the positive effect of closer and deeper American engagement.

What would be accomplished by implementing sanctions unilaterally on a country where U.S. investment is relatively insignificant, minor, almost unimportant and would be quickly taken up by our competitors? We must remember that all of the nations of Asia and much of Europe, including France, Germany, and the United Kingdom, disagree with this policy of sanctions.

Like the Senator from Maine, I have had the opportunity to visit with leaders in the ASEAN countries, and I can tell you that they are not going to impose sanctions. They believe in engagement. They are going to continue to engage in Burma.

Is the progress toward peace, human rights, and the recognition of democratic principles more likely to be furthered by our withdrawing from the field? I think not. Sanctions did work in South Africa, but only because the United States was part of a much larger coalition. They do not work when we go in as the Lone Ranger and try to cut off our minuscule investment.

The Senator from Kentucky has given us quotes from Aung San Suu Kyi and her spokesperson, in which they talk about foreign sanctions. If all countries who are now trading with Burma could be enlisted, then there

could be a major impact. But I can tell you from talking to—and mostly from listening to—the leaders of the countries that are the neighbors of Burma, that is not going to happen.

Burma is just beginning to open its doors to the outside world. There are neighboring countries and other countries in the world anxious and willing to go in. The opening is a unique opportunity that we have not seen before, an opportunity to help bring about change, to make things happen. Frankly, I am not so much concerned, not so much interested in the very small investment that our companies may now have in Burma. If we were part of an overall sanctions picture, I would say it would be worth it, if other countries would get out as well. But I can see us having a positive effect in the entire region if we continue to be involved, if we continue to have the opportunity to exercise U.S. influence to bring U.S. values to that country. It just makes sense.

How can we influence anything if we are the only ones outside the room while the rest of the world is carrying on without us, probably happy to see us play the self-righteous outsider and get out? I cannot see how punishing United States firms by threatening to keep them out of Burma is an effective way to bring about change. United States presence, U.S. firms are the ones on the ground who can help spread American values.

Obviously, our global competitors and Burma's neighbors see opportunities arising in Burma. I fear they are more interested in monetary gain, in many instances, from such change and not the opportunity to bring about the political change that we in the United States are seeking. I can imagine that European and Asian trade competitors would be wildly supportive and happy to see total sanctions unilaterally imposed by the United States on its own companies.

Another possibility we must start considering is the security issue of continually isolating Burma. To do so could drive them into the arms of the Chinese. A strong security relationship between Burma and China is not, in my view, in the best interests of the United States. I fear to think what it would mean if such a relationship were to lead to a port in Southeast Asia for the Chinese Navy.

At this time the United States does not do much for Burma. We purchase a mere 7 percent of all Burma's exports and provide an insignificant 1 percent of its imports. We provide them no aid. We limit international financing by continuing to vote against loans to Burma through international financial institutions. Frankly, these votes are likely to be overridden by other voting countries who seek the opportunities that large-scale projects in Burma would provide. We have very little le-

verage even now with Burma. To isolate ourselves even further from that country would be to give up what little influence, what positive pressure for change we can bring.

The United States can either be at the table and foster meaningful dialog and negotiations, or we can walk out of the room. I believe that, recognizing the opportunity that SLORC is providing by opening Burma to foreign interests, staying and engaging the country's foreign leader is the best hope we have for fostering democratic change in Burma.

We all want to see change in Burma. We all feel that SLORC's actions are reprehensible and would like to see the legitimately elected government of Aung San Suu Kyi brought to power. I hope, while making efforts to bring about these results, we do not give up existing and future United States interests, not only in Burma but throughout Southeast Asia. I yield the floor.

THE PRESIDING OFFICER. The assistant majority leader.

MR. NICKLES. I compliment my colleague for an excellent statement. I echo his comments. I also compliment Senator COHEN for his amendment.

Senator JOHNSTON and I have been working on a comparable amendment. It is almost identical. We are not going to offer that. I think it is important for people to have one alternative to the language in the appropriations bill.

On page 188 in the bill, it says we are going to have sanctions against Burma. All of us want to change policies in Burma. Burma has been repressive. It has denied human rights. We need to make changes. So, how does the committee, or how does the language that we have before us in the bill, do that? First, it says, "No national of the United States shall make any investment in Burma."

Some people, some companies, some U.S. citizens have already made investments. We are going to say no more investments; no investments, period. That is a very stark punishment. I am not sure it is punishment so much on Burma and officials in Burma as it is on officials of the United States and people of the United States. The language continues. It goes on and says we will deny United States assistance to Burma.

The Cohen amendment does that as well, but it is a little more targeted. Under the language that we have in the bill, it says United States assistance to Burma is prohibited. Under the Cohen amendment it says assistance is prohibited except for humanitarian assistance. We are trying to help some people. There has been repression over there. It also says we could continue to have assistance in areas for counter-narcotics. Right now there are a lot of narcotics coming from Burma. Should we not have United States assistance,

some undercover, some open, used to investigate sources of heroin and other drugs that might be leaving Burma and ultimately end up in the United States? The language that is in the bill before us would deny any assistance, including counternarcotics efforts. I think that would be a serious mistake.

The idea of having a unilateral sanction, I think, is a mistake. I think, if we are going to have sanctions, they should be multilateral. If we are saying only the United States steps forward, no U.S. citizen shall invest, and no other country comes forward, there may not be any change whatsoever. Certainly, if we are going to have U.S. sanctions, I want my colleagues to consider—I will not be offering it at this time, but I was considering an amendment that we should at least have a report on the economic impact and whether or not it had any positive impact on achieving our goal.

If we have sanctions, certainly we want to know whether they are working or not working. We want to have the changes in Burma, but do we make those changes when we have unilateral sanctions affecting our very small investments? I doubt it. Certainly they can be offset by other countries.

Can you have changes when you have multilateral sanctions? Possibly. Sanctions are difficult in this day and age. When the Carter administration imposed a wheat embargo on Russia for some serious abuses, what happened is we lost markets to one of our weak competitors. In Russia, it was replaced by a lot of other countries—Australia, Argentina and other countries. They expanded their wheat base. They exported to Russia. Russia now does not buy as much from the United States. They buy from other countries. We just created another group of competitors in this particular one commodity. Did we change policy in Russia? I do not think so. I do not think that had, really, a triggering impact in making policy changes. I want to make the policy change.

Another important segment of the Cohen amendment is that it does give the President some discretion, some leverage, which will have influence on future decisions on Burma. Do we just want to punish them for past decisions, punish them or punish American citizens? I am afraid we will be punishing Americans more than we will be punishing the Burmese officials.

But more important, how do we change future behavior? I think the Cohen amendment does more toward changing future behavior because it says we are actually giving some discretion. If we do not see improvements, then some sanctions will come about, but the President and the diplomatic efforts can be using those for leverage. There is not a lot of leverage when it says no national of the United States can make any investment, the United

States can give no assistance whatsoever. I am afraid that will not influence anything toward the positive.

Frankly, it will cost the United States. It will be taking investments away from American citizens, I think unquestionably, and I doubt it would have the economic impact desired by my colleague from Kentucky.

I respect greatly the efforts of the Senator from Kentucky. I know he believes very sincerely in trying to effect change in Burma. I happen to share the goal of my colleague from Kentucky. I just think the method toward best achieving that would be through the amendment offered by my colleague from Maine, Senator COHEN. I compliment him on that amendment, and I urge its adoption.

Mr. MCCONNELL. Mr. President, if I can say quickly to my friend from Oklahoma before he leaves, I appreciate his kind words about my work on this issue. If I heard him correctly—and I don't want to misstate his position—did I hear my friend from Oklahoma say that he thought assisting the regime there was a good idea? Maybe I misheard him.

Mr. NICKLES. Mr. President, no, I did not. I say to my colleague, I was referring to the section that says no assistance whatsoever. I would conclude that to prohibit U.S. contributions involved in any way dealing with, I think—we have exceptions for drug interdiction. Can we spend money in Burma for drug interdiction, drug identification, undercover or otherwise? I think we should have an opportunity.

Mr. MCCONNELL. The current law forbids that. We just last year imposed a prohibition on dealing with SLORC. So this would, in effect, weaken existing law.

I wanted to make sure my friend from Oklahoma knew that. Existing law says no U.S. cooperation with SLORC on the drug issue, frankly because we don't trust them. So the Cohen amendment would actually weaken existing law in terms of the U.S. relationship with SLORC. I just wanted to make that clear.

Let me make a few observations about the argument that the approach we are recommending is inevitably going to be unilateral in nature and nobody will follow us.

Already there is action in the European Parliament. Let me point out to my colleagues what action has been taken this month in the European Parliament.

First, the European Parliament has condemned torture, arrests, detentions, and human rights abuses perpetrated by SLORC. Obviously, that is an easy thing to do.

It supports the suspension of concessional lending to SLORC, a little tougher step.

Third, the European Parliament has called upon members to suspend GSP

for exports to Burma because of forced labor conditions.

And fourth, Mr. President, and most important, the European Union has called upon its members to suspend trade and investment with Burma.

The July 1996 European Union resolution restricts visas to SLORC officials and their families, something that is in the underlying bill and I hope we adopt.

The resolution restricts the movement of SLORC diplomatic personnel, suspends all high-level visits, demands full investigation and accountability for the death in custody of Denmark, Finland, Norway, and Switzerland's consul, Leo Nichols. Let me talk about Leo Nichols. Leo Nichols was Aung San Suu Kyi's best friend. He was the European consul who represented a number of European countries in Burma as a sort of local consulate official.

Leo Nichols was arrested a few months ago for the crime of possessing a fax machine, Mr. President. In Burma, if you are on the wrong side of this issue, you can be arrested for such things as possessing a fax machine. So Leo Nichols was arrested for possessing a fax machine and turned up dead. They had a hard time getting the body. He was denied medication.

All of a sudden, Europe discovered Burma, because a European citizen got treated the same way the Burmese citizens are treated on a daily basis—on a daily basis. All of a sudden, a European citizen got treated that way, and Europeans have all of a sudden gotten more interested in this issue.

So I raise this point to suggest that if America has the courage to take this step unilaterally, we will not be alone for very long. As a matter of fact, the rest of the world is getting interested in this issue. Secretary Christopher called me from Indonesia the day before yesterday to talk about this issue. Obviously, he supports the amendment of the Senator from Maine, and that is certainly OK.

Mr. COHEN. If the Senator will yield, I don't believe he does. He does not express support for this amendment.

Mr. MCCONNELL. I am sorry, I retract that. Let's put it this way. The Secretary of State would like a proposal, I think, that gives the administration wide latitude to manage this issue as they see best, and I hope it is not a misstatement of the Senator's amendment that it does give the administration a good deal of latitude.

Mr. COHEN. It gives the administration some flexibility. They would like more. Mine does not give them quite as much as they like.

Mr. MCCONNELL. I certainly would not want to misstate the position of the administration, but I am confident in saying the Secretary of State would prefer not to have unilateral sanctions. I think the Senator from Maine would agree with that.

I have been a little surprised the administration has not gotten interested in this issue, but I think they are getting more interested in the issue.

The point I was going to make before my friend from Maine stood up was what Secretary Christopher pointed out to me is it was discussed for an hour the other night at the ASEAN meeting. Previously, they acted like Burma was not there. Nobody talks about it. It is being forced on to the agenda, even in the part of the world that is least interested in doing anything about the regime, for all the obvious reasons. They have the biggest investment there.

So this is not going to go away, Mr. President. I don't know what is going to happen on the vote on the Cohen amendment, but it is not going to go away until SLORC goes away and until the results of the election in 1990 are honored.

I don't want to misrepresent at all the position of the administration on the Cohen proposal. All I can say is it is exactly what the administration and the National Security Council asked me to accept on Monday, but they will have to speak for themselves. This amendment, by the way, is not directed at the Clinton administration. The Bush administration was worse, from my point of view, on Burma than this administration has been. At least they discuss it occasionally.

So, Mr. President, let me just conclude this segment by saying I don't think we will be alone very long if we have the courage to take this step.

I yield the floor.

Mr. LEAHY addressed the Chair.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that John Lis, a Javits fellow currently working on Senator BIDEN's personal staff be extended the privilege of the floor for the debate.

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

Mr. LEAHY. Mr. President, I am perfectly willing to yield to whomever wants the floor. If no one is seeking the floor, I will suggest the absence of a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COHEN. Mr. President, I understand there are a number of Senators who would like to speak on this measure who cannot come to the floor at this time. So I am going to suggest the absence of a quorum in a moment, but then agree to lay aside this amendment so that other amendments that may be pending can be considered.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, there is going to be further debate on this amendment. But it is my plan, when Senator COHEN has completed, if there are no other speakers at this moment, to lay this amendment aside. I understand Senator SMITH is ready to offer an amendment that he will need a rollcall vote on. We will move to the Smith amendment.

Mr. COHEN. Could I just indicate for the record, during the course of the debate this morning the question of the administration's position was raised. I have since been apprised that the administration does lend its support to the Cohen amendment, which prior to the beginning of the discussion of this matter it did not. So perhaps they have been watching C-SPAN and have tuned in to see the better part of wisdom in supporting the Cohen amendment.

Mr. President, I ask unanimous consent that the letter, signed by Barbara Larkin, 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.

Hon. WILLIAM COHEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COHEN: The Administration welcomes and supports the amendment which you and others have offered to Section 569 (Limitation on Funds for Burma) of H.R. 3540, the Foreign Operations Appropriations bill. We believe the current and conditional sanctions which your language proposes are consistent with Administration policy. As we have stated on several occasions in the past, we need to maintain our flexibility to respond to events in Burma and to consult with Congress on appropriate responses to ongoing and future development there.

We support a range of tough measures designed to bring pressure to bear upon the regime in Rangoon. We continue to urge international financial institutions not to provide support to Burma under current circumstances. We maintain a range of unilateral sanctions and do not promote U.S. commercial investment in or trade with Burma. We refrain from selling arms to Burma and have an informal agreement with our G-7 friends and allies to do the same.

On the international level, we have strongly supported efforts in the UN General Assembly and the International Labor Organization to condemn human and worker rights violations in Burma. At the UN Human Rights Commission this month, we led the effort against attempts to water down the Burma resolution. We have urged the UN to play an active role in promoting democratic reform through a political dialogue with Aung San Suu Kyi.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report. We note, however, that the working of two of the sanctions as currently drafted raises certain con-

stitutional concerns. We look forward to working with you and the conferees to address this.

We hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to support the Cohen-Feinstein-Chafee-McCain amendment with respect to Burma.

Before I begin, I want to express my admiration for the distinguished manager of the bill, Senator MCCONNELL, who has almost singlehandedly brought this issue to the floor. He has been doggedly pursuing adjustments to our Burma policy for many months, and has focused the attention of the Senate and the administration on this issue in a way that would not have happened otherwise.

There is clearly no division, I think, at least, in this body, on the nature of the SLORC regime in Burma. It is an oppressive antidemocratic regime, and it has systematically deprived the people of Burma of the right to govern themselves. There is no disagreement on that point, I think, nor on the desirability of restoration of democracy in Burma.

The key question, though, we need to ask, is what is the most effective way to advance the goal? In order to answer that question, we need to have a clear understanding of what leverage we have, or lack of, on Burma. We also need to have a clear understanding of how other interests in the region will be affected. The key problem with the Burma provision, as I view it, in the bill before the Senate, is that it presumes we can unilaterally affect change on Burma.

I have come, as I have watched world events, to doubt that unilateral sanctions make much sense. It is absolutely essential that any pressure we seek to put on the Government of Burma be coordinated with the nations of ASEAN and our European and Asian allies. If we act unilaterally, we are more likely to have the opposite affect—alienating many of these allies, while having no real impact on the ground.

One of the key aspects of the amendment offered by the Senator from Maine is that it requires the President to work to develop, in coordination with members of ASEAN and other nations having major trading and invest-

ment interests in Burma, a comprehensive multilateral strategy to bring democracy and to improve human rights and the quality of life in Burma.

This strategy must include the promotion of dialog between the SLORC and democratic opposition groups in Burma. Only a multilateral approach is likely to be successful. Knowing that the ASEAN nations, who are moving now toward more engagement with Burma, not less, will not join us in sanctions at this time, it is clear that such a policy will not be effective. For example, on the Unocal pipeline, if we apply unilateral sanctions, the Unocal pipeline, which is now a joint venture between France and the United States company, will only be taken over by either Japanese interests—I am told Mitsui is interested—or South Korean interests. Therefore, what point do we really prove?

The Cohen-Feinstein amendment does recognize that there are steps we can and should take at this time. It does ban bilateral assistance to Burma, but it does so with three important exceptions. First, it allows humanitarian assistance, which is clearly a reasonable exception in the case of natural disaster or other humanitarian calamity. Second, it allows assistance that promotes human rights and democratic values, which clearly makes sense, since that is what we are trying to promote in Burma. Finally, it allows an exemption for counternarcotics assistance, if the Secretary of State can certify that the Government of Burma is fully cooperating with the United States counternarcotics effort, and that such assistance is consistent with United States human rights concerning Burma.

This last exemption goes to perhaps, I believe, our most important interest in Burma. Sixty percent of the heroin coming into the United States comes from Burma today, and it is a growing scourge on our cities. The Burmese Government is not cooperating with the United States counternarcotics interests and is benefiting from the drug trade. The President has decertified Burma on these grounds. But this exemption does recognize that if conditions change, it would be in our interest to be able to engage a cooperative Burmese Government in a counternarcotics policy. It is clearly in our interests to have this ability.

The Cohen-Feinstein amendment also directs the United States to oppose loans by international financial institutions to Burma, and it prohibits entry visas to Burmese Government officials, except as required by treaty obligations.

In addition, the amendment requires the President to report regularly to the Congress on progress toward democratization in Burma, improvement in human rights, including the use of

forced labor, and progress toward developing a multilateral strategy with our allies.

The amendment gives us some leverage by making clear that the United States is prepared to act unilaterally if SLORC takes renewed action to re-arrest, to harm, or to exile Aung San Suu Kyi, or otherwise engages in large-scale repression of the democratic opposition. The courage and dignity of Aung San Suu Kyi and her colleagues deserves respect and support from all of us. This provision may provide some measure of protection against increased oppression against them. We may be able to have the effect of nudging the SLORC toward an increased dialog with the democratic opposition. That is why we also allow the President to lift sanctions if he determines that Burma has made measurable and substantial progress toward improving human rights and implementing democratic government. We need to be able to have the flexibility to remove sanctions and provide support for Burma if it reaches a transition stage that is moving toward the restoration of democracy, which all of us support.

Mr. President, I thank my distinguished colleague from Maine for his leadership in crafting this amendment. He has worked closely with the administration, which supports his language. It represents the best policy, I believe, for us to play a role in moving Burma toward democracy. I urge my colleagues to support this amendment.

I yield the floor.

Mr. HELMS. Mr. President, with all due respect to the able Senator from Maine, whom I do respect, I have a problem with his amendment. His amendment is based on the premise that the United States should wait until a future time—nobody knows when—a future time to impose tougher sanctions against the illegal SLORC regime in Burma. The Cohen amendment for conditional sanctions provides for a ban on new investment only "if the President [of the United States] determines and certifies to Congress that, [at some future date,] the Government of Burma has physically harmed, re-arrested for political acts, or exiled Daw Aung San Suu Kyi or has committed large-scale repression of or violence against the democratic opposition."

Mr. President, the Government of Burma, the SLORC, S-L-O-R-C, as it is known, has already done enough to Ms. Suu Kyi, has already committed large-scale repression and violence, not only against the democratic opposition, but against the people of Burma.

We know there is forced labor in Burma. There is no question about that. We know that Burma is the source of more than 60 percent of the heroin finding its way into the United States, and we know that the SLORC regime is implicated in this trade. No question about it. However, we know

that the people of Burma elected the National League for Democracy overwhelmingly in elections 6 years ago, and that it has been straight downhill ever since that time.

The Cohen amendment also provides a waiver to the administration. I have to ask the question—I do so with all respect—are we serious or are we not serious about Burma?

I support Chairman MCCONNELL and my other distinguished colleagues who have said, enough is enough. Let us stop allowing U.S. investment to prop up the SLORC regime's repression. I hope that colleagues will vote in that direction when the vote is taken. I thank the Chair and I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to thank the distinguished chairman of the Foreign Relations Committee for his support for the sanctions against Burma. We have been very patient. The chairman of the Foreign Relations Committee and I have been hoping since the Bush administration that some administration would take this matter seriously.

I do not know whether the chairman agrees with me, but it seems to me if there were a bunch of Burmese-Americans, we would have gotten interested in this a long time ago—

Mr. HELMS. That is right.

Mr. MCCONNELL. A long time ago because this is a country that ranks right up there with Libya, Iraq, Iran, and North Korea.

The proponents of the Cohen amendment will say they are no threat to their neighbors. I expect that is the case. But 400,000 of these highly armed, mean-as-a-snake troops, terrorizing their own citizens and locking up, as the Senator from North Carolina pointed out, the duly elected leader of this country in internationally supervised, Western-style real elections in 1990—they are a real pariah regime. Yet the crux of the Cohen amendment is, as the chairman of the Foreign Relations Committee pointed out, that it gives the President total discretion to keep on doing what he has been doing, which is nothing.

Mr. HELMS. That is right.

Mr. MCCONNELL. Nothing. So I thank the chairman for his support for this cause.

Mr. HELMS. I thank the distinguished Senator from Kentucky for the very great work he is doing. I thank the Chair.

BURMA SANCTIONS

Mr. MCCAIN. Mr. President, I am pleased to join Senator COHEN as an original cosponsor of his amendment to improve the language on Burma sanctions contained in the foreign operations bill. This amendment is constructive and a better approach to ad-

ressing the problem that Burma poses for American foreign policy.

All of us in this body want the people of Burma to enjoy their human rights. But we must avoid a policy that will only make us feel good, but that is unlikely to achieve the goals it is intended to serve. The approach advocated by the Appropriations Committee, while well-intentioned, is too precipitous. Imposing unilateral sanctions on Burma immediately and lifting them only at such time as the SLORC allows a democratically elected government to take power may even provoke a reaction from the Burmese regime which is the opposite of what the committee intends.

Burma's regional and investment partners do not share the intensity of our concern for democracy and definitely do not agree with the committee imposition of sanctions.

The *New York Times* Monday reported the attitudes of nations attending the weekend meeting of the Association of South East Asian Nations [ASEAN]. The Indonesian Foreign Minister is quoted as saying, "ASEAN has one cardinal rule, and that is not to interfere in the internal affairs of other countries." Far from agreeing with those in the United States pushing for sanctions, ASEAN took the first step in admitting Burma as a member, giving it official observer status.

ASEAN's reaction is important because these are the nations, along with the People's Republic of China and the other nations of Asia, whose views most concern the ruling authorities in Burma. The United States accounts for less than 10 percent of foreign direct investment in Burma. It receives only 7 percent of Burma's exports and United States imports account for only 1 percent of Burma's total imports. Both Thailand and Singapore are bigger investors in Burma than the United States, as are France and Britain. Given these circumstances, it is hardly surprising that United States opinion carries less weight in Burma than it does elsewhere in the world.

Proponents of immediate and sweeping sanctions on Burma have often invoked the example of South Africa. Indeed, Burma may actually exceed South Africa in its repression. After all, as repugnant as the system of apartheid was, South Africa did provide at least a minority of its people with democratic rights while Burma systematically denies these rights to all its citizens. Burma certainly deserves the condemnation of all freedom loving people.

However, Burma is unlike South Africa in a number of ways which make sanctions unlikely to yield the same result.

First, United States policy toward South Africa was coordinated with our allies and that nation's most important trading partners. It was multilateral. There was no serious prospect

that when our companies pulled out of the South African economy others would readily take their place, thereby undermining the effect of sanctions and making their chief victim American companies. Second, South Africa was much richer than Burma is today. Per capita income in South Africa was \$2,000 when we imposed sanctions. In Burma today it is \$200, one of the lowest rates in the world. South Africa had a stake in the world economy. Burma has just begun to develop an interest in attracting foreign trade and investment. Third, Burma is an overwhelmingly rural economy, with manufacturing accounting for 9.4 percent of GDP and 8.2 percent of employment. Fourth, the South African regime and the elite that supported it had historical connections to the nations censuring it. It was not only affected materially by the sanctions imposed on it, but many in South Africa who treasured their ties to the West were dismayed by their international isolation.

Burma has a long history of self-imposed isolation. Beginning in 1962, the leaders of Burma believed that their interests were best served by rejecting the pressures of the outside world. Even today, after Burma began an economic opening to the world, that opening is decidedly modest. Tom Vallely of Harvard has pointed out that Vietnam, a nation struggling with its own market reforms, approved more investment in 6 months than Burma did in 6 years.

We are right to call for the institution of the democratically elected government of the National League for Democracy. In 1990, the people of Burma participated in a democratic election, and overwhelmingly supported the National League for Democracy. The Burmese military thwarted that victory and remains in place today as a standing insult to the proposition of democratic self-rule. They have since ruled the nation with an iron fist. But as despotic as they are, the generals who now control Burma constitutes the de-facto government.

The amendment offered by Senator COHEN is an attempt to recognize both the rights of the Burmese people and the realities of power and history. It attempts to narrow the focus of our legislative efforts, and give the President, who, whether Democrat or Republican, is charged with conducting our Nation's foreign policy, some flexibility. This amendment has the explicit support of the administration.

It has a number of specific advantages beyond giving the administration more flexibility. Conditioning an investment sanction on a significant deterioration in the human rights situation in Burma, namely the arrest of Aung San Suu Kyi or a general crackdown on the democratic opposition, is a key element which commends the alternative. I know that the committee is greatly interested in the safety and

welfare of Aung San Suu Kyi. However, I believe it may have erred in not including such a targeted sanction in his own bill. If the language in the bill were signed into law, a ban on U.S. investment would come into effect immediately. If the prospect of a United States investment sanction is restraining them at all, I see no reason why the Burmese authorities would not rearrest Suu Kyi once the sanction is imposed. What would they have to lose? What would they have to lose in once again rounding up prodemocracy activists by the hundreds? The Cohen approach preserves our options while at the same time making perfectly clear the action that the United States would take if the situation deteriorates.

In the meantime, the Cohen amendment imposes three out of the four McConnell sanctions: prohibition of foreign assistance except humanitarian and counternarcotics assistance, U.S. opposition to multilateral lending, and the denial of U.S. visas to members of the regime. While doubts remain about the efficacy of even these limited sanctions, they will at a minimum demonstrate American displeasure with the situation in Burma. More importantly, a Senate vote in favor of the administration-supported Cohen amendment will demonstrate the unity and resolve of American policy toward Burma.

The two exceptions made by Senator COHEN to the prohibition on foreign assistance are, I believe, very constructive.

Last year, Senator KERRY and I fought to permit counternarcotic assistance for Burma. Ultimately, we failed, but the Cohen substitute, if passed, will once again permit this vital assistance. As my colleagues know, the United States has not provided assistance of this type to Burma since 1988, despite the fact that Burma is the source of more than 60 percent of the heroin on United States streets. Burma is the largest opium producer in the world. If we are ever to get a handle on the heroin problem in our own country, in addition to addressing demand, we will have to work with the Burmese. Engaging in the battle and achieving some degree of success will result, at the very least, in driving down the supply of opium and driving up the price.

To address the concerns of those who point to the possibility that counternarcotics assistance in the hands of the SLORC might give them the means to subdue its ethnic minorities, Senator COHEN's amendment requires the Secretary of State to certify that any proposed counternarcotic program is consistent with United States human rights concerns.

The other exception to a ban on assistance in Senator COHEN's amendment is humanitarian assistance. The committee amendment makes no allowance for humanitarian assistance. If

the intent of the sanction on humanitarian assistance is to withhold legitimacy from the regime, I believe its limited value in this respect would be vastly outweighed by the practical ineffectiveness of unilateral sanctions. I am unconvinced that gutting funding for Feed the Children and World Vision is going to make Burma any more disposed toward democracy.

I know that many Senators would rather not impose any sanctions on Burma. But the committee has decided to weigh in on the formulation of United States-Burma policy. The SLORC's repression of the Burmese people's pursuit of their God-given rights have made congressionally imposed sanctions on Burma inevitable. Senator COHEN has formulated an approach which is constructive and respectful of the prerogatives of the President, and more likely to positively influence the situation in Burma than will the sanctions adopted by the committee. I commend him for his work on this issue and encourage my colleagues to vote for the COHEN amendment.

I ask unanimous consent that a letter from the State Department to Senator COHEN in support of his amendment be printed in the RECORD.

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

U.S. DEPARTMENT OF STATE,
Washington, DC.

HON. WILLIAM COHEN,
U.S. Senate.

DEAR SENATOR COHEN: The Administration welcomes and supports the amendment which you and others have offered to Section 569 (Limitation on Funds for Burma) of H.R. 3540, the Foreign Operations Appropriations bill. We believe the current and conditional sanctions which your language proposes are consistent with Administration policy. As we have stated on several occasions in the past, we need to maintain our flexibility to respond to events to Burma and to consult with Congress on appropriate responses to ongoing and future developments there.

We support a range of tough measures designed to bring pressure to bear upon the regime in Rangoon. We continue to urge international financial institutions not to provide support to Burma under current circumstances. We maintain a range of unilateral sanctions and do not promote U.S. commercial investment in or trade with Burma. We refrain from selling arms to Burma and have an informal agreement with our G-7 friends and allies to do the same.

On the international level, we have strongly supported efforts in the UN General Assembly and the International Labor Organization to condemn human and worker rights violations in Burma. At the UN Human Rights Commission this month, we led the effort against attempts to water down the Burma resolution. We have urged the UN to play an active role in promoting democratic reform through a political dialogue with Aung San Suu Kyi.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to

the submission of this report. We note, however, that the wording of two of the sanctions as currently drafted raises certain constitutional concerns. We look forward to working with you and the conferees to address this.

We hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN], is recognized.

Mr. MOYNIHAN. Mr. President, I would like to speak to the amendment offered by the Senator from Maine as a substitute to Section 569 of this bill regarding sanctions against the regime in Burma.

Section 569 is similar to a bill, S. 1511, offered by the distinguished Senator from Kentucky, which I have had the honor to cosponsor, and others have done as well. This is very simply a test of how we will respond to democracy denied.

For the longest while now, from the time, I would suppose, of Woodrow Wilson's "Fourteen Points," the United States has actively encouraged the spread of democracy and democratic institutions in the world, rightfully thinking that the world would be a safer and better place. We have seen in the course of this century events that would not have been thought possible at the outset.

Here at the end of the century, we see events that would not have been thought possible. Russia has had two presidential elections, the first in Russian history. Mongolia has had free elections. The distinguished Senator from Virginia was on the floor speaking just the other day about his experience as an observer in Mongolia. Not only did Mongolia have a free election, but they had observers from around the world and, principally, the United States to attest to that fact.

The movement towards democracy is not universal. It has never taken strong hold on the continent of Africa, and yet it now appears in Eurasia and in South Asia. The Republic of India has just had its 11th, I believe, national election since independence, an unbroken sequence of democratic elections, with one interval of national emergency but it was for a relatively short period of time and ended with the constitution intact.

The Government of Bangladesh has just had a free election between two formidable women political leaders who are descendants, in one form or another, of leaders previously deposed and shot, events that are too common in post-colonial nations. But they have had a free election and picked an impressive new Prime Minister to form a government.

British India, as it was called, extended down to the Bay of Bengal on the eastern side and included not only Bangladesh but what is now Myanmar, formerly Burma. The choice between the term Burma and Myanmar is a choice of languages, Myanmar is a Burman term. It is a multiethnic state, with eight major ethnic groups, as all those states are, each with many languages—though none at the level of India itself. Burma has four principal languages and historically has had very strong disagreements on the periphery with the governments at the center in what was Rangoon. The name has been changed, which is a perfectly legitimate thing to do, by the military regime whose initials form the unenviable acronym SLORC, as if "SLORCing" out of the black lagoon.

This is a regime which has not simply failed to move toward a democratic government, but has overthrown a democratic government, imprisoned the democratically elected leaders, a Nobel Prize-winning Prime Minister, sir.

Burma is largely a Buddhist nation. Tensions between the numerous ethnic groups resulted in a long and not happy post-colonial experience.

I was once our Ambassador to India, and I remember visiting Mandalay, where we had a one-man consulate. I was being driven around. I came to the area of the city where there were Chinese language signs. I asked the Burmese driver, "Are there many Chinese here in Mandalay?" He said, "Well, not many now, but before independence, the Indians and the Chinese owned everything around here. And that's why we had to have socialism." It was simply a form of expelling persons, moving in the general melee of the 19th century colonial Asia.

After a series of decent enough governments, possibly too passive from one event to another, the army seized control. Twenty years of a hard dictatorship followed, with a military junta headed by a general playing golf in the shadow of a pagoda, while a nation, a potentially rich nation, all but starved.

It is an experience we have seen before, nothing new, but it was cruelly inappropriate to Burma. I visited it at that time. Clearly, a land capable of great agricultural product, an industrial-capable people, ruined by government. They stayed ruined a long time, until they rose and realized, no, and in 1990, a free election at long last was held in Burma. The National League for Democracy won 82 percent of the vote, but the military junta did not step down.

This was not the beginning. This did not just happen suddenly. There was a movement for a democratic government that has been out in the jungles for a generation. I think if I had one photograph that would say to me more than anything else about our century,

it would be a jungle clearing, I expect it would be up in the Shan state, where some 60 or so young men, aged 18, 19, 20—and this is at a time, about 15 years ago, when Ne Win was still in power.

Senator KENNEDY and I had made efforts such as Senator MCCONNELL is leading today. There in perfect English, perfectly formed letters, a white sign with black letters, script that must have been 30 feet long—these young men were holding this sign which said, "Thank you Senators KENNEDY and MOYNIHAN." They were out in the jungle and they knew, and it mattered that they knew. It kept them going. What we think matters so much in the world on these matters.

The military regime that overthrew the democratic government—having stepped aside, then a coup immediately followed. The results of the election have not yet been implemented. The Prime Minister elected, Aung San Suu Kyi, has been released from house arrest, but only just barely. She has, you might say, a patio and a bit of garden, a front yard.

The world is watching. We are going to hear today—and we will not hear wrong—that if we impose these sanctions, American firms will lose opportunities, and European firms or Asian firms will take advantage of them. And that may be true. But I wonder for how long, and I wonder in the end at what profit. If our firms are strong and competitive and international, it is because of the principles the United States has stood for in this century, and should continue to stand for.

It is one thing when we find we cannot move a nation closer to democracy. Not many external forces can do that. It comes when the time is ready, then so often not even then. But when a democratic regime has not emerged, overwhelmingly supported by an oppressed people who have resisted that oppression, who have understood it, who looked abroad for any signs of support and seen in the United States, in this Senate Chamber, such support, emboldened, encouraged, and have risen to claim their rights as a people, only to have it crushed by a military regime, SLORC? No, sir.

This is the time for the United States to stand for what is best in our Nation, in our national tradition, what is triumphant in the world. This is not a time to allow the overthrow of the democracy. This is no time to beat retreat. This is a time for the McConnell provision for sanctions on Burma.

And I thank the Chair for your courtesy. I yield the floor.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. MOYNIHAN. Yes.

Mr. JOHNSTON. Mr. President, there is no peer in the Senate, in fact, in the country, of the Senator from New York in his knowledge of history. Therefore, I wonder, what is the basis of this hope

that other countries, particularly Asian countries, would join in a unilateral action started by the United States?

Can the Senator tell me, outside of maybe the South African situation, where we have had luck with having others joining us unilaterally? If we cannot get the Europeans to join us with Libya, an international terrorist organization, Iran, the same, and Cuba, how in the world are we going to get them to join with sanctions against Burma?

Mr. MOYNIHAN. I do not claim that this is something easily done or we would have done it long since. But I think that it is something which can be done. I think the Republic of South Korea is so little interested in how we feel about matters of Burma, there are ways to suggest to the Republic of South Korea that it might well reconsider its position. Not for nothing do we have the United States Army divisions in Korea. If they think that is not really in their interest, that can be arranged, too.

I do not dispute the Senator's point. I simply make the argument that a matter of principle is at stake here. If it is costly, so be it. Principles are precious.

Mr. JOHNSTON. If I may follow further on the example you mentioned, South Korea. If you turn the clock back to 1962, when General Ne Win took control, he had control for over a quarter of a century. At that time, Burma was a relatively prosperous country. South Korea was not prosperous and was—

Mr. MOYNIHAN. Was devastated.

Mr. JOHNSTON. A totally repressive regime. The same, I think, would be said for our friends, the Taiwanese.

Mr. MOYNIHAN. Yes.

Mr. JOHNSTON. The difference between our treatment of the three is that we isolated Burma, and General Ne Win isolated himself, whereas, because of the cold war, we embraced the Taiwanese, we embraced the South Koreans. Today, having been isolated for over a quarter of a century, Burma continues to be the same country it was, maybe only worse than 30-odd years ago, whereas South Korea and Taiwan have developed into thriving, prosperous democracies.

Now, does the Senator see any lesson to be learned from this difference in treatment?

Mr. MOYNIHAN. Yes. Both Taiwan and South Korea have now established freely elected governments. If they were suddenly to be overthrown by a military coup, our position would have to be, in my view, very different. But it is just such a situation in Burma.

I have a letter here from the Office of the Prime Minister of the National Coalition Government of the Union of Burma, which says:

Dear Senator MOYNIHAN: I have been closely following the Burma sanctions bill on the

Senate floor and I am extremely alarmed about the proposal put forth by Senator COHEN. As you are no doubt aware, the Senate vote is crucial because it will send a signal to both the prodemocracy movement and the military junta about how people in the United States view the struggle for democracy in Burma.

Mr. President, I ask unanimous consent this letter be printed in the RECORD.

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

NATIONAL COALITION GOVERNMENT
OF THE UNION OF BURMA, OFFICE
OF THE PRIME MINISTER,
Washington, DC, July 25, 1996.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I have been closely following the Burma sanctions bill on the Senate floor and I am extremely alarmed about the proposal put forward by Senator Cohen. As you are no doubt aware, the Senate vote is crucial because it will send a signal to both the prodemocracy movement and the military junta about how people in the United States view the struggle for democracy in Burma. Given the reality in Burma, the National Coalition Government categorically opposes Senator Cohen's legislation. The Senate cannot afford to send a wrong signal and there is no other time than now to express its support for the democracy movement through the imposition of economic sanctions.

Let me be clear, investments will not bring about better living conditions and democracy to the people because in Burma investments pay for the soldiers, buy the guns and the supplies and ammunition that is used to violently suppress the Burmese people. Daw Aung San Suu Kyi has called for the imposition of economic sanctions because it will hurt the ruling military junta. She has categorically expressed her wish that investments in the country cease until a clear transition to democracy has been established. The National Coalition Government fully supports Daw Aung San Suu Kyi's call for sanctions and that is why we support Section 569 of the Foreign Operations Appropriations Act, "Limitation on Funds for Burma," as tabled by Senator Mitch McConnell and co-sponsored by you.

There can be no middle ground here. As it stands now, the Burmese people are not benefitting from any investment coming into the country. These funds are tightly controlled by the military junta and serves to strengthen the oppression of the Burmese people. No entrepreneur can start a business in Burma without enriching either the members of the military regime, their close associates or relatives. The common people do not benefit from investments. I look forward to welcoming U.S. businesses helping rebuild our country once a democratically elected 1990 Parliament is seated in Rangoon.

The National Coalition Government also opposes any funding to the military junta in connection with narcotics control. I cannot see a logical reason for the United States to fund a military regime that conspires with and provides a safe haven to the heroin kingpin Khun Sa. It well known that the Burmese Army are partners in transporting the heroin that is devastating the streets of America.

I place my trust in the United States Senate to do the right thing. Each vote for sanc-

tions is a vote for the democracy movement in Burma and our people who are struggling to be so desperately free.

Sincerely,

SEIN WIN,
Prime Minister.

Mr. MOYNIHAN. I yield the floor.

Mr. MCCONNELL. Mr. President, I know my friend from New York is in a conference and needs to return to it. I just wanted to commend the Senator for his longstanding interest and support for what we are trying to achieve in the underlying bill and further elaborate on the observation of Senator JOHNSTON.

I do not think we will be going this alone very long. Both the European Parliament and the European Union, this month, July, have begun to get interested in this issue because of the arrest and subsequent apparent killing of a man named Leo Nichols, who was a consulate official for a number of European countries and also happened to be, as my friend from New York knows, one of Aung San Suu Kyi's—

Mr. MOYNIHAN. He was murdered because he was found in possession of a fax machine.

Mr. MCCONNELL. So the Europeans are interested. One of their own has been treated like the citizens of Burma have been treated for years.

There is an indication that the European Parliament this month, I say to my friend from New York, called upon members to suspend trade and investment with Burma. We will be the leader of the parade.

Mr. MOYNIHAN. When the United States leads, others will follow. I am proud to be associated in this regard.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post on this issue, "Burma Beyond the Pale."

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

[From the Washington Post, July 20, 1996]

BURMA BEYOND THE PALE

ON JUNE 22, James "Leo" Nichols, 65, died in a Burmese prison. His crime—for which he had been jailed for six weeks, deprived of needed heart medication and perhaps tortured with sleep deprivation—was ownership of a fax machine. His true sin, in the eyes of the military dictators who are running the beautiful and resource-rich country of Burma into the ground, was friendship with Aung San Suu Kyi, the courageous woman who won an overwhelming victory in democratic elections six years ago but has been denied power ever since.

Mr. Nichols's story is not unusual in Burma. The regime has imprisoned hundreds of democracy activists and press-ganged thousands of children and adults into slave labor. It squanders huge sums on arms imported from China while leading the world in heroin exports. But because Mr. Nichols had served as consul for Switzerland and three Scandinavian countries, his death or murder attracted more attention in Europe. The European Parliament condemned the regime and called for its economic and diplomatic isolation, to include a cutoff of trade and investment. Two European breweries,

Carlsberg and Heineken, have said they will pull out of Burma. And a leading Danish pension fund sold off its holdings in Total, a French company that with the U.S. firm Unocal is the biggest foreign investor.

These developments undercut those who have said the United States should not support democracy in Burma because it would be acting alone. In fact, strong U.S. action could resonate and spur greater solidarity in favor of Nobel peace laureate Aung San Suu Kyi and her rightful government. Already, the Burmese currency has been tumbling, reflecting nervousness about the regime's stability and the potential effects of a Western boycott.

The United States has banned aid and multilateral loans to the regime, but the junta still refuses to begin a dialogue with Aung San Suu Kyi. Now there is an opportunity to send a stronger message. The Senate next week is scheduled to consider a pro-sanctions bill introduced by Sens. Mitch McConnell (R-Ky.) and Daniel Patrick Moynihan (D-N.Y.). This would put Washington squarely on the side of the democrats. Secretary of State Warren Christopher, who will meet next week with counterparts from Burma's neighbors, should challenge them to take stronger measures, since their policy of "constructive engagement" has so clearly failed.

The most eloquent call for action came last week from Aung San Suu Kyi herself, unbowed despite years of house arrest and enforced separation from her husband and children. In a video smuggled out, she called for "the kind of sanctions that will make it quite clear that economic change in Burma is not possible without political change." The world responded to similar calls from Nelson Mandela and Lech Walesa. In memory of Mr. Nichols and his many unnamed compatriots, it should do no less now.

Mr. JOHNSTON. Will my friend from Kentucky yield for a question?

Mr. MCCONNELL. I am happy to yield to the Senator.

Mr. JOHNSTON. In that same July meeting of the European Union, did they not reject sanctions against Burma?

Mr. MCCONNELL. I do not know whether that was on the agenda or not, but even if they did have it on the agenda, and if they did not approve it, that was July. We are just getting started here.

The point the Senator from New York and I are making is, if the United States leads, it is reasonable to believe others will follow.

Mr. JOHNSTON. Can the Senator name me some examples of where that has happened, other than South Africa?

Mr. MCCONNELL. Poland, South Africa.

Mr. JOHNSTON. I say other than South Africa.

Mr. MCCONNELL. Why rule South Africa out? I think South Africa is precisely the parallel.

Mr. JOHNSTON. But the whole world was united.

Mr. MCCONNELL. Mr. President, the United States led in South Africa, and others followed. That is what we suggest here. The United States ought to stand up for what it believes in, ought to put its principles first. There is every reason to believe that with

American leadership, the rest of the world would follow. That is what this is about.

I yield the floor.

Mr. CRAIG. Mr. President, I want to discuss some concerns I have about section 569 of the Foreign Operations Appropriations bill, H.R. 3540—limiting funds for Burma. Before I begin outlining my concerns, I want to thank my colleague from Kentucky, Senator MCCONNELL, for pursuing this issue. While we may disagree on the details of the best policy to pursue with Burma, we wouldn't even be having this important discussion without his leadership on this issue. In addition, I doubt that we would be pursuing a much needed comprehensive, multi-national policy toward Burma. Without such an effort, we could certainly find ourselves on the floor of the Senate in the future, reacting to some catastrophic event in Burma, having done nothing constructive in the interim.

Mr. President, Burma is a nation I have never visited or studied. I do not come to the floor today to debate this issue as an expert on Burma. However, I know more than a little about its poor record on human rights. What we need to debate here is the efficacy of mandatory unilateral sanctions in the case of Burma.

While we all hope for some small signs of change, I think we all share the concern that hope is not enough to live on—especially for the Burmese people. We recognize the problem there and want to develop a policy to address that problem.

Any change will be slow in coming. However, while patience and persistence will rule the day, we need to nurture an environment in which all Burmese people are respected and treated both humanely and fairly.

In short, we need to look at putting forward a policy that will encourage the changes we seek. In addition, that policy should not negatively impact U.S. nationals and business—without the benefit of establishing changes in Burma.

The United States represents a small percentage of foreign investment in Burma. It is my understanding that depending on the survey, the U.S. ranks anywhere from third to seventh. Regardless, the private investment presence there is not on a grand scale that would likely have any crippling effects on the operations of the current government in Burma, the State Law and Order Restoration Council—commonly referred to as the "SLORC."

In addition, indications from our trading partners in Europe and the region do not demonstrate movement toward the application of sanctions.

Cutting off this trade by prohibiting U.S. nationals' private investment will not affect the current governing regime in Burma. However, it will affect American companies and American

jobs. Unilaterally forcing American companies out of Burma at this time will simply provide an economic opportunity for other nations, who will quickly step forward to assume the contracts and business opportunities of the departing American companies.

American companies have taken risks and borne all the startup costs for the contracts they hold in Burma. If their departure results in replacement by companies from our trading partners in Europe and the region, any influence we might have wielded in this foreign policy game is lost. All indications at this time lead me to believe that any gap left by U.S. companies in Burma will quickly be filled by others.

In addition to the loss of that private level of interaction between Americans and Burmese, the benefit of jobs for Burmese citizens with American companies is also lost.

Mr. President, in order for the United States to encourage Burma to move toward a free society, an American presence should be felt. This is best done by private investment in the local economy. Private investment and other nongovernmental cultural exchanges can provide an important link with the people of Burma.

Mr. President, let me be perfectly clear, I do not support oppressive actions such as those taken by the SLORC in its efforts to prevent the citizens of Burma from exercising their basic human and political rights. Likewise, I do not support abandoning the 43 million people who live in Burma by withdrawing all American presence. Many times, unilateral sanctions hurt only those at the bottom of the economic scale, when the intended targets are those at the top.

Mr. President, at the core of this debate is the efficacy of unilateral sanctions as a tool of foreign policy to encourage change. And, more specifically, the usefulness of unilateral sanctions in the case of Burma. I feel very strongly that mandatory, unilateral sanctions are not the most effective tool of foreign policy.

I do not support impacting private industry in this manner if the projected policy will not yield the intended response. We must all realize that while we seek change, Burma is not South Africa, nor is it Iran. We face a unique situation, and the effectiveness of mandatory unilateral sanctions must be judged independently.

Mr. President, it is very important, not only for the United States but for other nations as well, to evaluate the situation in Burma and what ways we can work both independently and together, that will encourage the improvements in human rights and will move Burma toward a free and democratic society.

I support amending section 569 of this bill to address the concerns I have outlined here today. We can encourage humanitarian relief, drug interdiction efforts, and promote democracy. I believe that these activities, in addition to denying multilateral assistance through international financial institutions, and the establishment of a multilateral strategy will provide the best roadmap to reach these goals.

Mr. MCCONNELL. Mr. President, I think that concludes—at least for this phase—the number of speakers we have on the Cohen amendment. Senator SMITH is here to offer an amendment.

Senator LEAHY and I would like to use this opportunity, before Senator SMITH lays down his amendment, to get approved amendments that have been cleared by both sides. There are eight amendments.

With the permission of the Senator from Maine, I ask unanimous consent that the Cohen amendment be temporarily laid aside.

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

AMENDMENTS NOS. 5020 THROUGH 5026, EN BLOC

Mr. MCCONNELL. Mr. President, I send amendments, en bloc, to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], proposes amendments, en bloc, numbered 5020 through 5026.

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

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

The amendments are as follows:

AMENDMENT NO. 5020

(Purpose: To allocate foreign assistance funds for Mongolia.)

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.”

AMENDMENT NO. 5021

(Purpose: To restrict the use of funds for any country that permits the practice of female genital mutilation)

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.

AMENDMENT NO. 5022

(Purpose: To earmark funds for support of the United States Telecommunications Training Institute)

On page 107, line 23, strike “should be made available” and insert “shall be available only”.

AMENDMENT NO. 5023

(Purpose: To delete a section of the bill relating to a landmine use moratorium)

On page 184, line 6, delete the word “MORATORIUM” and everything that follows through the period on page 185, line 3.

Mr. LEAHY. Mr. President, this amendment deletes a section I included in the bill entitled “Moratorium on Antipersonnel Landmines.” This section simply reaffirmed current law. Having received the assurance of the Armed Services Committee that the House conferees on the fiscal year 1997 Defense Authorization bill will recede to the Senate on the certification requirement relating to the landmine use moratorium that is in the House version of that bill, I am striking this section in the fiscal year 1997 Foreign Operations bill. This assures that current law, which provides that beginning in 1999 the United States will observe a 1-year moratorium on the use of anti-personnel landmines except in certain limited circumstances, remains in effect as originally adopted by the Senate by a vote of 67 to 27 on August 4, 1995.

I appreciate the efforts by the chairman of the Armed Services Committee, Senator THURMOND, and his staff, who negotiated this agreement with the House conferees. I also want to thank the chairman of the House National Security Committee, Representative SPENCE, for his part.

AMENDMENT NO. 5024

(Purpose: To provide additional funds to support the International Development Association)

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.

Mr. LEAHY. Mr. President, my amendment, which is cosponsored by Senator INOUE, adds Tunisia to the list of countries that is eligible to receive excess defense equipment from the United States. I am offering this amendment because of Tunisia's support for the Middle East peace process, its geographical location between Libya and Algeria, and the fact that its armed forces do not have a history of engaging in violations of human rights.

Recently, Tunisia opened interests sections with Israel. This was a courageous step, and it is important that the United States affirm its support for Tunisia's positive role in the Middle East peace process. Additionally, Tunisia is located in an unstable and dangerous part of the world. Colonel Qaddafi is unpredictable, and he has made no secret of his displeasure with Tunisia's actions vis a vis Israel. Algeria, on Tunisia's western border, is struggling with civil unrest stemming from clashes between the secular government and a fervent fundamentalist movement.

So while I am extremely concerned about the proliferation of conventional weapons in this volatile region, I understand the administration's purpose and I am prepared to support modest amounts of excess defense equipment to Tunisia.

However, this amendment also takes into account the serious human rights concerns that I and others have about Tunisia. According to the State Department and respected international human rights monitors, civil liberties are severely curtailed in Tunisia. Lawyers, journalists and human rights activists are frequently harassed, intimidated, jailed and otherwise mistreated for expressing their political opinions. Nejib Hosni, a well-known human rights lawyer, has been accused of various misdeeds and imprisoned, after an unfair trial. Mohammed Mouadda, leader of the largest opposition party in Parliament, has been similarly silenced. Dr. Moncef Marzouki, former president of the independent Tunisian Human Rights League, has been repeatedly harassed and his passport has been revoked. These are only three examples, but they illustrate a disturbing pattern.

In addition, the State Department reports that the Tunisian judiciary is “not independent of the executive branch, and that judges are susceptible to pressure in politically sensitive cases.”

The Tunisian Government should recognize that it only hurts itself by acting this way. By attempting to silence its critics, especially individuals who do not advocate violence, it creates resentment and closes out alternative forms of expression, which can lead to violence. This is the antithesis of democracy.

This amendment requires the Secretary of State to report on actions

taken by the Tunisian government to improve respect for civil liberties and to promote the independence of the judiciary. Our hope is that the Tunisian government will treat these concerns with the seriousness they deserve, and initiate a sincere effort to deal with these human rights problems on an urgent basis.

AMENDMENT NO. 5025

(Purpose: To provide additional funds to support the International Development Association)

On page 135, line 7, delete "\$626,000,000" and insert in lieu thereof "\$700,000,000."

Mr. LEAHY. Mr. President, the United States was instrumental in creating the International Development Association, which provides concessional loans to the poorest countries in the world. In this bill we have cut our contribution to IDA \$308 million below what the President requested.

The request for fiscal year 1997 was \$934 billion, and that only covers the arrears we already owe. The money in this bill for IDA is \$74 million below the current level.

This amendment will bring our contribution to IDA up to the current level. That is still \$234 million below the President's request, but it will at least show that we intend to do everything possible to prevent further erosion of support for IDA.

Some may think it does not matter if we maintain our leadership in IDA. They should talk to our economic competitors.

They know that IDA is a worthwhile investment, because of the contracts their companies get from IDA-financed projects and, even more importantly, the foreign markets IDA helps create. They know their ability to influence IDA policies is a direct function of their contributions. As we cut our contribution and our influence wanes, their influence grows.

It is influence many people here would miss, because with it the Congress has had a major role in making IDA lending procedures more open and subject to public scrutiny, and in eliminating wasteful policies. Money buys influence in these institutions, there is no two ways about it.

Mr. President, 40 percent of IDA lending goes to Africa, where the population is expected to more than double in the next 50 years. It would be unconscionable for the richest nation to cut its contribution to the largest source of funding for the poorest region in the world, which is potentially one of the largest emerging markets for American exports.

People need to realize that foreign assistance is not simply assistance for foreigners. It supports our own economic and political interests.

This is a critical year for IDA. When the United States indicated to the other IDA donors that we would not be

able to contribute to IDA's replenishment this year and could only continue to pay off our arrears, the Europeans established an interim fund to get through this year without a U.S. contribution.

The administration supported that. But the Europeans made a miscalculation, by insisting that the U.S. would not be eligible for procurement for projects financed by the interim fund. While I can understand why they did that, since the interim fund consists entirely of their money, I believe it is misguided as a matter of policy to impose procurement restrictions on IDA-financed projects. I would say that if it were the United States or any other country that was being penalized, and whether it were IDA or any multilateral institution.

I would have liked to see us fully fund the President's request. That was not possible, since our budget is less this year than last. But I am hopeful that by maintaining our current level of funding, the Europeans will see that we are doing our best to eliminate our arrears, so we can go on to support IDA's replenishment. With the budget cuts we are facing there is only so much we can do in any single year.

I hope the Europeans will recognize the significance of what we are doing, and relent on the procurement restrictions. I think it is in everyone's interest that the United States remain a strong supporter of IDA, and that is not likely if these restrictions remain in effect.

Mr. President, there is one final aspect to this I want to mention. There has been a lot of talk about what percentage of IDA procurement American companies receive. Considering IDA alone, it is about 10 percent, largely because American companies have far less experience doing business in Africa than European companies. But when you consider World Bank and IDA contracts as a whole, U.S. procurement is about 20 percent, which is consistent with our share of contributions.

I thank the chairman of the subcommittee, Senator McCONNELL, for accepting this amendment.

AMENDMENT NO. 5026

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,"

Mr. McCONNELL. Mr. President, in this group of amendments, there is a Bumpers amendment on Mongolia, a Reid amendment on female mutilation, an Inouye-Bennett amendment on USTTI, three Leahy amendments, and one McConnell-Leahy amendment on authorization restrictions.

Mr. LEAHY. Mr. President, we have no objection to those.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

The amendments (Nos. 5020 through 5026) were agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I yield the floor.

AMENDMENT NO. 5027

(Purpose: To strike funds made available for the Socialist Republic of Vietnam)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 5027.

Mr. SMITH. 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 105, line 17, strike "provided further," and all that follows through the colon on line 21.

Mr. SMITH. Mr. President, this is really a very simple amendment. I will not take too much of the Senate's time to discuss it. Oftentimes, little things that seem rather insignificant get tucked inside these bills that ought to be looked at more carefully, and they do cost the taxpayers a considerable amount of money. I think this is an example of one of them.

The amendment that I am offering removes a provision that now exists in the committee bill that provides up to \$1.5 million in taxpayer assistance for the Communist Government of Vietnam for economic assistance. I want to point out to my colleagues that this is not humanitarian foreign aid. This is economic assistance that is above and beyond what we would call humanitarian aid.

Very specifically, the bill language states:

Funds appropriated for bilateral economic assistance shall be made available, notwithstanding any other provision of law, to assist Vietnam to reform its trade regime through, among other things, reform of its commercial and investment legal codes.

The committee report language, I say to my colleagues, is even more revealing. It is more specific. It says: "The initiative seeks to assist the Government of Vietnam's efforts to develop trade relations with other nations through reforming its legal system and trade regime so as to provide the necessary framework for commercial transactions, foreign investments and trade."

I might just say that, depending on your point of view, it may or may not be a worthwhile vote. The question is, should the taxpayers of the United

States of America provide that help when, in fact, there are companies who will stand to gain substantially if this trade does take place? In other words, under the bill, the money from the American taxpayers will be spent for the cause of making a Communist nation more attractive to corporate America. A Communist nation—this does not go to the people of Vietnam. This goes to no humanitarian aid here; this goes to the Communist Government of Vietnam.

Mr. President, I believe this is wrong, pure and simple. That is why I am offering this amendment to strike this provision. We are in a very difficult time. A lot of cuts—we are trying to balance the Federal budget. When you talk about \$1.5 million, that may not seem like a lot of money; it is a lot of money where I went to school, a lot of money in most families in America unless you hit the lottery—\$1.5 million to the Communist Government of Vietnam. We do not provide that kind of dollars to Cuba or North Korea. Why are we doing it to Vietnam?

The majority of Americans have been very clear over and over again to this Congress in making their voices heard—reduce foreign aid spending. This is hardly the time to start a new foreign aid program for a Communist country. I know those who disagree with me will say the opposite, but the truth of the matter is, this is the camel's nose under the tent. This is the beginning of foreign aid to a Communist country; \$1.5 million is so small when you look at some of the other line items in the foreign aid bill, but it is a substantial sum of money for many, many families in America today who, I am sure, would love to have just a very small part of that \$1.5 million to help with their budgets, perhaps their fuel oil, or paying for the mortgage, or feeding their children.

Why are we providing this money? Why are we putting \$1.5 million tucked in, hidden in the language of this bill, in the report language? Why are we doing this? Who stands to gain? What is the purpose of this? This is not a case—I want to make this very clear—this is not a Vietnam bashing situation. It has nothing to do with POW's and MIA's. It has nothing to do with MFN. It has nothing to do with how you feel about normalization, or opening up diplomatic relations with Vietnam. That is not the issue. We have already debated that. So let us not get into that corner. But Vietnam is not a struggling democracy out there like some of the Eastern European countries who are trying to come out now from under the cloak of communism.

Vietnam criticized the U.S. Government in its relationship with Cuba by applying the sanctions tighter to Cuba, criticized President Clinton and criticized Senator Helms and others for Helms-Burton. This is not a democracy

that is getting this \$1.5 million. It is a Communist government, not the people, the Communist Government of Vietnam. They just finished holding their Communist Party meetings in Hanoi last month. So they are still there. They are still repressive. They still have people in forced labor camps. There is still repression.

Why do we provide from the pockets of the American taxpayers \$1.5 million to encourage the investment of corporations from America? Again, that debate has been lost. Corporations are investing in Vietnam. Let them pay their own money to invest in Vietnam. They will get a return for their money. The taxpayers do not need to help some of the largest corporations in America to the tune of \$1.5 million.

Again, I want to point out that this is not humanitarian aid. This is not helping kids who have lost their limbs in the war. It is not helping people get an education, helping people who may have illnesses. That is not what this is about. We have done that before, and I have supported some of that because I believe that in war innocent people do suffer. Unfortunately, that is the case and in the case of Vietnam, that was the case. Innocent people sometimes suffer on both sides of the war, and I have supported humanitarian aid for some of those people. But the committee provision represents nonhumanitarian assistance for the Government of Vietnam. There is a big, big difference.

I want to again repeat it for emphasis because it is the essence of the argument: This is nonhumanitarian aid. This is helping the government, the Communist repressive regime of Hanoi, to do better business with American businesses.

I want to point out, Mr. President, that in the same bill that we are debating here on the floor, there is a provision which prohibits foreign aid to countries like Vietnam that are in default. It says here—this is again the same bill, the exact same bill, Mr. President, under "limitation on assistance to countries in default," section 512: "No part of any appropriations contained in this act shall be used to furnish assistance to any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this act."

Let me just say that this provision has been law for 20 years. Every year it is in the committee bill and every year it is passed and signed into law. I am sure it will again happen this year. Why is it in there? It is in there because we do not want to reward countries who owe us money that have not paid us back by giving us more. That is why it is there.

So I want to draw the attention of my colleagues to a report from the Agency for International Development dated July 3, 1996, which I have sent around to every Senator's office. I hope every Senator will look at it because it is important.

According to this report which I just cited, Vietnam has been in violation of this law, the law that I just referenced, since May 29, 1976, 1 year after the North invaded and conquered the South. When it toppled the South, we all remember the helicopters, the people falling off rooftops and falling off helicopters in that terrible tragedy, when the tanks from the North roared through Saigon, when it toppled the South, North Vietnam automatically incurred responsibility for over \$150 million in economic loans owed to the United States by the Government of South Vietnam. Those dollars are still on the books, Mr. President. The country of Vietnam still owes that money. It is still unresolved.

I am told that negotiations to resolve this debt have been underway between the United States and Vietnam for sometime now, but no timetable for an agreement is in sight. So with \$150 million of outstanding debt being held up, not being paid, we now slide quietly, ever so slightly, sleight-of-hand, tucked into this bill a little paragraph that says: "Here is another \$1.5 million. We are going to reward you. You owe us \$150 million. You are still a repressive Communist regime. You repress your people. And now we are going to trade with you, and that is fine." That decision has been made. I don't agree with it. The decision has been made. But the question is, should those who decide to trade, some of the largest corporations in America, should they be given another \$1.5 million of taxpayers' money to further their efforts in Vietnam to a country, A, that is Communist, B, that is repressive to its people, and, C, that has not paid its debt back to the United States of America? That is the basic question. I know that there are a lot of big issues out here on this bill and other bills that we face here in Congress, but these little issues, so-called, really are a lot bigger than they appear to be.

That was not easy. We had to read this bill to find this.

Let me just say there are other countries that are on this list of countries that owe us money, and they are in violation of the Brooke amendment. They are such countries as Syria, Afghanistan, Sudan, Somalia, and others.

So the question you have to ask yourself is, should we reward this country with another \$1.5 million—just under the table: Here it is? Why should we be asked to make an exception for Vietnam in this bill for nonhumanitarian assistance? What is the reason? Why was this tucked in the bill without debate, without any information

regarding the background of this surfacing? Why should we make an exception for Vietnam among other nations in the world that also owe us money? Why should we be asked to circumvent the intent of Congress?

My colleagues, that is what we are doing, because it is very clear in the legislation, very clear, as I said, under section 512, that "no part of any appropriation contained in this act shall be used to furnish assistance to any country which is in default."

So the language is placed in the bill "notwithstanding any other provision of law," which basically wipes this off for the country of Vietnam—no explanation, no rationale, just tucked in the language. So why are we doing it in this manner?

In conclusion, Mr. President, we should not be authorizing a new foreign aid program on an appropriations bill for the first time in this clandestine, undebated, secretive manner. That is the issue. That is what we are doing.

This is neither the time nor the way to start a new development assistance program to promote trade with Vietnam regardless of the amount of money involved. These things tend to grow. We all know that once an economic aid program begins—the Senator from North Carolina, who is in the Chamber, knows full well once a bureaucracy is started, once an aid program is begun, it is pretty hard to keep it from getting an increase, let alone eliminated. It reminds me of the Market Access Program which the majority of my colleagues have voted to scale back.

So we should keep in mind this is not a case where the taxpayers have to fund this, No. 1. IMF, the International Monetary Fund, has helped Vietnam. United States dollars go into that. The World Bank, United States dollars go into that. They help Vietnam. The Asian Development Bank, they have already given Vietnam millions of dollars in loans to help their economy develop. These loans are supported by United States tax dollars in part.

You can make a case that we should not do that, but I am not making that case. I am saying those are already out there. That is another issue. So why provide another \$1.5 million in bilateral economic assistance when we are already contributing through multilateral organizations?

There are also private foundations helping Vietnam, helping in the reform of its commercial code, such as the Ford Foundation and IRI.

I can certainly think of, as I said before, a lot better use of \$1.5 million. I am simply asking that we delete it. My amendment simply deletes the dollars, and I do that because I think we can use it better. A, we can put it on the debt, which would be my first choice, or B, we might be able to use it for something else, for some other more needy cause. There are lots of causes

out there that I think are deserving of dollars ahead of this if we want to put \$1.5 million somewhere.

I think the American people would agree.

So, again, Mr. President, this is a small amount of dollars in a big bill and in a big budget. I agree with that. But it is not a small amount of dollars for the average family in America today struggling to make ends meet. The problem is there are a lot of these little \$1.5 million tucked away through the 13 appropriations bills as they weave their way through Congress. They all add up, as Senator Dirksen used to say, to real money. A million there, a million there. Then it is \$1 billion, \$1 billion here and \$1 billion there. Then it is \$1 trillion. I do not even know what comes after \$1 trillion. What is it, quadrillion? I do not know. But it adds up.

This is a small item. Granted, maybe it is not worth an hour of debate, somebody will say, but let me tell you something. If you take care of dollars, hundreds of dollars, thousands of dollars, and millions of dollars, you will take care of billions and trillions. They will take care of themselves.

This is a very important statement we are going to make here. If this amendment is defeated, if my amendment is defeated, what we have said is that providing additional taxpayer aid to the country of Vietnam, a Communist nation like Cuba, is more important than helping children, helping the sick, helping people with AIDS, helping people who need help with their education, their student loans or retiring, helping to retire the national debt.

Again, I cannot emphasize more strongly how I feel that it is wrong to put this in this legislation. So let me, at this point, Mr. President, before yielding the floor, ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. ASHCROFT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH. I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President and Members of the Senate, on a bipartisan basis, by big majorities, we have in recent years voted, first, to lift the sanctions against Vietnam, and then to open diplomatic relationships with Vietnam because we believe it is important to engage Vietnam not only in civilized discourse, but to bring them into the community of nations. We have had that debate, and this has been successfully completed as far as those of us who wish to engage Vietnam are concerned.

How do we complete the circle? How do we help Vietnam become the kind of nation we want it to be? Or to put it

another way, what do we want Vietnam to do? I think if there is one thing we want Vietnam to do it is to follow the rule of law, to be a law-abiding country rather than to be a Communist country.

The two are at opposite ends. To be Communistic is not to be a rule-of-law country. To be a rule-of-law country is the opposite. So what we have done here is, working with the Vietnamese, to authorize AID to spend up to \$1.5 million, not in aid to Vietnam but to give to the American Bar Association, the American Law Institute, and the U.S.-Vietnam Trade Council to help send experts to help Vietnam develop the rule of law. Not one cent of this goes to the country of Vietnam, Mr. President—not one cent. What we will do is what we did with Eastern Europe, and as a matter of fact this initiative, which was my initiative in the committee, is patterned after that which we had for Eastern Europe. After the fall of communism in Eastern Europe, they found that they had no legal system in Poland, in Czechoslovakia, et cetera. And the American Bar Association sent over lawyers and judges and others, many of them contributing their time, to help them develop a legal system, a commercial code, a bankruptcy code, a criminal code—all of the codes; and then to train the judges to help run the system. That is what we want to do for Vietnam. The Vietnamese have welcomed this. I spoke to the United States-Vietnam Trade Council. I said the thing you can do to best ensure investment in Vietnam, to ensure you will be brought into the community of nations, is to develop a legal system to follow the rule of law. They were willing and now are anxious to have this kind of aid.

Within the last 2 weeks, a group of legal scholars from Vietnam were here in Washington and I visited with them, including the head of the Vietnamese bar association as well as Vietnamese judges. They are eager and anxious to learn how to put together a legal system modeled on the American system. If there is anything we want for Vietnam, how can anyone in this body be against Vietnam adopting the rule of law? How can anybody in this body be against training Vietnamese judges to follow the law, Western-style law, propagated by the American Bar Association? I just do not understand.

The reasoning seems to be this. Vietnam is a repressive regime, says my friend, Senator SMITH. Therefore, do not give them aid in following the rule of law. That does not compute, to say you are repressive therefore we are not going to help you be less repressive; you are repressive, therefore we are not going to give you and your citizens legal protection. It does not compute.

Let me also say the whole predicate for this, which is the so-called Brooke amendment, which says you do not

give foreign aid to a country that owes you money—in the first place this is usually waived. It has been waived for a broad number of countries: Colombia, Bolivia, Peru, Nicaragua, a host of African countries, Eastern European countries. Beyond that, the good news is on the \$150 million that is owed by the Vietnamese—which, by the way, was incurred largely before this regime came in—we have come to closure and agreement, as I understand it, on all but about \$8 million of that \$150 million. And there has been a commitment to settle the whole thing.

The Vietnamese are trying to do what they can. They have agreed to resolve and most has been resolved. And even when it is not resolved, with other countries it is waived. But besides that, it is not foreign aid. The question is will it help Vietnam? You bet it will help Vietnam. It will help make Vietnam a law-abiding rule-of-law country. And that should make it easier for companies to invest there.

What is wrong with that? Do we want this Communist country to stay Communist? Or do we want them to have a legal code? It is as simple as that. For the life of me, I do not understand the reasoning that says it is wrong to help Vietnam follow the rule of law. I think that is a non sequitur and I hope the Senate will roundly reject the Smith amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask unanimous consent to add Senator THOMAS as a cosponsor to my amendment.

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

Mr. SMITH. Let me just briefly respond. The Senator from Louisiana is correct in terms of waivers being applied in the past for countries. I think he mentioned Colombia and Peru. That is true. And in most cases where such waivers were granted, it was related to narcotics, in the sense that we wanted to try to help them to stop the flow of narcotics into this country. I think if any Senator wanted to look up the background on that, they would find out that is the reason for the waiver. I think in most cases they were voted on, these waivers, in the Senate, and not tucked into a foreign operations bill.

Let me also say I am all for Vietnam coming around to the rule of law. I hope it happens before the end of my speech. But is it happening? If they supported the rule of law they would have free elections. The last time I looked I do not think there are free elections in Vietnam. If they supported the rule of law they would not be imprisoning people throughout their country without charging them with anything.

So, to say we are going to put \$1.5 million of taxpayers' money into this

trade council to get into Vietnam to encourage them to live by the rule of law, we could make the same argument with Cuba. How about North Korea or Libya? Why do we not pump a few million dollars in there and see if we can get them to abide by the rule of law?

Let me also respond to the position regarding assistance. For Eastern Europe, true, we do provide that kind of assistance. But Eastern Europe is not Vietnam. Eastern Europe broke out from under the yoke of communism. They are struggling democracies. They have gotten out from under this Communist tyranny. It is true and I support it. It is true we should provide and I support providing moneys to help those countries to set up a rule of law and to set up a viable free enterprise, free market system, and to continue to grow out from under the yoke of communism which they are doing so well right now. That is a different situation.

They first must make the decision that they want the rule of law. When they make the decision that they want the rule of law, then they deserve help. And they made that decision when they threw the Soviet Union out, when they broke up the Soviet Union and threw out the Communist tyranny. Vietnam has not made that decision, unfortunately. Not only have they not made it, they have criticized us pretty openly in recent times, criticized the President of the United States, criticized this Senator, Senator HELMS, and criticized others in the so-called Helms-Burton amendment here regarding our treatment of Cuba.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. SMITH. Certainly.

Mr. JOHNSTON. The Senator is aware that Vietnam is anxious to have aid from the American Bar Association in helping them develop the rule of law. We have not had that kind of request from Libya and Cuba and others. They are anxious to develop the rule of law. They want the American Bar Association in there to help them do that. That is what this is all about. Is that not true?

Mr. SMITH. I do not know that you can say emphatically and without any doubt that Vietnam is ready to embrace the rule of law. I think, if I understand this amendment and I understand the debate here, it is more likely that we are trying to encourage them through these dollars to embrace the rule of law and to make it easier for companies who do business there to do so under some legal system. That would be my interpretation of it. I do not think Vietnam has embraced the rule of law and said we will embrace the rule of law if you provide us this \$1.5 million.

My point is, I say to my friend, the issue here is really: Have they made the decision and is it fair for us to put \$1.5 million in aid in there when we

have this money that is already owed us? Why make an exception? That is the issue.

Mr. JOHNSTON. If my friend will yield, what Vietnam has said is that they are anxious to have this aid. I mean this legal help from the ABA and the International Law Institute. They are anxious to have this aid because they want to develop this system.

They are in the process of developing a commercial code, a civil code, training their judges in criminal codes. Part of it is helping them draft the laws, and part of it is in training the lawyers and the judges, and they want this. They were in my office just 2 weeks ago. What is wrong with that?

Mr. SMITH. Let me tell you what I think is wrong with it. You are hoping that this works, and it may. No one can answer that question today. But it didn't work in Europe until after communism fell. I don't think that you can bifurcate law saying what is here on one side, business law, is good and not abiding by the rule of law in terms of its treatment of its own people, in terms of imprisoning people without having them charged. I don't think you can bifurcate those things and say this is OK and we will just overlook this.

Mr. JOHNSTON. Is my friend saying he will not give aid to help them change the legal system until the legal system is already changed?

Mr. SMITH. No.

Mr. JOHNSTON. At that point, they don't need any help.

Mr. SMITH. What I am saying is I think the right approach is to say to Vietnam, "You owe us \$150 million. Let's work out a payment schedule instead of avoiding it and ducking it. Let's work out a payment schedule to return the \$150 million that you owe us," and once that schedule is set up and we begin to see payments coming back for that, then we can work with them to try to help them set up a legal code that not only applies to helping big business or business do business in Vietnam, but also helps the people of Vietnam who are suffering at the hands of a system that does not really have a rule of law.

Mr. JOHNSTON. On that point, how would my friend say that we should give that aid? What would be the method of helping them set up that legal system?

Mr. SMITH. I think we would say to the Vietnamese Government, "We want you to repay."

Mr. JOHNSTON. I understand. But after they made that decision and you say it is right then to help them set up a legal system, would you not use the American Bar Association and the International Law Institute, the United States-Vietnam Trade—

Mr. SMITH. The American Bar Association, I say to my friend, certainly has the financial capability to send lawyers to Vietnam to sit down and

discuss with them how they might set up a legal system without having \$1.5 million of the American taxpayers' money. The American Bar Association donates tens of millions of dollars to political campaigns, frankly in my friend's party more than my own. I think they certainly have the capability of \$1.5 million to go over there, if that is important to them, to set up this business structure.

But it would help also that instead of just setting up a business structure to see to it that profits can be made, I hope they also will work on helping these poor, unfortunate souls who sit in prisons for years and years and years without even having charges brought against them because there is no legal system. That is my point.

This is not a situation where we go back and replay the normalization argument or the MFN argument or diplomatic relations argument. That is over. But I do think we need to make a statement that this country is still a hard-line Communist regime.

I have been there. I love the Vietnamese people. I have traveled all over Vietnam. I have friends there, people I have met. I like the Vietnamese people. I think they would benefit from a good legal system in that country. I don't think just providing \$1.5 million in aid is the way to get it. That is the issue.

The issue is very simple, you either support \$1.5 million in foreign aid to a country that still owes us \$150 million that is a hard-line Communist regime or you don't. If you feel that is justified, then you vote against my amendment.

I yield the floor, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I came to the floor to address another amendment, which, as I understand, has been laid aside so this amendment could be considered.

I have listened with interest to both sides, and I almost have no dog in this fight, but I have to agree with the distinguished Senator from New Hampshire. The American Bar Association, if it is so interested in this program, could raise \$1.5 million, or whatever it is, before they go to lunch today, get on the telephone.

The point I think that Senator SMITH is making is that every time somebody gets an idea, let's do this or let's do that, they ask the taxpayers to pay for it. They don't raise the money themselves privately when they could. Some of the fattest cats in this country think up ideas to be financed by the American taxpayers.

As the result of all this, this Government is in debt well over \$5 trillion. I went in the cloakroom one day a couple of months ago in connection with a report I have been making daily since

1992, stipulating and reporting the exact Federal debt as of close of business the day before. We were approaching \$5 trillion at that time. I think we met it a day or two after that. I stepped in and some Senators were sitting there. I said, "How many of you know how many million are in a trillion?" These are the people who ran up this debt for the young people of this country to pay. Not one was certain about the answer. There are 1 million million in a trillion, Mr. President, as the distinguished occupant of the Chair knows.

We have run up this debt by saying, "This is a good thing to do, let's let the taxpayers pay for it." "This is a good thing to do, let's let the taxpayers pay for it." "This is a good thing to do; oh, this is going to pay for itself."

How many times have I heard that? Senator SMITH said these "temporary programs." I bet you 75 percent of the programs that are started by the Federal Government and approved by the Congress are identified as "temporary Federal programs."

For example, the Agency for International Development, when it was approved by Congress back in the fifties, was a temporary Federal program. So was ACDA. So is this one and that one, and so forth. All of them are "temporary programs" still going strong with thousands of employees being paid for by the taxpayers.

I think that is the point that Senator SMITH is making. Ronald Reagan said one time, "There's nothing so near eternal life as a temporary Federal program." I think that is the point of it.

I suggest you two fellows get together. Call the American Bar Association and ask them if they will not raise this million and a half, or whatever it is, before 1 o'clock.

Mr. SMITH. I ask unanimous consent to have printed in the RECORD a letter of support for the amendment from the American Legion.

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

THE AMERICAN LEGION,

Washington, DC, July 25, 1996.

Hon. ROBERT C. SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: The American Legion supports your amendment to H.R. 3540, the Foreign Operations bill, which deletes \$1.5 million in bilateral economic assistance to the Socialist Republic of Vietnam. We have steadfastly opposed any additional favorable actions toward Vietnam until they make honest and complete efforts to achieve the fullest possible accounting for our POW/MIA's.

It is clear that Vietnam can take unilateral actions today in the areas of remains and records that could account for many missing Americans. Moreover, our support for your amendment is further strengthened by the default status of prior U.S. loans prohibited under the so-called Brooke Amendment.

An appropriation of \$1.5 million to Vietnam at the time to assist in reforming its trade regime would only encourage their continuing intransigence and discourage meaningful unilateral cooperation by them in providing the fullest possible accounting. We strongly support your amendment to H.R. 3540. We appreciate your continuing leadership on issues of importance to veterans.

Sincerely,

JOHN F. SOMMER, Jr.,
Executive Director.

Mr. SMITH. Mr. President, other than that, I have no further comments.

Mr. HELMS. If the Senator will yield, if he has no objection, I wish he would make me a cosponsor of his amendment.

Mr. SMITH. Mr. President, I ask unanimous consent to add Senator HELMS as a cosponsor.

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

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I wish to speak against the Smith amendment which would prohibit funding for economic assistance to Vietnam. I just visited Vietnam 2 months ago and I believe that this amendment would move us in exactly the wrong direction as we attempt to encourage economic and political change in Vietnam.

There is a tremendous entrepreneurial spirit pervading the streets of Hanoi. All along the narrow, winding streets you will find small stores crammed in next to each other, selling every thing under the Sun—books, postcards, clothes, car parts. The people of Vietnam very clearly want to have their own businesses. They want to trade. They clearly want a market economy, but they need help to develop it. The foreign operations bill provides funding for us to provide assistance to teach them economic and legal reforms. This type of assistance will only encourage the country to move farther away from socialism and closer to a Western-style market system.

Moreover, this is just the type of reform that United States business leaders in Hanoi told me they need to see in Vietnam. It is very much in American commercial interests to have investment and especially legal reforms in Vietnam. U.S. businesses are losing money now, but they continue to do business there because they believe change is coming to both the country and the region as a whole and that change will be profitable for them. The type of assistance this bill provides for will encourage that change to come sooner, rather than later.

By prohibiting economic assistance to Vietnam, the amendment we are discussing would needlessly stifle budding, indigenous market reforms and hurt United States companies at the same time.

It was truly an amazing sight to see the people in Vietnam in the streets,

Vietnamese and American businessmen working and chatting together in a friendly way. That would have been impossible to imagine 20 years ago. I hope this amendment is not accepted and that we do what we can to encourage Vietnam's development. I yield floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, various Senators have been coming over and bringing up amendments and speaking to them. I encourage others, if they have them, to do that. I know that we are trying to accommodate the committees that are meeting, hearings that are going on, and so forth, and trying to stack votes when we can. But I know the chairman and I wish to finish the bill at a relatively expeditious time. I mention this for what it is worth. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I am happy to give another stirring speech if it would help, as I know I will have the unrestrained attention of the distinguished Presiding Officer who otherwise may find it difficult keeping both eyes open, but I would rather other Senators present their amendments so we could, as much as I know everyone prefers staying and working on this amendment, so we could get out of here on this thing. I understand the cloakroom is looking for other amendments.

I must say, in seriousness, we end up making policy sometimes directly and sometimes indirectly on this bill. We do affect the authorization as well as the appropriation on this bill because we do not have a piece of authorizing legislation to work from.

I urge Senators to understand what has happened as we have allowed ourselves to be captured by our rhetoric. The irony is that during the Reagan administration, I recall Senators still in this body who would say they strongly applaud President Reagan's efforts to curtail foreign aid. And yet, of course, President Reagan supported nearly \$25 billion in foreign aid. Now that same rhetoric, they say, "We have to do something; now that the Clinton administration is here the foreign aid has risen." Well it is now down around \$10 or \$11 billion under the current administration. At some point, we should stop the rhetoric and face the reality.

The fact of the matter is we have interests worldwide. If we want to have a fortress America, we should make that decision. But I am afraid that is a fortress that would find its walls quickly

crumbling. Much of what keeps our economy growing is our export market. What keeps America strong is the fact we are recognized as a global power with far-reaching responsibilities and far-reaching benefits.

When we pat ourselves on the back and praise ourselves for the cuts that we have done in international organizations, in international efforts, we ought to ask, why is it that some of our strongest economic competitors like Japan and others are so happy to see us withdraw, so they can step in. The fact is very simple, Mr. President, they are creating jobs.

Many countries spend a great deal more than we do as part of their budget on so-called foreign aid and development. The reason they do it, of course, is not out of any sense of moral responsibility or altruism. They do it because it creates jobs. It creates an export market for their products. It creates a presence in these countries as they develop their own economic powers. It helps stability so they do not have to get involved in regional battles. But it creates jobs.

They see the United States withdrawing and withdrawing and refusing to get involved in international efforts of economic development in these countries and they see U.S. jobs being lost. Our companies that export, our companies that have the ability to do so, are just laying off people left and right as we withdraw.

It is strange to me, Mr. President, how some of the same Members of this body who brag about how they will try to stop any efforts for economic development or democracy building in other parts of the world, will stand here and bemoan the fact that other countries in the Pacific basin or Europe or elsewhere are taking away our export jobs. They fail to see the connection. Of course, there is a connection.

As I said this morning, there is also a moral imperative here. In parts of sub-Saharan Africa we help out with aid, maybe 20 to 50 cents per capita or less. We have spent more for the costs of the CONGRESSIONAL RECORD debating this bill so far today than the per capita income of many of these countries, of whole families, in many of these countries. We will spend 25 to 50 cents there, yet we will use 50 percent or more of the world's resources with 5 percent of the world's population.

We have a moral responsibility. No matter how one looks at it, we can argue we have a responsibility to help out with other parts of the world. There is our moral responsibility, but also it makes economic good sense.

I see the distinguished Senator from Massachusetts on the floor, so I yield to him.

Mr. KERRY. Mr. President, what is the pending amendment?

The PRESIDING OFFICER (Mr. CAMPBELL). The pending business is

amendment No. 5027, offered by the Senator from New Hampshire, Mr. SMITH.

Mr. KERRY. I will take a few minutes to speak to that amendment. I will not spend a lot of time on it.

I strongly oppose the amendment of the Senator from New Hampshire but respect his concern about it. I commend to my colleagues that I think the concern expressed by the Senator from New Hampshire is misplaced in this particular instance, and that the real interests of the United States are to continue forward in helping to build a legal code and trade code in Vietnam that is based on our notions and precepts about both the legal systems and trade.

Mr. President, the Senator from New Hampshire argues that we should not go forward with this legal program—legal reform program in Vietnam, which is what it is—because he says Vietnam is in violation of the Brooke amendment. The Brooke amendment is an amendment that limits U.S. aid to countries that are in default to the United States on money owed. The default that he is referring to is a default that goes back to the question of debt emanating from the war, back in the 1960's.

Indeed, the United States and Vietnam have already had a number of rounds of negotiations on this debt. The debt does exist. I am not suggesting it does not. However, Vietnam has agreed in principle to pay the debt. It is a debt that has been owed to us from the time that certain property was expropriated during the war. The debt is about \$150 million in total. As I say, they have agreed to pay that debt, with the exception of about an \$8 million amount that remains in discussion over the question of USDA loans.

So, Mr. President, we have really resolved the major part of the issues with respect to this total debt. In addition to that, we have, in the past, on a number of different occasions, waived the Brooke amendment when it has been in the national interest to do so. We waived the Brooke amendment with respect to narcotics assistance in Colombia, with respect to Peru and Bolivia, for development assistance for Tanzania, for other African countries, and also for Nicaragua.

Mr. President, the Brooke amendment is not really what is at issue here. The issue is, Do we or do we not want to move forward with improving our ability to have a legal system in Vietnam that is based on our notions and precepts of what the law is and means, and do we want to have a trade regimen that meets the needs of our companies and the rest of the world in trying to do business with Vietnam which moves toward Western values and goals?

Mr. President, a number of years ago, I created the Fulbright Exchange Program for Vietnam. We are now in the

fifth year of that program, and it has been an enormous success. We brought Vietnamese academics, officials, and others to the United States. We have trained them in some of the best schools, some of our best economic institutions, as well as some of our legal institutions. I think we are now at a point where we are seeing many American professors in law and trade and economics going to Vietnam and teaching in Vietnam.

So to suddenly take out of this bill a very small amount of money that is geared to trying to increase the ability to reform the legal system and economic structure of Vietnam would literally be to turn our backs on 30-plus years of aspirations with respect to that country. We are trying to do now, peacefully, what we invested 58,000-plus American lives to do during a 10-year war. It just does not make sense to turn away from the legal reform program that would be created by this bill, which is the logical, needed follow-on to the Fulbright program.

Vietnam wants our help in developing its legal code. What an extraordinary thing. What a great opportunity. For us now to suggest that is not a more peaceful and sensible way of approaching the process of changing a system of values and cultural—I do not know what is better than that. It seems to me that, recognizing that the full debt has been accepted in principle, the only contentious issue within the debt is \$8 million of USDA money, it would simply be wrong to turn our backs on these 5 years of progress.

I hope my colleagues will join in opposing this amendment and in affirming that it is in our interest to continue to invest in the legal and economic reform of Vietnam and to bring Vietnam into the world community with respect to trade laws and regulations, property laws and rights, and all of the means of accountability for those companies that are or will be doing business in Southeast Asia.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, may I ask what is the pending business?

The PRESIDING OFFICER. The pending business is the Smith amendment No. 5027 to the foreign operations appropriations bill.

Mr. HELMS. As I understand it, at least one or maybe two other amendments have been set aside for that to be the pending business.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I ask unanimous consent that all necessary amendments be set aside so that I may call up an amendment.

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

The Senator from North Carolina is recognized.

AMENDMENT NO. 5028

(Purpose: To prohibit United States voluntary contributions to the United Nations and its specialized agencies if the United Nations attempts to implement or impose taxation on United States persons to raise revenue for the United Nations)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. LOTT, and Mr. GREGG, proposes an amendment numbered 5028.

Mr. HELMS. 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 198, between 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 by 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.

Mr. HELMS. Mr. President, this amendment is cosponsored by the distinguished majority leader and the distinguished Senator from New Hampshire, Senator GREGG.

Mr. President, on January 15 of this year, the Secretary General of the United Nations, Boutros Boutros-Ghali, while speaking at Oxford University over in England, of course, outlined a series of revenue-raising options to pay for the United Nations' day-to-day activities. Mr. Boutros Boutros-Ghali then went on the British Broadcasting Corporation suggesting that the United Nations should be allowed to collect taxes directly from American citizens and citizens of all other sovereign nations so that the United Nations "would not be under the daily financial will of member states." There was quite a tempest about that idea, and it was not in a teapot.

Let me say at the outset that I know Mr. Boutros Boutros-Ghali, not well, but Dot Helms and I went to New York and had dinner with him and his wife and another friend of ours and his wife, and we had a very enjoyable evening. Mr. Boutros Boutros-Ghali has his own ideas about things, and I have been known to have my own ideas about a few things. It is in that context that I want to comment a little bit about the Secretary General's proposed scheme.

Absurd as it is, it is not an isolated one. James Tobin, an international economist, back in 1976 proposed a U.N. tax on currency transfers, and Gustave Speth, present Director of the United Nations Development Program—and all through the bureaucracy, here and there, we always use initials, and that is UNDP—the U.N. Development Program has called for a "global human security fund" financed from global fees such as the Tobin tax on speculative movements of international funds and international tax on the consumption of nonrenewable energy and a tax on arms trade. I am not making that comment just idly. That is an exact quote of what Mr. Speth proposed.

It is no coincidence that 1 week after Mr. Boutros Boutros-Ghali made his chilling announcement about the need and desire for giving the United Nations power of taxation, the former distinguished majority leader of the Senate, Bob Dole, and Senators KERRY, SHELBY, and I introduced what was then S. 1519, which was a bill to forbid any U.S. payments to the United Nations if the United Nations attempts in any way to levy taxes on the American people. All right.

So, Mr. President, the pending amendment—by the way, what is the number of the amendment?

The PRESIDING OFFICER. The number is 5028.

Mr. HELMS. I thank the Chair. The pending amendment is based on S. 1519, to which I have just referred, and it, like S. 1519, prohibits all U.S. voluntary contributions to the United Nations if the United Nations should make an attempt to levy a direct tax on the American people.

Furthermore, the amendment requires the President of the United States to certify to Congress that no United Nations agencies, including the UNDP, are concocting any sort of scheme for a direct tax on the American people. I am very pleased and honored that the present majority leader of the Senate, Mr. LOTT, and the chairman of the Commerce, State and Justice Appropriations Subcommittee, Senator GREGG, have joined in offering this amendment.

If I could ask whoever is in charge of focusing the television cameras, I hope that they will focus on the chart at my side. You will see the bureaucracy of the United Nations. You will also see how we have entitled it. We call it "The United Nations: One Big Mess." That is precisely what it is.

The United Nations is an enormous and unwieldy maze of independent fiefdoms whose bureaucracies are proliferating almost by the hour and whose costs are spiraling into the stratosphere and whose missions are constantly expanding far beyond their mandate. Worse, with its unyielding growth—just look at this bureaucracy, if you will—worse, with its unyielding growth and its misguided ideology, the United Nations is rapidly transforming itself from an institution of sovereign nations into a quasi-sovereign entity itself. This unchecked transformation and the Clinton administration's unwise over-reliance on the United Nations, obviously represents a threat to American national interests. That is the reason I am standing here on this floor with this chart right beside me.

Mr. President, the 53,000—count them—53,000 international bureaucrats at the United Nations would find it worthwhile if they would spend just a few minutes reading the Constitution of the United States of America. Despite what these bureaucrats may hope and desire, the United Nations, not being a sovereign entity itself, cannot—cannot—levy taxes. We could be grateful that it is not a world government.

You see, the United Nations exists to serve its members, of which the United States is one. The United States is also the most generous member of the United Nations—not the other way around.

Yet, when you look at this chart—I wish that the thousands of people looking at this chart on television at this moment could have a chance to examine it line-by-line. But judging from it,

this insatiable U.N. bureaucracy has for 50 years now been impervious to any kind of real reform. It has grown and mushroomed "like Topsy."

That is why, from the standpoint of the U.N. bureaucracy, new taxes on the American people by way of international airline tickets, financial transactions, postcards sent from overseas—all of these and others—would provide a seemingly endless stream of resources from which, Heaven forbid, an ever-increasing number of new U.N. programs and new personnel and new bureaucrats could be undertaken.

Mr. President, if the Secretary General and his allies at the United Nations develop a program, and should they make the mistake of persisting in this U.N. tax scheme, there could very well be the 1996 version of the Boston Tea Party. This time it would be, I guess, in New York Harbor—because working Americans are already overtaxed beyond belief.

Today, the visible—the taxes that we can see—the visible tax burden for the average working family is a whopping 34.6 percent of their total income. Tax Independence Day, the day upon which American citizens stop working for the Internal Revenue Service and begin working to feed and clothe their families, is now May 7, a full week later than when Mr. Clinton took office.

In addition to this tax burden, every man, woman and child in the United States now owes an average of \$19,494.49 as their share of the \$5,173,226,283,802.71 debt. It should be no surprise, therefore, that the watchdog group known as the Americans for Tax Reform—a good group of people—and 14 Governors around the country, all Republicans, I might add, support the pending amendment.

The prohibition on U.N. taxation upon which this amendment is based speaks for itself. Yet the Secretary General and U.N. bureaucrats continue to raise the specter of more and more taxes on the American people.

So I guess it might be said that I am here today to try to help the American people make clear that even the consideration of U.N. tax authority is totally unacceptable. I do not want to hear any more about it, and I made that clear to Boutros Boutros-Ghali as nicely as possible. Passage of this amendment would send a clear message to Mr. Boutros Boutros-Ghali and the entrenched bureaucracy at the United Nations that what is necessary at the United Nations is real reform, not the taxation of the American citizens.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I yield the floor.

Mr. GREGG addressed the Chair.

Mr. LEAHY. Mr. President, I wonder if the Senator will just answer a question. I realize he has yielded the floor.

I wonder if I might ask the Senator from North Carolina a question. I was just glancing over his amendment.

Mr. President, would the Senator tell me, in section (a), the first section, it speaks of the "United States persons or borrows funds from any international financial institution." Does that mean that no money could go to them if they were to borrow money from, say, the New York City Bank or other international financial institution just to pay their payroll? If they borrow from an American bank that has international affiliates to pay whatever housekeeping bills, would that preclude us?

Mr. HELMS. Of course not. If the Senator had read the amendment, he would know the answer to his own question.

"(c) Definitions. As used in this section."

Mr. LEAHY. Would this require in any way cutting money to UNICEF?

Mr. HELMS. I did not understand the Senator. Look at me so I can read your lips.

Mr. LEAHY. I am sorry. Unlike others, I was trying to follow the rules by addressing, Mr. President, the question through the Chair. But does this require cutting of any funds to UNICEF?

Mr. HELMS. There is no intention, expressed or implicit.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. My last question. If it was found that they had borrowed money from international financial institutions as defined here, would we then have to withhold any contributions to UNICEF?

If it was found that they were borrowing funds from one of the international financial institutions as defined—

Mr. HELMS. The answer to that is no.

Mr. LEAHY. In the amendment, would we then be precluded from contributions to them?

Mr. HELMS. The answer is no.

Mr. LEAHY. What would we be precluded under those circumstances from making contributions to? Because we have voluntary contributions to a specialized agency such as UNICEF. If we are not precluded from giving to UNICEF, what are we precluded from giving to?

Mr. HELMS. Is the Senator really concerned about UNICEF?

Mr. LEAHY. Mr. President, the Senator has had—

Mr. HELMS. If so, I will be glad to exclude it.

Mr. LEAHY. Mr. President, this Senator has spent years supporting UNICEF. As I read this, we are unable to give money to UNICEF.

Let us be clear. There are a lot of other things in here. Whatever agency provides funds for river blindness, we would be precluded from that. We would be precluded from others.

The Senator has an absolute right to have such an intention, but I just want to make sure we understand precisely what we are doing. If they borrow funds from any of these international financial institutions, I would assume this would then preclude our dollars to UNDP, UN Environmental Program, the World Food Program, International Atomic Energy Agency, UNICEF, and others. Am I correct?

Mr. HELMS. The answer is no.

Mr. LEAHY. What does it preclude us from giving?

Mr. HELMS. If the Senator wants to read the amendment—

Mr. LEAHY. I have.

Mr. HELMS. I ask the clerk to read the amendment. Apparently the Senator has not read it.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

Amendment No. 5028. On page 198, between lines 17 and 18, insert the following:

Mr. LEAHY. Mr. President, parliamentary inquiry. Has the amendment not already been reported?

The PRESIDING OFFICER. The amendment has been reported.

Mr. LEAHY. Mr. President, so let me read then what we have here. It says, "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 United Nations Development Program)," and on and on. "If"—and what triggers this, among other things—"if the United Nations * * * borrows funds from any international financial institution," which would include the African Development Bank, the African Development Fund, the Asian Development Bank, the European Bank for Reconstruction and Development, and others as listed, the International Monetary Fund, and so on.

Under that, unless some waiver is given, we would be precluded from contributions to UNICEF, International Atomic Energy Agency, World Food Program, and any of these others. I do not know how one could read it otherwise.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I will say, Mr. President, in response to the Senator, I think he is on a fishing expedition and he is not going to catch any fish. But UNICEF cannot now borrow money, according to my understanding. Is that correct? So that question is moot. I do not know what the Senator from Vermont is talking about. If he wants to exclude UNICEF for some personal reason, I will be glad to exclude it.

Mr. LEAHY. Mr. President, we have a whole lot of things, but it does not speak of if UNICEF borrows. "If the United Nations * * * borrows funds from any international financial institution." I am not on a fishing expedition. I just want to make sure we have a clear record. I do not favor the United Nations or anybody outside of the United States or my own State of Vermont raising taxes. But we are talking about if the United Nations borrows, all of these others will then be precluded from contributions from us.

I am not trying to get the distinguished Senator from North Carolina to change his amendment. I just want to make sure we understand what it does, that is all. He has a perfect right.

Mr. HELMS. I say to the Senator from Vermont, what we are doing, you read to me from the amendment what gives you a problem and I will answer a question about that. I do not want you characterizing any provision of the amendment. I want you to quote from the amendment itself, and then ask me any question you want to.

Mr. LEAHY. Mr. President, on page 2 of the amendment, where it speaks—

Mr. HELMS. What line?

Mr. LEAHY. I am citing line 3: "* * * 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." And then, on line 21, we have the definition of those institutions. And on line 8, it says, "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 * * *"

That prohibition follows, as I read this, "* * * if the United Nations * * * borrows funds from any international financial institution," as defined in here. I am not arguing that point. I just want to make sure we understand what we are doing.

Mr. HELMS. You did not finish reading, Senator. If you had gone ahead and finished what you were reading, you would have discovered that this whole thing is based on Boutros Boutros-Ghali's and others' recommendation that the United Nations be given sovereignty to tax the American people and other sovereign countries. That is what this whole section is.

Mr. LEAHY. Mr. President, the idea that anybody is trying to give the Secretary General, whoever he might be, of the United Nations, the ability to impose taxes on the United States is about in the league of all these black helicopters that appear in the middle of the night, bringing U.N. troops around to take over whatever parts of the United States they are about to do. That is not about to happen.

I just want to make sure we understand, in voting for this, we could be

cutting off our ability, if the United Nations has borrowed from any of these international organizations, our ability to make payments to the U.N. Environment Program, the World Food Program, International Atomic Energy Agency, UNICEF, the International Fund for the Advancement of Women, the International Fund Against Torture, the U.N. Environmental Program, and on and on.

That may be wise policy. My suggestion would be that perhaps, as such policy, it should be debated and included in an authorization bill which would originate in the committee of the distinguished Senator from North Carolina, the committee he chairs. Should he wish to do that in such an authorization bill, he ought to, rather than try to attach it onto this appropriations bill. But he is, of course free, as any Senator is, to bring up anything he wants.

I just want to make sure we know exactly what it is we are voting for. I just wanted the RECORD to be clear so Senators, those who have positions in favor of some of these independent agencies like the International Fund Against Torture or the World Heritage Agency or the International Fund for the Advancement of Women or UNICEF, or any of those, probably many others I do not have off the top of my head, they must know that, for whatever it is worth.

Mr. HELMS. Maybe the Senator would read my lips, as the statement goes. Nothing in here kicks in unless the United Nations engages in, during the 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." Nothing kicks in. I believe the Senator understands that. I say, again, if he wants us to eliminate UNICEF, I will be glad to do that. It would be a meaningless gesture, but—

Mr. LEAHY. Mr. President, I appreciate the suggestion of the distinguished Senator from South Carolina to read his lips.

Mr. HELMS. North Carolina, I say to the Senator.

Mr. LEAHY. I know Presidential candidates said that, and said they would not raise taxes: "Read my lips, there will be no new taxes." But because I know what happened when we followed that, I would rather just read the words. And the words said, "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," which include the ones I have mentioned, if the United Nations borrows funds from any international financial institution.

If the U.N. borrows money to make its payments from these international

institutions because the U.S. and others are in arrears in their dues, then we are not allowed to give money to the World Heritage Agency, the International Fund for the Advancement of Women, the International Fund Against Torture, the U.N. Environment Program, UNICEF, and Lord knows how many others. That is all I am saying. I am not reading anybody's lips. I am just reading the words of the amendment.

Mr. HELMS. The Senator is not reading all of it. This amendment will not, of course, kick in unless there is some effort for the United Nations to tax American citizens. That is all it is. I think it says that.

Furthermore, I think, if the Senator will recall, the United Nations tried to get borrowing authority from these lending institutions last year, I believe it was, to pay some debts, and that was denied. So that is a moot question.

The PRESIDING OFFICER. Is there further debate?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. GREGG] is recognized.

Mr. GREGG. Mr. President, I rise in support of this amendment. As has been mentioned, I believe last year, the U.N. Secretary did state he intended to pursue the option of imposing a tax on airline tickets, currency exchanges, postage, energy sources and other programs in order to raise additional funds for the United Nations. Mr. Boutros Boutros-Ghali stated: "It will be the role of the Secretary General"—and he, of course, is the Secretary General—"to bring this project to successful fruition in the 21st century."

So we have an unequivocal statement of policy coming from the leader of the U.N. that it is the intention of the United Nations' leadership to pass a tax on, I guess, citizens of the world, but especially citizens of the United States.

I join with my colleague from North Carolina and congratulate him on bringing forward this amendment to make it unalterably clear that we object strongly, and will resist in all ways available to us, the concept of the United Nations assessing a tax on any American citizen. The United Nations is an organization which has been mismanaged in the most grotesque ways. The chart that the Senator from North Carolina sets forth is only one example of the massive patronage and financial disarray that represents the United Nations.

Just a few examples, so folks listening to this do not have to take me at my word. The average United Nations salary for a mid-level accountant is \$84,500. The average salary for comparable non-United Nations individual would be \$41,000, or half of it.

The average U.N. computer analyst, that individual receives approximately

\$111,000. That is compared with a counterpart in the private sector in the New York area of \$56,000.

The Assistant Secretary General receives \$190,000—this is the Assistant Secretary General—receives \$190,000. That is compared with the pay for the mayor of New York City, which is \$130,000.

On top of all this, U.N. salaries are not subject to tax. What an irony. You have this Secretary General of the United Nations saying that he wants to assess a tax against American citizens when he doesn't pay taxes, nor do the people who work for him, even though they are stationed in the United States. In fact, U.S. citizens working at the U.N. don't pay taxes. It is, to say the minimum, ironic.

We now, finally, have an inspector general to take a look at the money that is being spent there. In the first report, the inspector general found about \$16 million was wasted. The inspector general only got to look at a small slice of the U.N. activity.

We, for example, know that they put turnstiles in at the U.N. for security reasons, I guess, but they had to pull the turnstiles out because the staff of the U.N. protested because the turnstiles were keeping track of when they came and went. It became very clear fairly quickly that most of them were coming very late and leaving very early, so they took the turnstiles out.

The U.N. for years has been a dumping ground of political patronage for people around the world. If you have a nation where the president or leadership of that nation wants to pay off a few political cronies, they send them to the U.N., put them on a U.N. salary and the United States taxpayer picks up 25 percent of that cost.

Yes, we have significant arrearages at the U.N., but we are, as a matter of policy, at least in the Congress, stating that we are not going to pay down those arrearages until the U.N. has gotten its house in order, and it does not have its house in order.

We addressed a letter, myself and Senator Dole and Senator HELMS, to the General Accounting Office to determine just what rights the Secretary General has to assess taxes against American citizens. We asked specifically:

Are there any circumstances under which the U.N. revenue-raising proposal could be binding on U.S. citizens without an act of Congress?

What is the process for approval of revenue-raising proposals by the U.N., including the role of the Security Council and the General Assembly?

Are there any circumstances under which a U.N. tax proposal could be adopted over U.S. opposition?

What is the status under U.S. domestic law and relevant international law of each of the U.N. revenue-raising proposals?

What funding sources are available to the U.N. organization apart from contributions from member states?

What authority does the U.N. have for each of these sources?

We have not yet gotten an answer to this request, but that answer is, of course, critical to the determination of just what rights American citizens have given away in chartering the U.N. relative to the issue of taxation and the policies of the U.N. and the ability of the U.N. to assess a tax.

Thus, I think it is important that we adopt this amendment so that we make it clear that as a matter of law, the Congress has spoken, that it does not intend to tolerate attacks against American citizens assessed by the U.N.

Therefore, I rise in strong support of the amendment of the Senator from North Carolina. I appreciate his leadership on this matter, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the Burma debate be set aside while I offer an amendment.

Mr. MCCONNELL. The amendment of the Senator from Alaska is one that I believe is going to be accepted, and I therefore ask unanimous consent that the pending amendment be laid aside so Senator MURKOWSKI can send his amendment to the desk.

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

Mr. LEAHY. Madam President, I wonder, once we have disposed of the amendment of the Senator from Alaska, if we could have some idea of the order of business.

Mr. MCCONNELL. I say to my friend from Vermont, as soon as Senator MURKOWSKI's amendment is disposed of, we could set votes on the Smith amendment and the Helms amendment.

I ask unanimous consent the Senate proceed to two rollcall votes, the Helms amendment and the Smith amendment, with no second-degree amendments in order, at the conclusion of the disposition of the Murkowski amendment.

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

AMENDMENT NO. 5029

(Purpose: To express the sense of the Congress regarding implementation of United States-Japan Insurance Agreement)

Mr. MURKOWSKI. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself, Mr. D'AMATO, and Mr. BOND, proposes an amendment numbered 5029.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the reading of the amendment be dispensed.

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

The amendment is 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 profitability 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 of 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.

Mr. MURKOWSKI. Madam President, I rise to offer an amendment to the foreign operations appropriation bill. I think it is timely that we have an expression of the Congress toward Japan's failure to follow the letter and the spirit of the United States-Japan Insurance Agreement.

For many years, Madam President, I have been an advocate of encouraging the Japanese to open up their markets, as we have opened our markets to Japanese firms, to ensure that we maintain our competitiveness by having an open-market concept.

It has been very difficult over the years for United States firms to do business in Japan. One of our more successful U.S. international markets has been through the competitiveness of the U.S. insurance industry. The industry has proven its ability to compete in numerous countries throughout the world, providing a degree of service and coverage at competitive costs. We seem to have a significant exception in our ability to do business in Japan.

It is interesting to note that Japan has the second largest insurance market in the world. However, most of Japan's market is shared by Japanese companies. Foreign and U.S. competition share less than 3 percent of the Japanese market. In comparison, Japanese and other foreign insurers have over 10 percent of the United States insurance market.

What we are talking about, Madam President, is addressing equity. The United States and Japan negotiated over a year and a half, beginning October 19, 1994, and the United States-Japan Insurance Agreement was signed in June 1995. Japan committed to a further liberalization under the World Trade Organization. In April 1996 Japan passed new insurance business laws.

Despite these commitments over this extended period of time, no progress has been made. The United States and

Japan spent several months negotiating over the meaning of an agreement that they signed 19 months ago. This is traditional in many of the business customs in Japan. You negotiate extensively, you negotiate with a committee, and time marches on. As the Japanese have observed, time and time again, many such firms simply give up, go off and do something else, because they simply cannot afford to spend that much time trying to open the market.

During this timeframe, Japan threatened to relax rules in the one small sector where foreign companies have some market share, yet they continue to protect the larger sectors where Japanese firms are dominant.

It is the same old story. We have an agreement, then that yields no results. We have seen it in the construction business analogy, and there has been this reference, "Well, to come into the Japanese market you really need to have experience. You need experience to get a license." How do you get a license? You have to have experience. You cannot get a license without experience. It is like ping-pong, going back and forth. You cannot have one without the other. You soon come to the conclusion you cannot get there from here.

We signed 74 agreements with Japan. I have the utmost respect for the Japanese negotiators, the Japanese tradition and the Japanese way of business. I have had an extensive career in business with the Japanese. They are hard negotiators. They are fair negotiators. They will take advantage of a person who is not on his toes. But, by the same token, with regard to access into their markets, for the most part, they simply stonewall us. This is not something that we have seen much relief on over the years. The agreements have not translated into market access. Our trade deficit with Japan was about \$60 billion in 1995—the largest with any country.

The insurance issue is important. It has been raised at the highest level, with our President meeting with Prime Minister Hashimoto. The last time the meeting was in Japan. We have had dozens of meetings between the USTR and the Ministry of Finance. I have raised it time and time again in many forums, business discussions, and in interactions with the Japanese side. Last month, I sent a letter, with the chairman of the Finance Committee, Chairman ROTH and Chairman D'AMATO to President Clinton to express our legitimate concerns about the lack of action. We noted that "Congress has a responsibility to ensure that trade agreements are honored, and to act when they are not." It is time to act, because they are not.

Madam President, this amendment and the resolution I am offering today would call on the Minister of Finance

to fully comply with the provisions of the agreement. This is the voice of the Congress speaking. If the matter is not resolved by July 31 of this year, that would be the deadline that would direct the U.S. Government to use all of its resources to bring about compliance.

I also call on my colleagues and Chairman ROTH to join me in pushing for the resolution, to hold hearings in the Senate Finance Committee if the issue is not resolved on the Japanese side. I urge my colleagues to support this resolution. I understand the floor managers will accept this.

Mr. ROTH. Madam President, the Senate's unanimous vote in favor of the Murkowski amendment demonstrates once again the serious concerns Members of this body have about the lack of action by the Japanese Ministry of Finance to implement its obligations under the United States-Japan Insurance Agreement.

The Senate fully expects Japan to live up to its agreements. The Ministry of Finance's behavior on this issue is particularly unfortunate because it undermines the credibility of the Government of Japan.

Congress has a responsibility to ensure trade agreements are honored, and to act when they are not.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 5029 offered by the Senator from Alaska.

The amendment (No. 5029) was agreed to.

Mr. McCONNELL. Madam 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.

Mr. McCONNELL. Madam President, under a unanimous-consent agreement we entered into, we are about to have two rollcall votes. But Senator LEAHY and I have cleared five amendments. We would like to dispose of those first, which means we will have completed action on 15 amendments. There will be approximately 20 remaining. But the good news is only about four of those are going to require rollcall votes.

AMENDMENTS NOS. 5030 THROUGH 5034

Mr. McCONNELL. Madam President, I send five amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes amendment numbered 5030 through 5034.

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

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

The amendments are as follows:

AMENDMENT NO. 5030

(Purpose: To express the sense of Congress regarding the conflict in Chechnya)

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.

Mr. HELMS. Madam President, my purpose in offering this amendment is to focus the attention of the United States once again on the terrible tragedy unfolding in Russia. The text of the amendment parallels the language of a resolution approved last week by the European Parliament condemning the violence in Chechnya and supports the sentiment of legislation passed by the Russian State Duma this week criticizing the actions of the Russian Government.

As I speak, Russian war planes and heavy artillery continue to devastate civilian areas of Chechnya. While the attention of the Western news media has faded, the violence in Chechnya continues to worsen. Based upon pictures of the devastation, I accept estimates of up to 30,000 civilian casualties—primarily innocent men, women and children.

Madam President, by breaking the cease fire in Chechnya, the Russian military has unleashed yet another terrible cycle of abuses on both sides of this conflict. A recent Russian news report tells of Russian soldiers cutting the ears off of dead Chechens as trophies. In an unprovoked act of hatred Russian troops in Chechnya this week opened fire on three cars of civilians, killing most and finishing off the survivors with bayonets. The Russian people have endured acts of terrorism possibly inspired by the fighting in Chechnya, and the Russian military suffered its own tragedy with the discovery of several tortured and executed prisoners of war.

Compounding the tragedy in Chechnya is the fact that President Clinton has failed to voice criticism or complaint of the Russian actions. He even found occasion at a United States-

Russian summit in May to speak in defense of the Russian actions by comparing them favorably to our own Civil War. I understand Russia's interest in maintaining its territorial integrity, but the current action is inexcusable.

If President Clinton will not speak for the Nation's conscience then we in the Senate must. The Russian actions in Chechnya must stop. The massacre of innocents is unacceptable and will negatively affect relations between our countries.

Madam President, the military action in Chechnya has been conducted—and continues—with a degree of brutality and reckless regard for civilian life that no democratic government can sustain. It is my great concern that, in addition to the killing of countless innocent victims, this violence in Chechnya is bringing to an end the short journey Russia has made toward the development of a democratic government.

AMENDMENT NO. 5031

(Purpose: To allocate funds for demining operations in Afghanistan)

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".

AMENDMENT NO. 5032

(Purpose: To require the United Nations vote report to include information about American foreign assistance)

At the appropriate place, insert the following new section:

REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT OF SECRETARY OF STATE

SEC. . (a) FOREIGN AID 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)).

Mr. FAIRCLOTH. Madam President, current law requires the Secretary of State to publish an annual report that tells the Congress how often foreign countries voted with the United States at the United Nations. Unfortunately, this report leaves out a key statistic, and that is how much foreign aid we are giving to the countries that vote against us.

This amendment requires the Secretary to include the amount of foreign aid that these nations receive and a side-by-side comparison of voting records and foreign aid appropriations.

This amendment will assemble this important information in a convenient and easily accessed resource. It will assist those in the Congress and in the

public in their assessments of the merits of American foreign aid programs.

I believe that there is good reason to scrutinize these two statistics. The American taxpayers work hard for the money that flows to foreign countries through the Treasury. The American taxpayers are told that foreign aid encourages support for American aims and diplomatic initiatives.

Analysis of the United Nations votes of foreign aid recipients, however, reveals the fallacy of this rationale; 64 percent of American foreign aid recipients voted against the United States more often than not in the 1995 session of the United Nations.

India, for example, received \$156 million in foreign aid in 1996. India, however, declined to support American diplomatic initiatives as a gesture of appreciation and voted against the United States in 83 percent of its U.N. votes. India thus offered less support to the United States than Iran and Cuba.

The ten countries that voted against the United States most often at the United Nations will nonetheless collect \$212 million from the American taxpayers.

The United Nations sent troops to Haiti to restore President Aristede and also sent \$123 million in aid. Nonetheless, Mr. President, Haiti voted against the United States 60 percent of the time.

President Clinton engineered a \$40 billion bailout for Mexico, and, yet, Mexico voted against us in 58 percent of its U.N. votes.

Mr. President, the countries that voted against us more than 50 percent of the time at the United Nations collected about \$3.1 billion in American foreign aid in 1996. The American taxpayers worked millions of hours in fields and factories to earn that money.

Clearly, however, gratitude is not a popular response to a generous flow of funds from the pockets of the American people.

The American people deserve to know the effects of large streams of foreign aid. The taxpayers deserve to know that a limited number of foreign aid recipients did, in fact, thank the American people with their votes. Israel voted with us 97 percent of the time. Latvia voted with us 87 percent of the time. Hungary voted with us 83 percent of the time. This amendment will collect these statistics in a single and easily accessed source.

This amendment thus adds an informative sunshine provision to the Foreign Relations Authorization Act. An informed Congress is best able to make intelligent decisions. I thus believe that it is important to bring this information together in a single report and hope that my colleagues will join me in support of this amendment.

AMENDMENT NO. 5033

(Purpose: To require a GAO study and report on the grants provided to foreign governments, foreign entities, and international organizations by United States agencies)

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(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

Mr. FAIRCLOTH. Madam President, many people in this Chamber believe that all the foreign aid that we send to other countries is included in this one spending bill. But this is not the case. I have discovered that domestic agencies are also in the foreign aid business.

This amendment will require the General Accounting Office to complete a report about grants to foreign entities by Federal Government agencies. This study will be limited to domestic agencies—those not engaged in foreign affairs or national security matters—and it will track the amount of aid to foreign countries that flows outside the Foreign Operations budget.

I took to the floor of this Chamber last week to illustrate the stream of taxpayer dollars that flows to foreign nations through domestic Federal agencies.

I pointed out that the Environmental Protection Agency spent \$28 million on 106 grants to foreign countries from 1993 to 1995.

I revealed that the EPA sent \$20,000 to the Chinese Ministry of Public Security. The Ministry of Public Security is a national police force that issued shoot-to-kill orders during the pro-democracy rallies in 1989.

The purpose of this EPA grant to the Ministry of Public Security was fire extinguisher maintenance. I hope that my colleagues will agree that a nation that developed nuclear technologies—which it sells to countries like Iran and Pakistan—can maintain fire extinguishers without the American taxpayers' money.

The EPA spent another \$20,000 to look into methane emissions from livestock in Nepal. The EPA claims that the Congress is crippling its ability to protect our environment, and, yet, their budget can manage \$2,000 for fringe benefits and \$5,000 for travel expenses for researchers in Nepal.

The EPA sent \$65,000 to Poland to survey local environmental issues. The taxpayers will be delighted to learn about the uses of their hard-earned tax dollars: \$16,000 for fringe benefits, \$18,000 for travel expenses, and \$6,000 for equipment costs.

The EPA sent \$300,000 to Bolivia, one of the largest drug-producers in South America, for an emissions inventory. The EPA approved \$23,000 in travel expenses and, while these scientists are on their international trips, EPA provided a generous \$200 per diem.

This chart illustrates that these are not isolated cases: \$319,000 to Mexico for a satellite landscape survey; \$300,000 grant to Estonia to collect, analyze and disseminate environmental information for effective environmental decisionmaking; \$50,000 to Sweden for a database and global distribution of a newsletter about energy-efficient lighting; \$134,000 to Mongolia and \$194,000 to Botswana to study greenhouse gasses.

If this Congress intends to balance the Federal budget—and I believe that many of us do—we most certainly need to take a good look at the wasteful spending that benefits foreign countries.

EPA complains that cuts in its budget will devastate their efforts to protect the environment. The EPA argues that it cuts money for inspection and enforcement actions. However, the EPA still found \$28 million for foreign countries.

I was elected to the Senate in 1992 on a pledge to bring common sense to Washington.

Clearly, Mr. President, these grants defy common sense.

The Congress debates and passes a foreign aid budget—we sent over \$12 billion abroad last year—that reflects our decisions about foreign aid. It is not the business of domestic agencies—agencies that complain that their budgets are too small—to send the taxpayers' money to foreign countries.

These grants are representative of a culture of waste that pervades the Federal Government. In fact, not only does the EPA send millions of taxpayers' dollars abroad every year, but over-sight of these grants is nonexistent.

The EPA Inspector General reported last year that these grant officers essentially funnel the money overseas and close their eyes.

Domestic agencies need to attend to domestic matters.

Their budgets are separate from the foreign aid budget for good reason. Their responsibilities are in the United States, not in China or Mexico.

This amendment calls for a GAO report to examine the depth and scope of these problems.

I believe that this is the least that the taxpayers deserve and thus hope that my colleagues will join me in support of this amendment.

AMENDMENT NO. 5034

(Purpose: To clarify the use of certain development funds for Africa)

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".

Mr. JEFFORDS. Madam President, first, let me thank my colleague from Kentucky, the chairman of the subcommittee, for the excellent job he has done in structuring a good and fair bill in the face of severe constraints. While it is not everything that any of us would like, he has been very attentive to the concerns of his colleagues and I appreciate his efforts.

I rise in support of the amendment offered by the senior Senator from Illinois. The Senator has been an effective, outspoken, and persistent defender of assistance to Africa throughout his congressional career. He, together with the senior Senator from Kansas, have been true friends of Africa, wielding a stick when appropriate and assuring that the United States follows through with humanitarian and development assistance where appropriate. Africa has made dramatic strides over the last two decades, thanks in some part to the constant efforts of these two Senators. They will be sorely missed both in this body and around the world.

The amendment before us is a modest one. It does not change the funding levels laid out in the bill. It does not earmark a specific dollar amount, but ties funding for the Development Fund for Africa to the overall level of funding in the development assistance account. This amendment does not stake out a bigger pot for Africa, it merely ensures that Africa will receive the funding that both this committee and the administration agree it should receive.

I appreciate the efforts that have been made by the chairman to restructure the foreign aid accounts and reduce earmarks. What this amendment seeks to do, however, is to ensure that aid to Africa, the world's most needy continent, is sustained. Traditionally, funding for Africa has fallen victim to sudden needs elsewhere in the world. This amendment would protect Africa from suffering a disproportionate share of future cuts.

Our assistance to Africa is designed to help various nations achieve important goals over the long term. These goals cannot be reached if our financial support fluctuates wildly. The problems we are combating on the continent are entrenched, and will only be

rectified if we have staying power. Unlike other areas of the world, we cannot hope to achieve our goals in Africa simply by doing short demonstration projects and assuming that the example will spark comprehensive reform. Reform in Africa takes significantly more work. But the rewards should be significantly greater as well. It has tremendous potential for political evolution, economic development, and growth of markets. In addition to reducing human suffering and bringing greater stability to a large area of the world, success in Africa will prove to be very important to us and our economy in the future.

I appreciate the efforts that the chairman already has made to make assistance to Africa a priority. But I hope that he will agree to accept this amendment as a modest way to ensure this does not change.

Mr. SIMON. Madam President, I appreciate the efforts of Chairman MCCONNELL and Senator LEAHY for working to include the amendment I offered along with Senators KASSEBAUM, FEINGOLD, MOSELEY-BRAUN, JEFFORDS, FEINSTEIN, and MIKULSKI on the Development Fund for Africa. We all share the conviction that aid to Africa should be a priority.

Africa has two unfortunate distinctions—it is both the poorest and the most ignored continent. That is why, 8 years ago, Congress established the Development Fund for Africa to ensure aid for sub-Saharan Africa was given a high priority within our foreign aid budget. Unfortunately, aid to Africa was considered expendable when resources were sought for other purposes. We realized, however, that the United States has an interest and a duty to help out the impoverished in that region, and that the Development Fund for Africa was a good way to help meet our commitment. It would be senseless now, with the measure of hope that we see in Africa, even while it still suffers from poverty, pollution, and the scourge of AIDS, to abandon our support for sub-Saharan Africa.

Our amendment does not add new money. It maintains the language, worked out by Senators MCCONNELL and LEAHY, that protects aid to sub-Saharan Africa from being cut disproportionately in a development assistance account that is getting smaller. I commend the chairman and ranking member of the subcommittee for their support for Africa, and I think this amendment can strengthen their efforts to see that aid to this region is maintained as an important priority. I look forward to working with my colleagues to see that aid to sub-Saharan Africa is protected in the conference report.

Mr. MCCONNELL. These amendments include a Helms amendment on Chechnya, a Brown amendment on demining Afghanistan, two Faircloth amendments on foreign aid and domes-

tic agencies, and a Simon amendment on Africa.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

The amendments (Nos. 5030 through 5034) were agreed to.

Mr. MCCONNELL. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Madam President, I have a request from Senator MCCAIN to speak for 5 minutes before the vote that we are about to have.

Mr. LEAHY. Madam President, I am certainly not going to preclude the Senator from doing that. I think we are going to be in a position soon where we are going to have a series of votes.

I ask unanimous consent that prior to each of the votes we will be having on this legislation there be 4 minutes equally divided under the control of the distinguished Senator from Kentucky and myself, so that the proponent and opponent would have 2 minutes prior to each vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, my assumption is that the Senator from Arizona is on the way as we speak. I ask unanimous consent that the Senator from Arizona, Senator MCCAIN, be allowed to speak for 5 minutes before the votes that we are about to enter into.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Might I inquire of the Senator from Kentucky, would the order of business following the two votes that are going to be taken soon be that when those votes are completed, Senator HATFIELD and I will be recognized to offer an amendment?

Mr. MCCONNELL. Madam President, it is my understanding that the Senator from North Dakota is willing to enter into a time agreement of 40 minutes on that amendment, and it would be my intention to lay aside the pending amendments and go to the Dorgan amendment as soon as we dispose of these rollcall votes.

Mr. DORGAN. The Senator from Oregon, Senator HATFIELD, and I are willing to enter into a time agreement. We simply ask that we be allotted 40 minutes to present our amendment. So any time agreement that is consistent with that requirement is satisfactory with us. We would be prepared to offer the amendment following the second vote.

Mr. MCCONNELL. Madam President, I am told on this side that an hour total time would be acceptable on this

side. So I gather that would give my friend from North Dakota and his supporters 40 minutes and the opponents 20 minutes.

Mr. DORGAN. That would be satisfactory.

Mr. McCONNELL. Madam President, I, therefore, ask unanimous consent that when we turn to the Dorgan amendment, the time be limited to 1 hour, with 40 minutes to be controlled by the Senator from North Dakota and his supporters and the balance of the time by the opponents of the amendment.

Mr. LEAHY. Will the Senator from Kentucky further request that there be no second-degree amendments to the amendment by the Senator from North Dakota?

Mr. McCONNELL. And that there be no second-degree amendments to the Dorgan amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Madam President, since the Senator from Arizona, Senator McCAIN, had asked for 5 minutes before the vote, now Senator SMITH understandably would like to have 5 minutes as well. So I would like to announce to my colleagues that it looks as if we are at least 10 minutes away from a vote on the Smith amendment and a vote on the Helms amendment.

Therefore, I ask unanimous consent that Senator SMITH be allowed to proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Will the Senator from Kentucky add to that so that people can know that we are going to vote at 2:30? The Senator from Arizona is here now.

Mr. McCONNELL. I would object to any further efforts to delay the votes. So I think Senators can be assured that 10 minutes from now, there will be two votes: a vote on the Smith amendment, and a vote on the Helms amendment. Both Senator SMITH and Senator McCAIN have 5 minutes each. The manager of the bill cares not who goes first.

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

Under the previous order, the question now occurs on the amendment No. 5028 offered by the Senator from North Carolina, Senator HELMS.

Mr. McCONNELL. Madam President, I thought the unanimous-consent

agreement allowed the Senator from Arizona, Senator McCAIN, and the Senator from New Hampshire, Senator SMITH, to proceed for 5 minutes each, I gather, in relation to the Smith amendment.

The PRESIDING OFFICER. The Senator is correct.

Who seeks recognition?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 5027

Mr. SMITH. Madam President, I hope that we are not going to make this amendment something that it is not in the debate here in the closing moments.

This amendment is very simple. It simply strikes \$1.5 million out of the bill, saves the money, which is, in essence, \$1.5 million in foreign aid to the country of Vietnam. Vietnam is a Communist country. It has nothing to do with diplomatic relations. It has nothing to do with any of the other issues—normalization, or other issues that we have had some differences here on in the past.

This is a question, and I think it is the ultimate question, of \$1.5 million going to North Vietnam, or the country of Vietnam. These are dollars that allegedly, by opposition—by the discussion from the Senator from Louisiana, Senator JOHNSTON—are going to be used by the American Bar Association to somehow make Vietnam suddenly a system that is going to be falling in line with our legal system here in America, or at least that is the ultimate goal.

The point is the American Bar Association donates tens of millions of dollars to candidates, mostly candidates on the other side of the aisle. They have plenty of money. There is no need to take \$1.5 million of the taxpayers' money to do this. The country of Vietnam, I say to my colleague, is \$150 million in arrears.

The law which is in this very bill says very clearly under bilateral economic assistance that this is precluded; this is forbidden. Now they have made an exception in this provision, in this bill. That is what is wrong.

So the issue here is, Do you believe that North Vietnam, a country that denies basic human rights to its people, should get \$1.5 million that the American Bar Association can certainly spend on their own, if they want to promote a legal system in Vietnam that may or may not be patterned after the United States of America?

We have no guarantee this is going to happen. There are no guarantees whatsoever that if the American taxpayers spend \$1.5 million that somehow, miraculously, Vietnam is going to adopt our legal system. It is absolutely outrageous. It is the most outrageous argument I have heard since I have been in the Senate. It is crazy.

Not only that, if we are really concerned about having a legal system in Vietnam that is like America, what about a legal system that would protect these poor unfortunate souls who are imprisoned all over Vietnam with no charges against them, who have been held in reeducation camps for years and years with no charges—just held there, no system, no trial, no nothing? That is what this is issue is about.

If the people in the trade council want to trade with Vietnam, we have had that debate. Senator McCAIN and I have had that debate. This is not that debate. That is fine. The issue is not that. The issue is whether or not, in the interest of producing a legal system that somehow is going to reflect ourselves, our own legal system, that we should spend \$1.5 million of the taxpayers' money.

This is a new foreign aid program. It is the camel's nose under the tent. It is \$1.5 million of foreign aid to a Communist country that owes us \$150 million in debts. They have not paid them. They have not tried to pay them. There has been no restructuring, or anything else, any attempt whatsoever.

That is the issue. It is not the responsibility of the American taxpayers to pay for this just because there is a group—if you look at the corporations, these are big corporations, not to mention the ABA. There is plenty of private money. We have the world banks and other international organizations that have helped Vietnam. We donate to those. We provide dollars. We give dollars to these international organizations. Why now have another \$1.5 million of taxpayers' dollars in new foreign aid go to this country? It is wrong. It is absolutely wrong.

No matter how you feel about the issue of trade with Vietnam, that is not the issue here. The issue is, do we give Vietnam another \$1.5 million in foreign aid in the hopes that somehow they are miraculously going to adopt our legal system and have trial by jury and have this nice legal system patterned after the United States of America? It is absolute nonsense. Maybe they will or maybe they will not, but they will not use \$1.5 million of the taxpayers' money to do that. How about reforming Vietnam's election laws, to become a democracy? This is not what this is all about.

The argument about the nations of Eastern Europe who have come out from under the yoke of communism, that is the point. They came out from under the yoke of communism, and when they did, then we could help them as we have done. This is not the case here.

What is next? Maybe we ought to help the North Koreans. Maybe we ought to give them a couple of million bucks, and maybe they will—maybe they will—pattern their legal system

after ours. How about Cuba? Maybe they will pattern it if we give them a couple million, too.

This is absolutely wrong. I am absolutely shocked that there would be a lot of opposition to an amendment to take \$1.5 million out of this foreign operations bill for something like this.

So, in conclusion, the point is very simple. If you want to give \$1.5 million of new foreign aid to North Vietnam in the hopes that they are going to pattern their legal system after the United States of America, vote against the amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, thank you very much.

It is important that the legal system in Vietnam be more aligned to Western business and Western investment and Western practices and democracy. I believe that the Vietnamese have agreed in principle to repay their debt. In fact, they have assumed the debt that South Vietnam had incurred in some respects.

I am also informed by the administration that the only major dispute is over about \$8 million of the \$150 million debt. I think it is important. The language of the bill says that the committee urges AID to provide up to \$1.5 million for the Vietnam legal reform initiative, and then it goes on to say that the committee is aware of the particular expertise of the American Bar Association, the International Law Institute, and the United States-Vietnam Trade Council, which strongly recommends that AID consider implementing the initiative through these organizations. So it is my understanding that the money would not go directly to the Vietnamese Government but to these organizations.

I believe that the distinguished managers of the bill can help me out. I believe that is the reason the language was included as it was, so that there would be development of trade relations and also assistance to provide the necessary framework for commercial transactions for foreign investment and trade.

So, as you know, there are many American corporations doing business over in Vietnam today. I am told that some are doing very well. Some are not doing very well. One of the reasons some are not doing very well is because of the lack of a legal framework. I am convinced that it may be in our national interest to see that happen.

Mr. SMITH. Madam President, is there any time remaining at all?

The PRESIDING OFFICER. There is 2 minutes on each side under the previous unanimous consent.

Mr. SMITH. I just would like to respond briefly to the last point that Senator MCCAIN made.

In the committee bill in question here, the language that my amendment

strikes is under the heading "Title II," which is "Bilateral Economic Assistance, Agency for International Development, Development Assistance." This is to furnish assistance to any country.

Now, here we have a situation where this is under economic assistance, so it is going directly to Vietnam because that is exactly what the language says. The actual committee language reads: "Funds appropriated under this heading shall be made available to assist Vietnam," et cetera. That is what the language says. So that is what is happening. Maybe the intent is different. I do not question anybody's intent here, but the language says that this money is to assist Vietnam. And that is what I object to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I would like to yield 1 minute to the distinguished manager of the bill in the hopes that maybe he might clear this up. Could I ask the Senator from Kentucky if he can help us out. I am not trying to get him into a problem here.

Mr. MCCONNELL. I say to my friend I am not sure I can.

Mr. MCCAIN. On page 27 of the report accompanying the bill that I am looking at—

Mr. MCCONNELL. I really think Senator JOHNSTON, who is the author, ought to respond.

Mr. MCCAIN. The way I read it, it says the committee "strongly recommends that AID consider implementing the initiative through those organizations." I ask the Senator from Louisiana, is that the correct interpretation of the language in the bill?

Mr. JOHNSTON. Mr. President, I say to my friend from Arizona that is precisely what is contemplated. That is precisely what the report language says.

The bill language says this would aid Vietnam, and, indeed, it does by aiding Vietnam to set up a legal system. But as the report language says, the committee is aware of the particular expertise of the American Bar Association, et cetera, and recommends that AID consider implementing the initiative through these organizations. So it explicitly calls for implementing the help to Vietnam's legal system through the American Bar Association, the International bar—

Mr. MCCAIN. International Law Institute and the trade council.

Mr. JOHNSTON. International Law Institute, yes, and the trade council. So this does not go to Vietnam. It goes to these organizations which would help Vietnam set up the rule of law.

The PRESIDING OFFICER. All time has expired.

The question now is on agreeing to amendment No. 5027 offered by the Senator from New Hampshire, Mr. SMITH.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. LAUTENBERG] is necessarily absent.

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—43

Abraham	Feingold	Moseley-Braun
Ashcroft	Frahm	Nickles
Baucus	Frist	Pressler
Brown	Gramm	Reid
Burns	Grassley	Santorum
Byrd	Gregg	Smith
Campbell	Hatch	Snowe
Coats	Helms	Thomas
Conrad	Hutchison	Thompson
Coverdell	Inhofe	Thurmond
Craig	Kempthorne	Warner
D'Amato	Kohl	Wellstone
Domenici	Kyl	Wyden
Dorgan	Lott	
Faircloth	McConnell	

NAYS—56

Akaka	Glenn	Mack
Bennett	Gorton	McCain
Biden	Graham	Mikulski
Bingaman	Grams	Moynihan
Bond	Harkin	Murkowski
Boxer	Hatfield	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Robb
Chafee	Johnston	Rockefeller
Cochran	Kassebaum	Roth
Cohen	Kennedy	Sarbanes
Daschle	Kerrey	Shelby
DeWine	Kerry	Simon
Dodd	Leahy	Simpson
Exon	Levin	Specter
Feinstein	Lieberman	Stevens
Ford	Lugar	

NOT VOTING—1

Lautenberg

The amendment (No. 5027) was rejected.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5028

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 5028 offered by the Senator from North Carolina [Mr. HELMS].

There are 4 minutes equally divided. Who seeks recognition?

Mr. LEAHY. Madam President, the Senate is not in order.

Mr. FORD. There must be respect for the Chair.

The PRESIDING OFFICER. We will not proceed without order in the Chamber.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. It is my understanding there are 2 minutes on each side in relation to the amendment.

The PRESIDING OFFICER. That is correct.

Mr. McCONNELL. I yield the 2 minutes to the majority leader.

Mr. LOTT addressed the Chair.
The PRESIDING OFFICER. The Senate majority leader.

Mr. LOTT. Madam President, I will just be very brief before we go to the vote on this amendment sponsored by the Senator from North Carolina and the Senator from New Hampshire.

I urge my colleagues to vote for this amendment. The amendment will shut down any possible U.N. ambitions to tax American citizens. The amendment, as I understand it, would prohibit U.S. contributions to the U.N. or U.N. agencies if they develop, advocate or publicize U.N. tax proposals. I think it is a necessary and important precaution to include this in the Foreign Operations bill. I urge the adoption of the amendment.

Mr. LEAHY. Madam President, I yield the 2 minutes under my control to the Senator from Rhode Island.

Mr. PELL addressed the Chair.
The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank my friend from Vermont.

Madam President, I wish to speak to the amendment regarding the United Nations offered by our distinguished colleague and my successor as the chairman of the Foreign Relations Committee, Senator HELMS.

I have the utmost respect for Senator HELMS, but I have deep concerns about the amendment he proposes.

As one who participated in the San Francisco conference which drew up the U.N. charter, I have tried over the years since both to support and improve the organization any way I could.

And the United Nations, I would argue, has accumulated a solid record of achievement. It has not lived up to all of its potential, but for every example that critics give of the U.N.'s failures, there are numerous countervailing examples of success—in brokering peaceful settlements to violent conflicts worldwide; in halting the proliferation of nuclear weapons; in protecting the international environment; and in immunizing the world's children and preventing the spread of disease.

The U.N.'s record is lofty, not only for its thought, but it has made the world a truly better place. The United Nations has enabled the United States to avoid unilateral responsibility for costly and entangling activities in regions of critical importance, even as it yields to the United States a position of tremendous authority.

U.S. leadership at the United Nations is threatened by our inability to pay our dues and meet our obligations. Amendments such as these only endanger our position further. I urge my colleagues to vote against it.

Mr. LEAHY. Is there time left?
The PRESIDING OFFICER. There are 30 seconds.

Mr. LEAHY. Madam President, this amendment says that if the United Nations could borrow money from an international lending organization, as defined in here, we would not be able to make our contributions to independent agencies. That means we could not make our contributions to UNICEF, to the various environmental organizations, the protection of women, or other such organizations.

The PRESIDING OFFICER. All time has expired on the Senator's side.

Mr. HELMS addressed the Chair.
The PRESIDING OFFICER. The Senator from North Carolina. The Senator has 1½ minutes remaining.

Mr. HELMS. Madam President, what the distinguished Senator from Vermont has said is not applicable at all. He knows—anybody who has read the amendment knows that nothing happens until the United Nations begins to talk about taxing the American people. That is clear in the amendment. It does not need any obfuscation from the Senator from Vermont.

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment No. 5028 offered by the Senator from North Carolina [Mr. HELMS]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.
Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] and the Senator from New Jersey [Mr. LAUTENBERG] are necessarily absent.

The result was announced—yeas 70, nays 28, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—70

Abraham	Faircloth	Lugar
Ashcroft	Feingold	Mack
Baucus	Frahm	McCain
Bennett	Frist	McConnell
Biden	Gorton	Murkowski
Bond	Graham	Nickles
Brown	Gramm	Nunn
Bumpers	Grams	Pressler
Burns	Grassley	Pryor
Byrd	Gregg	Robb
Campbell	Harkin	Roth
Chafee	Hatch	Santorum
Coats	Heflin	Shelby
Cochran	Helms	Simpson
Cohen	Hollings	Smith
Conrad	Hutchison	Snowe
Coverdell	Inhofe	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kerry	Thurmond
Dodd	Kohl	Warner
Domenici	Kyl	Wyden
Dorgan	Levin	
Exon	Lott	

NAYS—28

Akaka	Inouye	Murray
Bingaman	Jeffords	Pell
Boxer	Johnston	Reid
Bradley	Kennedy	Rockefeller
Bryan	Kerrey	Sarbanes
Daschle	Leahy	Simon
Feinstein	Lieberman	Specter
Ford	Mikulski	Wellstone
Glenn	Moseley-Braun	
Hatfield	Moynihan	

NOT VOTING—2

Breaux Lautenberg

The amendment (No. 5028) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, there are several more amendments that have been cleared on both sides that Senator LEAHY and I would like to dispose of at this point before we go to the amendment to be laid down by the Senator from North Dakota, which is under a time agreement.

AMENDMENTS NOS. 5039 THRU 5044, EN BLOC
Mr. McCONNELL. Mr. President, I send some amendments to the desk and ask for their immediate consideration.
The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes amendments numbered 5039 through 5044, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 5039

(Purpose: To require certain reports on the situation in Burma)

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.

AMENDMENT NO. 5040

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.

AMENDMENT NO. 5041

(Purpose: To express the sense of the Congress that the United States should take steps to improve economic relations between the United States and the countries of Eastern and Central Europe)

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.

(c) 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 and Eastern 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.

AMENDMENT NO. 5042

(Purpose: To permit certain claims against foreign states to be heard in United States courts where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies)

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.

AMENDMENT NO. 5043

(Purpose: To express the Sense of the Congress regarding Croatia)

At the appropriate place, add the following new section:

SECTION . SENSE OF CONGRESS REGARDING CROATIA.

(a) FINDINGS.—The Congress makes the following findings:

(2) 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 estab-

lishing democratic institutions, a free market, and the rule of law.

AMENDMENT NO. 5044

(Purpose: To express the Sense of the Congress that Romania is making significant progress toward admission to NATO)

At the appropriate place, add the following new section:

SECTION . 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.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 5039 through 5044), en bloc, were agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. If I may give a status report on behalf of Senator LEAHY and myself.

We have disposed of 24 amendments. There are two that have been laid aside that will be dealt with later. Senator

LEAHY and I are aware of only 12 left, of which 3 may need rollcalls. One of the three has a time agreement, and that is, of course, the amendment of the Senator from North Dakota, Senator DORGAN, which I believe is triggered under a previous unanimous-consent agreement at this point.

The PRESIDING OFFICER. The Senator is correct. Under the previous agreement, the Senator from North Dakota is to be recognized to offer an amendment. One hour of debate has been established, with 40 minutes under the control of the proponents and 20 minutes for the opponents.

The Senator from North Dakota. Mr. DORGAN. Under the unanimous-consent agreement, there are to be no second-degree amendments. The Senator from Massachusetts had, prior to that point, asked to offer a second-degree amendment that is acceptable to myself and Senator HATFIELD.

I ask that the unanimous-consent agreement be modified to allow the Senator from Massachusetts to offer a second-degree amendment when appropriate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, the unanimous consent request provides that I now offer the amendment on behalf of myself and Senator HATFIELD and others and that we have 40 minutes on our side in the 1-hour time agreement. The Senator from Delaware and the Senator from Texas have asked if they could intervene with an amendment that they intend to offer that will take 5 minutes on each side. I have no objection, by unanimous consent, to allowing them to go 5 minutes each. I understand their amendment would be agreed to. Following the 10 minutes, I ask that we then have the 1 hour, 40 minutes allotted to us to offer the amendment on foreign arms sales.

So, Mr. President, I make that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, I say to my friend, I believe it is a freestanding bill, not an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Texas is recognized.

PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

Mr. GRAMM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1675, and that the Senate proceed to its immediate consideration.

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

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1675) to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5038

(Purpose: To protect the public safety by establishing a nationwide system to track convicted sexual predators)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. BIDEN, Mr. HATCH, and Mrs. HUTCHISON, proposes an amendment numbered 5038.

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

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

The amendment is as follows:

Strike 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 in 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.

Mr. GRAMM. Mr. President, we have before us a bill that relates to tracking and identifying sex-offenders. Senator BIDEN, myself, and a number of other Senators have worked very hard on this bill. Forty-nine States in the Union have set up systems which track known sexual predators because, of all the types of criminal activity, the probability that someone who commits a sexual predatory act will commit that type of crime again—especially against a child—is 10 times higher than

the probability that any other type of crime will be repeated.

The problem with only having State laws is that people are moving across State lines to try to avoid detection. What our bill does is it sets up an FBI-based Federal tracking system which will track all movements of sexual predators, whether they move across town or across State lines. This system will give us an interactive database, and it will greatly enhance the ability of our communities, our law enforcement officials, and our families to protect our children against sexual predators.

Mr. President, again, I have named this bill, in working with Senator BIDEN, for Pam Lychner, one of the victims of the tragic TWA crash.

We have named this bill for her not because of how she tragically died, but because of how she lived. Pam Lychner was one of our Nation's greatest victim's rights advocates. She cared enough for that cause, in the words of the old Hallmark Card commercial, "to give her very best." And in doing so, she reminded people all over my State and people all over America that we are never going to be able to deal with the violent crime problem in this country until those of us who are not victims of crime are as outraged by these atrocities as are the victims themselves.

I thank my colleagues for letting this bill pass the Senate. I think it is vitally important that we identify and try to monitor sexual predators and I think we owe it to our society and to law-abiding citizens to do this.

I believe that this bill will provide society with a very strong tool which will strengthen local law enforcement, give our families the ability to protect our children, and which will establish a data base that the Boy Scouts, the Girl Scouts, and other youth organizations can use to check out those who want to be trusted with our children.

I think this bill will save lives and I think it will provide greater comfort and greater security to our families. I am very proud of this effort and I thank Senator BIDEN for his leadership on this issue.

I yield the remainder of my time.

Mr. BIDEN. Mr. President, Senator GRAMM and I are now offering a substitute amendment to S. 1675, a bill originally offered in April by myself and Senator GRAMM along with Senators HUTCHISON, FAIRCLOTH, DORGAN, KYL, SHELBY, CAMPBELL, MCCONNELL, STEVENS, MCCAIN, and THURMOND. This legislation strengthens and improves the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The Jacob Wetterling Act, enacted as part of the 1994 crime law, requires States to enact laws to register and track the most violent, the most horrible—and least likely to be rehabili-

tated—criminals our Nation faces today. I refer to those criminals who attack our children and criminals who are sexually violent predators.

These criminals must be tracked. And local law enforcement must know when these criminals are in their communities. This was the reason I worked to include this important measure in the 1994 crime law. And I will also point out that almost all States have taken great strides to build an effective tracking system.

Now we seek to build upon this progress to meet three specific goals.

First, we must have a nationwide system that will help State and local law enforcement track these offenders as they move from State to State and will help by providing a back-up system of tracking.

Second, while most States have established or are about to establish these systems, if any States fail to act, we cannot allow there to be a "black-hole" where sexual predators can hide and are then lost to all States. A nationwide system will track offenders if States do not maintain registration systems.

Third, we must ensure that the most serious sexual predators are required to remain registered with law enforcement officials for the rest of their lives.

All of these key goals will be met by this legislation. In addition, our amendment will offer some improvements which are made possible by the nationwide system this amendment will provide. For example, our bill will—

Require all offenders to verify their address on a regular basis by returning verification cards with their fingerprints and recent photograph.

Require that a nationwide warning is issued whenever an offender fails to verify their address or when an offender cannot be located.

Institute tough penalties for offenders who willfully fail to meet their obligations to register with the nationwide system in States where there is no registration and in cases of offenders who move from one State to another.

Notify law enforcement officials not only when an offender moves to their area, but also when an offender moves out of their neighborhood.

To offer just one of the practical problems a national database will help local law enforcement address—Delaware law enforcement, because Delaware is so close to other States, will certainly need to know if a sexual predator lives just over the line in Pennsylvania. And only a national database can provide this information.

To offer a real life example of why a nationwide system is needed—in Delaware, a sex offender was released last year. Fortunately, Delaware's offender registration law requires this of-

fender—Freddy Marine—to be tracked by Delaware law enforcement. Since his release, Marine has moved to another State. The nationwide system established by this bill will help make sure that if Freddy Marine moves back to Delaware—our State law enforcement will know, and knowledge is the key to effective enforcement.

In summary, the sex offender tracking and identification bill is possible because States such as Delaware and Texas have done the hard work to build statewide registration systems. We now seek to build a system where all movement of sexually violent and child offenders can be tracked and we will go a long way toward the day when none of these predators will fall between the cracks.

I am glad that we can now offer and pass with the unanimous consent of the Senate this important legislation to protect our children from sexual offenders. I hope that our colleagues in the House of Representatives will take up and pass the companion bill to this legislation and enact these vital protections for our children.

Mr. President, this is the next step in the approach to start action which Senator DORGAN, I, Senator GRAMM of Texas, and others were doing with the crime bill. We decided that we were going to nationalize it—it became known as Megan's Law, and it was also called the Jacob Wetterling Act, again named after a victim in this case—to make sure every State had the ability and the requirement, in order to get Federal funds, that they had a State registry so that we know the States and communities can know. It became known as Megan's Law because of the celebrated tragic case in New Jersey. It was included in the original crime bill.

What we did not do that Senator DORGAN and Senator KERRY—first Senator GRAMM came to me and asked me about participating in this, and Senator KERRY of Massachusetts and others, because all of a sudden it became pretty clear that there was a gaping hole. If, in fact, we have registration, for example, in Delaware, and our State is registering sex offenders so people know whether a pedophile has moved into the neighborhood after having been released from the jail, that gives the community some protection. But there was no vehicle or mechanism until we passed the Gramm-Biden law.

We are going to rename the law. For the person in Delaware who is in a position where a pedophile who lived in Chester County, PA—literally 4 miles or 5 miles from Wilmington, DE—moves across the line, there is no vehicle. There is no mechanism for the Pennsylvania authorities to notify the authorities in the State of Delaware.

The Senator from Massachusetts and I were talking about this. He points out that in his State, he has the same circumstance, if, in fact, you move

from one State to another. As a matter of fact, his State does not even have a registry yet, which is one of his concerns he mentioned to me because it is sort of behind the rest of us. They are not moving.

The bottom line of this is real simple. We want people to know. We want a system to be available where it is a nationwide system that will help State and local enforcement people track offenders as they move from State to State, providing a backup system for tracking.

Second, while most States have established or are about to establish these systems, if any State fails to act, we cannot allow there to be a Pennsylvania black hole out there, a black hole that Massachusetts now, for example, is part of, because if folks who are pedophiles in Massachusetts are moving into Rhode Island, or any other place, or even into Massachusetts, there is nobody who knows. So we need a nationwide system.

Third, we have to assure that the most serious sexual predators are required to remain registered with law enforcement officials for the rest of their lives. This is not just being unnecessarily punitive. The recidivism rates are high, and the notification saves lives.

We require all offenders to verify their address on a regular basis by returning verification cards with their fingerprints and a recent photograph. We require that a nationwide warning is issued whenever an offender fails to verify their address or an offender cannot be located. We institute tough penalties for offenders who willfully fail to meet this requirement. We notify law enforcement officials not only when an offender moves to an area, but when they move from an area.

Let me offer one practical example of the need for this nationwide database. A sexual offender in Delaware named Freddie Marine is notorious. While in Delaware, every community was notified. But he moved out of Delaware. He may be over in Maryland or New Jersey. He is as much of a threat to a child in New Jersey or Maryland as he was in Delaware. But no one knows. There is no way they can know.

So this nationwide database will provide that. It has been a pleasure. People kid—when they said, "This is the Gramm-Biden amendment, well, we will let this go through. It must be OK." But the truth is the Senator from Texas and I work an awful lot on these criminal justice issues, and we are more in agreement than not. I thank him for, quite frankly, pointing out this black hole that I referred to early on. It is a pleasure to work with him. And I thank my friend, Senator DORGAN, for not only letting this go through but being on the ground floor when we put the Jacob Wetterling legislation together; and my friend from

Massachusetts, who has been very, very concerned about the failure of his State to move, as it should have, in making sure to help fill this black hole. I thank him very much.

I yield the remainder of my time, which is a rarity for me to do on the floor.

Mr. GRAMM. Mr. President, again, I ask unanimous consent that the amendment be considered as read and agreed to, the bill be deemed to have been read the third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements related to the bill be placed at the appropriate place in the RECORD.

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

The amendment (No. 5038) was agreed to.

The bill (S. 1675), as amended, was deemed read the third time, and passed, as follows:

S. 1675

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 "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) of 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 re-

sides 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

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 from 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.—

“(1) 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.

“(i) 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 (1), 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) 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.

“(2) 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.

“(1) 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 section 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 a set 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 described in section 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 section 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.

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

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the Senator from North Dakota is recognized to offer his amendment. The only second-degree amendment that would be in order is an amendment offered by the Senator from Massachusetts. There is to be 1 hour of debate, with 40 minutes under the control of the proponents and 20 minutes under the control of the opponents.

Mr. DORGAN. Would the Chair please inform me when I have used 20 minutes? I yield myself such time as I may consume.

AMENDMENT NO. 5045

(Purpose: To provide congressional review of and clear standards for the eligibility of foreign governments to be considered for United States military assistance and arms transfers)

Mr. DORGAN. I am offering an amendment on behalf of myself and Senator HATFIELD with cosponsors, including Senators BUMPERS, JEFFORDS, LEAHY, HARKIN, PRYOR, MOSELEY-BRAUN, FEINGOLD, PELL, INOUE, WYDEN, KENNEDY, SIMON, LAUTENBERG and FEINSTEIN.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HATFIELD, Mr. BUMPERS, Mr. JEFFORDS, Mr. LEAHY, Mr. HARKIN, Mr. PRYOR, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. PELL, Mr. INOUE, Mr. WYDEN, Mr. KENNEDY, Mr. SIMON, Mr. LAUTENBERG, and Mrs. FEINSTEIN, proposes an amendment numbered 5045.

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

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

The amendment is as follows:

At the appropriate place 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.

Mr. DORGAN. Mr. President, 12 years ago in August, on an almost perfect, beautiful summer morning, I was in the jungle and mountains between Nicaragua and Honduras and with two other Members of Congress visiting, as the first officials to do so, a contra camp. I will never forget the morning that we walked through this jungle. We had traveled 3½ hours by car, then back up in riverbeds, and finally walked. And I walked into a jungle clearing somewhere between Nicaragua and Honduras.

As I began to see a group of people in that clearing, I saw a very young boy wearing a blue uniform. I found out later that it was a military uniform purchased from Sears. Yes, our Sears. All of those soldiers were outfitted in uniforms from Sears. But it was not so much his uniform that captured my attention. It was seeing a young boy who appeared to be 10 or 11 years old carrying a machine gun. It turns out that the machine gun was in that young boy's hands courtesy of the United States as well.

Well, that conflict and that set of military arms transfers led to a long debate. We debated for years about whether we should or should not have sent arms to the contras. But it got me interested. I wondered, to whom are we sending arms around the world? What kind of arms are we sending? Who gets America's jet fighter planes? Who acquires American-made tanks? Who acquires American guns and cluster bombs? And I discovered that the United States of America is the largest arms merchant in the world. In 1994, we delivered over \$10 billion of the \$20 billion worth of arms spread all over this world, arms used for defense and for killing, in some cases arms provided to both sides of the same conflict by American arms merchants and by our Government.

Fifty two percent of the worldwide arms deliveries were from the United States of America. We offer today an amendment called the code of conduct amendment, a commonsense approach to address the issue of the arms trade.

It is interesting and tragic, I think, that selling arms to some parts of the world comes back to haunt us. American troops in Panama, Iraq, Somalia, and Haiti lost their lives facing weapons made in this country or weapons from technology this country furnished others. Someone made a profit selling arms to someone that should not have received the arms and American uniformed men and women then faced those same weapons in a conflict.

U.S. arms are often turned against innocent civilians. The United States has offered F-16 fighters to Indonesia's military regime despite the fact that U.S. weapons have already been used in the occupation of East Timor. Two hundred thousand civilians have been slaughtered there.

The definition in the dictionary of the word "boomerang" is "an act that backfires on its originator." That is what we find with some—not all, some—of the foreign military arms sales, a boomerang, an arms trade policy that ends up killing American soldiers, violating human rights, and giving away American jobs.

We do not come to the floor of the Senate suggesting that we not furnish arms anywhere in the world. Allies of ours that need arms to defend themselves should receive those arms. Democracies around the world that need arms to feel safe and secure should receive those arms. The question we ask is, should there not be some minimum standard of conduct that measures whether and when we send those arms?

We propose a commonsense approach in this legislation. And I should add that this kind of legislation is being considered by our allies in Europe and other places in the world, and we hope we will have a safer world if others and ourselves will adopt this kind of code of conduct with respect to arms transfers. Our commonsense approach is this.

First, to be eligible to receive American-made arms, we would expect a government must be promoting democracy through fair and free elections, civilian control of the military, rule of law, freedom of speech and of the press.

Second, we would expect a country receiving our arms to respect human rights. We would expect them not to commit gross violations of internationally recognized human rights.

Third, we would expect that a country receiving our arms would observe international borders and not be engaged in armed aggression against its neighbors in violation of international law.

Fourth, we would expect countries receiving our armaments to participate

in the U.N. Conventional Arms Registry, which provides transparency to the world arms market by listing major arms sales and transfers.

We provide that a President may waive the criteria on an emergency basis. I conceive that there are circumstances in which that might well be necessary. We would provide for that waiver. We do not include arms export credit arrangements under Section 23 of the Arms Export Control Act, such as the Foreign Military Financing program.

What we are trying to do is think through the question, is there not some basic standard by which we judge whether an arms transfer to some other part of the world makes sense? Is it only profits? Do we only care that someone can make some additional profits by taking an incredibly sophisticated weapons machine, a jet fighter, for example, and selling it anywhere in the world? Is it only profit or is there some other measure that is important? Senator HATFIELD and I and many others believe there ought to be some measure, and it is called the code of conduct.

It is interesting that the boomerang I mentioned is not just having American-made weapons turned on American soldiers. It is also moving American jobs elsewhere. Lockheed Martin secured a sale of F-16's to Turkey in exchange for the planes being built in Turkey. What that means, of course, is, to the extent that sale would have made sense in the first place and met the criteria, someone else has the economic advantage of that sale.

But our major concern is not jobs. Our major concern is to promote and create a safer world, and it is not a safer world when we send American soldiers to deal with trouble in the world and they find themselves facing the barrel of an American-made weapon provided to a government that should not have received it in the first instance, provided without any review, without any standard code that we develop that says, "Here are the conditions under which we will transfer these arms shipments."

Those who would oppose this might say we are trying to shut off arms sales. That is simply not the case. There will remain arms sales. Arms manufacturers in this country produce a sophisticated product, in most cases the best in the world. Other countries often want those products for their common defense. We understand and accept that there will be arms transfers, but we believe it is time for this country to adopt a code, a standard, by which we judge whether an arms transfer to this dictator or that dictator or this country or that country makes sense for this country's long-term well-being. The fact is that weapons have been sold in circumstances where the sale has not been in the best interests

of United States, and that is why we offer this legislation.

Let me, Mr. President, reserve the remainder of the time, since I see that my distinguished colleague Senator HATFIELD is on the floor. Let me say, before he begins, that Senator HATFIELD has been at this longer than others of us in the Senate. I deeply admire the work he has done in the Senate and for this country, and I feel deeply honored to participate with him in offering this amendment.

Mr. HATFIELD addressed the Chair. The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask for 8 minutes.

Mr. DORGAN. I yield the Senator 8 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 8 minutes.

Mr. HATFIELD. Mr. President, I think it is very obvious I have a problem of laryngitis.

I thank my good friend, Senator DORGAN, for taking leadership on this particular amendment. I feel strongly enough about it to be here to do two things; one, to support the amendment, but the other is to apologize to the chairman of the Subcommittee on Appropriations, Mr. McCONNELL, for offering a rider to an appropriations bill, which I ask everybody to refrain from doing. So I guess there is no virtue of consistency in this particular environment we work in.

Let me associate myself with the eloquent statement made by Senator DORGAN to explain this bill. I would only try to add perhaps one or two perspectives.

First of all, I think we have to recognize that we are not locking the President out of an action that he might have to take if he has a problem in an emergency situation. In other words, the President would have the power to make a waiver, a waiver of the criteria we have set up in this amendment in case he feels that our national interest is at stake and to make a waiver that is in the interest of our national need and our national security. So it is flexible in that sense.

Let me pick up on Senator DORGAN's examples of how this expands the vulnerability of our own troops when they are sent abroad for peacekeeping activities after we have delivered arms. Let me take a specific. From 1981 to 1991, \$154 million of arms were delivered to Somalia from the United States. Then when you begin to look at how that stimulated the arms race and endangered our national security, ultimately the total cost of arms to Somalia was \$1.2 billion—25,800 United States troops were deployed, 23 were killed in action, 143 were wounded. That is the kind of return we had on that one example, of sending troops.

Also, today we are building more F-16's in Ankara, Turkey, than we are in

Fort Worth, TX. It does not help American workers, as some may say, and we, indeed, need to help employment in this country. We find that 88,000 jobs could be created in the United States in offsetting some of this extraordinary subsidy of arms. In other words, we do not lose jobs by cutting down the export of arms. We are creating them in other sectors of our economy, where there is great need.

Mr. President, I was reared in a generation where among our required reading in high school was a book called "Merchants of Death." It was a story of how the Krupp Works and other manufacturers of arms in Central Europe sent their arms out to both sides. In fact, they were sometimes guilty of stimulating conflict in order to sell their arms.

We were reared in a manner of saying that is immoral; surely our Nation would never be guilty of such a crime against humanity. Yet I have to say, since the Soviet Union has become unraveled, we are now unquestionably the No. 1 merchants of death in this world by our export of arms. We not only export them as a market, we go around promoting it. We go around ballyhooing the arms that we have, the arms that are exhibited in the Paris Air Show and many international conferences that supposedly are for some international benefit. It is an arms peddling activity. We even let our Embassies be instructed to facilitate arms transfers as part of their duty in the country in which they are representing the United States. I cannot understand how people around this country will tolerate much further this kind of export that we have engaged in.

It started with, perhaps, Charles de Gaulle. That is the way he funded his military budget, was to sell arms abroad. Unfortunately, back in 1962, that was the policy of the United States of America. That became the policy in 1962, when the President decided in order to help fund some of our own military budgets, we would export arms. This idea of funding a domestic need by exporting our arms is, to me, immoral and is counterproductive.

So I am very hopeful we will support this particular amendment. It is flexible. It takes into consideration emergencies unforeseen. And it does not lock the President out. In fact, all it does is to say the Congress has some joint responsibility in that kind of policy that was recommended by the President's review commission on arms, that the Congress should have some kind of role in assessing this from time to time.

We have not had a debate on this floor for 20 years on this subject, a comprehensive debate. I am not sure in 1 hour we are going to have it today. But at least it is a small step, I think, in raising this issue so the American public will understand our failure to

uphold our responsibilities in governing some of this export of death.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I intend to yield to the Senator from Massachusetts after I make a couple of observations about the comments of the Senator from Oregon.

In 1993, the United States supplied 75 percent of all weapons sold to the Third World, the countries who can least afford to be buying arms—75 percent of the weapons that went to the Third World came from the United States. According to our State Department and their own human rights report, more than three-quarters of our arms sales in 1993 went to undemocratic governments. In other words, three-quarters of the arms we send around the world goes to governments listed by the State Department as authoritarian governments with serious human rights abuses. The people who live in those areas where these American weapons are coming in have every right to wonder about America. This legislation allows us to develop some standards that move in the right direction.

Mr. President, let me yield 5 minutes to the Senator from Massachusetts, Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

AMENDMENT NO. 5046 TO AMENDMENT NO. 5045
(Purpose: To promote the establishment of a permanent multilateral regime to govern the transfer of conventional arms)

Mr. KERRY. Mr. President, I send a second-degree amendment to the desk for immediate consideration. I assume that will not come up in time—

The PRESIDING OFFICER. Until the time is used or yielded back, the second-degree would not be in order.

Mr. KERRY. Mr. President, we had a unanimous-consent agreement a few moments ago, allowing for the second-degree to be reported at such time as we deemed appropriate. I ask unanimous consent at this time I be permitted to submit my second-degree amendment, under the 5 minutes I have.

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

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 5046 to amendment No. 5045.

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

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

The amendment is as follows:

At the 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 forums, such as The Wassenaar 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 establish a 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.

Mr. KERRY. Mr. President, before I explain my amendment I thank the distinguished Senator from Oregon, Senator HATFIELD, for his extraordinary, long involvement in an effort to help educate and lead the U.S. Senate to a more rational approach to this question of proliferation, nuclear and conventional. When he leaves the Senate there will be an enormous gap with respect to that leadership and his voice, always clear even with laryngitis. I also welcome Senator DORGAN, whose history is not as long, but whose commitment is equally as passionate. I look forward to working with him in the future.

Their amendment embodies a fundamental shift in the way the United States needs to deal with the transfer of conventional weapons to the rest of the world. Like so many other aspects of our national security today, arms sales and other military assistance needs still to be adjusted to the realities of the post-cold-war world. The central theme of our foreign policy has changed from containment of communism to expansion of democracy. So we no longer need to send these massive amounts of weaponry to our surrogates around the world in an arms race against communism.

Instead, we need to evaluate the effect that arms transfers have on regional stability, on the promotion of democracy, and on the protection of human rights. The legislation in front of us seeks to do that. It makes democracy, human rights, and nonaggression the central criteria for decisions on arms transfers. But equally important, it forces the U.S. Congress to take responsibility for approving such transfers to countries that do not meet the criteria set forth in the legislation.

Under the present system, the President just makes a determination of which countries will receive what weapons. In theory, the Congress could act to disapprove a specific sale, but in practice we all know it is very difficult

and extremely rare that happens. We ought to be more involved as a Congress in making these decisions. This legislation gives us a prominent role that is appropriate to the money that we spend on behalf of the taxpayers and to the interests we represent in the world. There still will be cases when it serves the interests of our country to transfer arms to countries that do not meet the criteria of this legislation. But in those cases, the Congress will have to agree with the President that such a transfer bolsters United States national security needs.

These changes in this legislation will focus congressional attention on the question of what really serves our interests and will, I hope, lead to a reduction in the extraordinarily dangerous worldwide proliferation of conventional weapons.

My amendment seeks to simply add one new section to this language. It instructs the President to expand the international efforts to curb worldwide arms sales and to work toward establishing a multilateral regime to govern the transfer of conventional weapons.

The amendment also requires the President to report annually to the Congress on steps that he is taking to gain international acceptance of the principles incorporated in this legislation and on the progress he is making toward establishing a permanent multilateral structure for controlling arms shipments.

I support the goals of this legislation, Mr. President. We ought to stop selling arms to nations, but the fact is that it is not just enough for us to set that example. The French, the Germans, Chinese, the Japanese, a host of other countries will rush in to fill the vacuum that we leave. What we need to do is create an international effort with our leadership that will provide the underlying force for this amendment and to guarantee that we do reduce arms proliferation in the world and slow the conventional arms race of which we are currently the leader.

I thank the distinguished Senators from Oregon and North Dakota for their leadership, and I believe that my amendment is acceptable. If so, we can act on it immediately.

Mr. President, I believe there is no further debate. If the Chair is ready, we can act on this amendment.

The PRESIDING OFFICER (Mr. THOMPSON). The question is on agreeing to the KERRY amendment No. 5046.

The amendment (No. 5046) was agreed to.

Mr. KERRY. I thank the Chair. I yield back whatever time remains to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 6 minutes to the Senator from California, Senator FEINSTEIN.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator, and I commend

both the Senator from Oregon and the distinguished Senator from North Dakota, Senator BYRON DORGAN, and the senior Senator from Illinois, Mr. SIMON, who is present on the floor, for their longtime support of this code of conduct.

I am a newcomer to this. Let me tell you what I feel. I am one who votes for defense appropriations. I want to see this Nation strong. I believe there is a deterrent value in having the best equipment, the best training and the most advanced technology for our armed forces. I believe that there is a price for freedom, and it is eternal vigilance.

But I did not come to the U.S. Senate to make the entire world less safe in the future than it was when I arrived. This code of conduct is an enormous addition to a major public policy debate and there are human dimensions to these decisions.

Every time I look into the big round eyes of my little 3-year-old granddaughter, Eileen, it is almost impossible not to ask, "Am I contributing to the kind of world in which I want my granddaughter to live? Is the world a safer place because of what I do in this body?" And I think about what that world will be like when she is 13 and 23 and 33 years old. That is not so long. Technology moves so fast, though. What kind of weapons will there be? Who will have them? How will they be used? Will they be used against her in some way?

I am sorry to say these are not just the ruminations of an overprotective grandmother. These are very real and very frightening questions the people of America must ask themselves, because our country remains the biggest, the boldest and the largest arms purveyor in the world today.

Which brings us to the question that is before us: What should U.S. policy be regarding the sale of weapons?

I truly believe we need to take more time in deciding to whom we sell weapons, not only as a matter of conscience, but as a matter of national security.

What happens to the deterrent value of our military strength when we export technologies and weapons systems that are equal to that which our own troops use?

For example:

Kuwait had the new M1-A2 main battle tank before it was even delivered to U.S. forces. Saudi Arabia now has these tanks as well.

We have exported Patriot missiles to Saudi Arabia, Kuwait and the United Arab Emirates.

F-16 and F-15 fighter planes, almost exactly what our Air Force is currently flying, have been exported to Indonesia, Malaysia, Pakistan, Singapore, Egypt and Saudi Arabia.

Turkey and South Korea, as has been stated, are building F-16 fighters under coproduction agreements with the

United States. In fact, there are more people, as Senator HATFIELD said, building these planes in Turkey than there are in the United States.

The upgrades of these F-16's will not even be performed by the United States. They will be done by Denmark, Sweden and Norway.

One of the main reasons the United States overwhelmed Iraq's military in the Gulf War was because our equipment was more technologically advanced. What will be the result the next time we go to war and our troops look across the battlefield at the same tank they are sitting in?

U.S. weapons have already been used against the United States overseas.

During the eighties, we sent Somalia 4,800 M-16 rifles, 84 106-millimeter recoilless rifles, 24 machine guns, 75 81-millimeter mortars and landmines. Guess what the "technical" of Somali warlord Mohammed Farah Aideed used to ambush and kill 30 Americans soldiers? Our own weapons.

Iran has deployed the American Hawk anti-aircraft missiles in the Straits of Hormuz, which were exported to the Shah decades ago before the revolution.

Three-hundred U.S. Stinger anti-aircraft missiles provided to Afghan rebels are unaccounted for and are reportedly being sold on the black market.

Although we don't know the cause, wouldn't it be tragically ironic if the downing of TWA Flight 800 was because of a Stinger missile obtained on the black market?

Libya and North Korea may have acquired U.S. Stinger missiles through this very same black market.

How will these weapons be used? How stable are the regions to which U.S. weapons and technology are being transferred? Did you know that Turkey used U.S. COBRA helicopters to destroy small Kurdish villages?

Today, Iran is using the same F-14 fighters we exported to the Shah.

Allies change and governments fall. What happens if the Government of Saudi Arabia falls into Islamic fundamentalist hands?

What happens if tensions between Pakistan and India reach the boiling point? We are today escalating an arms race between these two countries.

Since the Reagan administration, arms have been treated more as items for international commerce than as tools to advance our national security. I believe this is dangerous and ultimately self-defeating.

The President, any President, is confronted with strong incentives to sell arms abroad, to bolster allies whose security is in our interest, to encourage diplomatic and economic cooperation. I don't believe it is realistic to think that in the face of these pressures, any American President alone is able to unilaterally change course and substantially limit arms sales without

strong congressional support and even initiation. That is what we are considering today, initiating a code of conduct.

So it is for these reasons that I believe the code of conduct on arms transfers will help to bring some increased transparency and added consideration to the whole arms sales process. The code of conduct requires the President to develop a list of countries to which our Government may export weapons systems. Their criteria, outlined by the Dorgan/Hatfield amendment, is very basic, reasonable and flexible.

In instances where a country may not qualify, the President has the ability to ask the Congress for a national security waiver, or he may enact an emergency waiver on his own so that nation may receive U.S. arms. In this way, the President maintains the flexibility he needs to deter aggressors and conduct foreign policy.

The United States continues to be the unquestioned leader in weapons technology. However, the United States currently exports 52 percent of all global arms sales, making us the leader in this dubious category as well. If we continue to export advanced and often sophisticated best weapons systems to volatile areas, we put our own troops and our national security at risk maybe not today, but what about next year and the next decade?

I am not saying that the United States should export no arms, but we must have a rational arms sales policy that first and foremost protects U.S. national security, and second does not gratuitously exacerbate a global arms race. I am very afraid that if we continue to export the numbers and kinds of weapons systems and technologies we are currently, we will be less secure in the future, not more.

It is time for the United States to show a different kind of leadership, one encouraging restraint and transparency in the sale of arms around the world. By enacting the Code of Conduct, the United States will take an important step forward in a global effort to make the world a safer place for all.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mrs. FEINSTEIN. I thank the Chair and yield the floor.

Mr. DORGAN. Mr. President, I yield 4 minutes to the Senator from Illinois, Senator SIMON.

Mr. SIMON. Mr. President, first I want to thank Senator HATFIELD and Senator DORGAN for their leadership on this.

I am rounding out 22 years on Capitol Hill. I am a slow learner, Mr. President, but I have learned two things, among others. One is, do not get too cozy with dictators. Eighty-five percent of our weapons sent abroad are sent to nations the State Department

identifies as human rights abusers. I think we ought to be careful. Second, I have learned that weapons we send abroad may be used against us. Senator FEINSTEIN mentioned Somalia. We could be mentioning Panama, Haiti, Iraq, and other nations.

Back—I do not know—2 or 3 years ago I was in Angola with Senator FEINGOLD and Senator REID and visited the Swedish Red Cross place where they were fitting artificial limbs for children and adults. I saw the huge numbers of people in Angola being fitted for those limbs in part because of American mines, in part because of American mines purchased with American funds. We are today, as has been pointed out, the No. 1 arms merchant in the world. And 56 percent of the arms sold abroad, are sold by the United States.

While we are the No. 1 arms merchant, do you know where we are in foreign economic assistance to other countries, compared to the other Western European countries, Australia, New Zealand and Japan? We are dead last. One-sixth of 1 percent of our national income goes to help the poor beyond our borders. Norway is above 1.2 percent, and the other nations in between. And when you contrast what we do with weapons and what we do with economic assistance, it is kind of interesting.

From July 11 to 18, the National Basketball Association signed contracts totaling \$927 million for free agents. Do you know what we are doing in providing development assistance for all of Africa, the poorest nation, poorest continent today, when you except Egypt? We are spending a total of \$628 million, less than we spent in 1 week for free agents for the National Basketball Association.

We need some sense of perspective. And for us to spend this amount of money on development assistance for poor countries, and then eagerly get every buck we can get so we can sell arms, and we do not care whether they are dictators or not dictators, that just does not make sense. Without this particular amendment, frankly, we are not going to do anything.

We have not turned down an arms request from another country since the early 1980's when we turned down an AWAC's request from Saudi Arabia.

This amendment would start to put us in the right direction. Again, let me go to the bottom line. The No. 1 lesson we ought to learn is, do not get too cozy with dictators. And, No. 2, when you sell arms abroad to dictatorships, they may be used against you. I think those two lessons are just fundamental. I hope that we get a good vote on this amendment. I am realistic. Our friends in the defense industry obviously want to kill this amendment. But the merits are so overwhelming I hope we can pass it.

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

Mr. DORGAN addressed the Chair. The PRESIDING OFFICER. The Senator from North Dakota.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, on behalf of Senator INOUE, I ask unanimous consent that privilege of the floor be granted to Roxanne Potosky, from his staff, during the consideration of H.R. 3540, the foreign operations appropriations bill.

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

Mr. DORGAN. Mr. President, I yield 3 minutes to the Senator from Rhode Island, Senator PELL.

Mr. PELL. I thank my Senate colleague.

Mr. PELL. Mr. President, I have been deeply impressed over the years by the strong and unwavering commitment to arms control shown by the senior Senator from Oregon, Mr. HATFIELD. The Senator, who I am pleased to call a friend, has numerous accomplishments in the field of arms control to which he can point with pride.

As only one example, the current multinational moratorium on nuclear testing is essentially the result of an initiative he took several years ago as ranking member of the Committee on Appropriations. As many of my fellow Members are aware, a major effort is under way at the Conference on Disarmament to bring to a successful close negotiations on a comprehensive test ban to follow the international moratorium brought about largely through the efforts of the Senator and others of like mind.

I am pleased, too, that the Senator from North Dakota, Mr. DORGAN, has taken such a strong interest in this amendment, and I note with pleasure that we are joined by a number of co-sponsors in support of the Arms Transfers Eligibility Act of 1996.

The purpose of the amendment 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 arms cooperation.

In effect, the major change proposed in the legislation is to emphasize a requirement for congressional involvement and approval that does not now exist. For 2 decades now, arms sales have been carried out under procedures giving Congress the right to disapprove particular sales if they appear inadvisable. Interestingly enough, in those 20 years, the Congress has come close on several occasions, but it has never succeeded in getting a resolution of disapproval enacted. This does not mean that Congress has not had a significant role. A large number of sales have been modified or withheld by the executive branch following congressional consultations. As ranking Democratic member and former Chairman of the Committee on Foreign Relations, I can

assure you that the dialog on arms sales with succeeding administrations has been detailed and in depth and that a number of risky, threatening or destabilizing transfers have been averted.

I understand and appreciate the Senator from Oregon's deep concern over continued arms races throughout the world and his desire to apply serious limits and controls through the legislation now under consideration. I can also understand why some in this body would prefer a system under which the positive approval of Congress would be required for transfers and assistance to a number of particular countries, as contrasted with the present emphasis on the right of disapproval.

While I very much support the underlying concept of this initiative, as we explore this and other concepts further, we will want to take care to ensure that the legislation is workable in real world situations in its final form. For instance, certain questions are raised by the prohibition on arms transfers and assistance to governments other than democracies. The prohibition would appear to exclude any monarchy, emirate or sheikdom. All of those nations in the Persian Gulf that are scared to death of Iran and Iraq are kingdoms, emirates or sheikdoms, and would thus be ineligible for transfers or assistance, unless given a Presidential waiver and approved by Congress.

We will also want to make sure that we do not create a situation in which our decisions on transfers and some assistance are less balanced and deliberate and more chaotic or haphazard. It is very important that our defense industry and its thousands of American workers understand that we want both to improve the standards under which transfers are allowed, but that we will remain dedicated to our national security interests and to the security of our friends and allies throughout the world.

I am sure that these and other concerns can be met and strong, positive legislation that earns solid, bipartisan support can emerge. I would hope that is the case because much more needs to be done to put a lid on the continuing, desperately costly arms competition throughout the world.

For the moment, I think it is important that we affirm our belief that democratic values, respect for human rights, avoidance of armed conflict in violation of international law, and participation in the U.N. register of conventional arms are all reasonable standards by which we should judge whether we wish an arms relationship with another country.

Thank you, Mr. President.

Mr. LEAHY. Mr. President, as a sponsor of the Congressional Review of Arms Transfers Eligibility Act I support the amendment of the chairman of the Appropriations Committee, Sen-

ator HATFIELD, and the Senator from North Dakota, Senator DORGAN.

The world is awash in weapons, and there is not a political leader from any of the world's major arms sellers who has not made speeches about the evils of the arms trade.

Unfortunately, their rhetoric is not matched by action. In the United States, the defense industry, backed by the Pentagon, is using every trick in the trade to expand arms exports. The competition is fierce. Our allies, the Russians, the Chinese, and many others, are doing the same thing.

One would think that our experience in the Persian Gulf, where our troops came under fire by Iraqi soldiers armed with weapons we gave to Iraq during its war with Iran, or in Somalia where our troops were killed by United States-made weapons, would give us pause.

The weapons we sell have repeatedly fallen into the wrong hands. If they have not been used against us, they have often been used to commit abuses against innocent people elsewhere. In Afghanistan today, United States and Soviet weapons are being used to destroy what little is left of that country. Liberia is suffering the same fate. Turkey has used our weapons against Kurdish civilians. Indonesia, which faces no external threat, uses our weapons to crush internal dissent. In Central America, our weapons were used to commit unspeakable atrocities.

In the period since the end of the cold war and despite the collapse of the Soviet Union, we have exported \$83 billion worth of military equipment, an increase of 140 percent. Most of this equipment has gone to developing countries, including to undemocratic governments whose armed forces have been among the worst abusers of human rights. U.S. arms account for almost half of the weapons exported to those countries.

The governments of many developing countries cannot even feed their own people, and have no discernable enemy. Yet because of the political clout of their armed forces, scarce funds that might be available for education and health care and other social services are spent on weapons.

One would hope that the days of selling arms to dictators would be over. But this amendment would not prevent us from selling or giving arms to a dictator, or even to a government that engages in gross violations of human rights.

What this amendment would do, is define basic criteria for the transfer of arms. Even if a government is not democratic, violates human rights, and fails to participate in the U.N. registry of conventional arms, it would still be eligible for U.S. military equipment under this amendment, if the Congress agrees.

I suspect if we asked the American people, the majority would say this amendment does not go far enough.

What could possible be wrong with giving Congress a say over these decisions? Haven't we had enough of our own weapons coming back to haunt us?

Some have argued that this amendment would hurt the arms industry. Baloney. It is a well-kept secret that the economic burdens of arms transfers is costing taxpayers billions of dollars, including both direct and indirect costs. By the end of this decade, more than half of U.S. weapons sales will be paid for by American taxpayers.

The real issue is what is right for national security. That is the primary criteria for arms transfers, and this amendment does not alter that one bit.

Mr. President, it is long overdue for Congress to exercise some meaningful review of decisions to sell arms to governments that do not meet the most elementary standards of conduct. That is all this amendment does. It should have been the law a long time ago.

Mrs. KASSEBAUM. Mr. President, today I will cast my vote in favor of the Hatfield amendment to prevent U.S. arms exports to countries that are undemocratic or that violate human rights—unless, of course, our national security interests override those concerns.

I am well aware of this legislation's shortcomings, and I do not cast this vote lightly. But today I dissent from those who would continue to expand America's arms exports.

We cannot stand by indefinitely as the current international arms bazaar continues to grow. And we must in honesty acknowledge that America's arms export policy has substantially contributed to the problem. Fully half of all international weapons transfers in 1994 came from the United States. A year later, in 1995, we more than doubled the number of major conventional weapons that we sent abroad.

Arms transfers can serve important American interests and, indeed, the majority of our shipments go to our NATO allies or to our major strategic allies in other regions of the world. These important transfers that serve our national interests would withstand closer scrutiny by Congress.

But too often we have seen arms we transferred abroad used to repress democracy and human rights rather than to support freedom. As chairman of the Africa Subcommittee, I have seen teenagers in Liberia and Angola who have learned to shoot before learning to read. I have seen countries whose meager coffers have been drained to purchase weapons of war while their people suffer an unconscionable standard of living. Perhaps during the cold war, when we were locked in a global struggle with communism, considerations such as these were necessarily secondary. But no more.

We cannot be responsible for the misconduct of other governments. But we can refuse to participate in arming repressive regimes or strengthening the hand of those who grossly violate human rights. We can encourage the forces of liberty abroad—in countries friend and foe alike—by making clear that the price for American arms includes progress on human rights and democratic government.

The liberal transfer of arms abroad puts our national interest at risk. Our soldiers already have faced American weapons in combat. More often, they have faced weapons supplied freely by other major arms exporters. Yet, as long as we are the world's largest seller of arms, we have little leverage to press other exporters to curtail transfers we oppose.

Mr. President, I am under no illusion that this legislation will become law. But for that very reason, I view this as a vote not just about the specific language and procedures in this amendment but about the overall direction of America's arms export policy. I believe that policy, on the whole, is headed in the wrong direction. For that reason, I am voting for a change.

THE DORGAN-HATFIELD CODE OF CONDUCT AMENDMENT

Mr. JEFFORDS. Mr. President, I rise in support of the amendment offered by my colleagues the Senator from South Dakota, Mr. DORGAN, and the senior Senator from Oregon, Mr. HATFIELD. This amendment would significantly reform the criteria by which U.S. arms sales are evaluated and enhance the roll of Congress in the process.

Under the Arms Export Control Act, arms sales are reviewed for their compliance with several criteria, including whether a foreign government respects human rights and avoids acts of international aggression. Under this amendment, consideration would also be given to whether a government adheres to democratic principles and whether it participates in the United Nations Register of Conventional Arms. And under this amendment, Congress would review and pass judgement on any sale that the Administration has approved to a nation that did not meet these requirements.

While Congress technically has the option to disapprove of any sale that does not meet the criteria of the Arms Export Control Act, in fact, it rarely exercises that right, and little attention was paid to many controversial sales. At no time was a comprehensive review of pending arms sales actively examined and approved by Congress. This process is no longer acceptable, and the changes that this amendment would bring to this process are welcome.

Yes, the Cold War is over, but we all realize that in many respects, the world does not seem like a safer place, in part because American arms are

helping to fuel conflicts around the world that we then must try to resolve. An obvious way to reduce the frequency of this happening is to more closely scrutinize the sales being made to countries who do not share our basic ideology and respect for human rights. And the Congress should be given a greater role in this process.

I urge my colleagues to support the Dorgan-Hatfield amendment.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. How much time remains for the opposition to this amendment?

The PRESIDING OFFICER. Twenty minutes.

Mr. McCONNELL. Mr. President, I will not use that. I understand Senator DOMENICI is lurking and may be available to offer his amendment. And there is a little more debate on the Burma amendment. And we may well stack three votes for around 6 o'clock, or thereabouts, just to give an overview of where we are.

Let me say, Mr. President, with regard to the Dorgan amendment, the Clinton administration is strongly opposed to the amendment on the grounds that human rights and democracy are relevant criteria but not the only criteria about which arms sales should be evaluated. Regional security and stability may be overriding considerations in making a decision to proceed with a transaction. Arms transfers serve key foreign policy concerns and no single issue can be the only or primary consideration.

Let me give you an example, Mr. President. The amendment could well cut off the transfer of arms to key allies in the Middle East, for example, or in central Europe. And so the question arises, is this really in our best interest to make this kind of certification process a precondition for the transfer of arms to key allies?

So, Mr. President, I hope that the amendment will not be approved. Rarely do I find myself speaking on behalf of the Clinton administration, but my suspicion is that any administration would be opposed to this, that it would not be in our Nation's best interests.

I hope that the amendment will not be agreed to.

Mr. President, I am prepared to yield back the balance of my time, if I can locate Senator DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

Mr. DORGAN. Mr. President, is the Senator from Kentucky yielding back his time? If so, I will take the remainder of my time.

Mr. McCONNELL. I yield back the balance of my time.

Mr. DORGAN. Mr. President, I have 3 minutes remaining, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, I suspect most administrations oppose this kind of proposal because it does not allow them complete and unrestrained freedom to do whatever they want wherever they want in the world.

However, this proposal has an enormous amount of common sense. We are not proposing something that would restrict critically needed arms transfers to our allies in the Middle East, for example. We specifically have a provision in this amendment that resolves that issue. That cannot be argued.

I say this: With respect to arms transfers that have occurred in other parts of the world over all of these years, this country ought to start to rethink these issues. We sold Iraq cluster bombs for its war against Iran, and only because of our superior air power did American troops not face those same American-made cluster bombs in the Middle East.

We sold Somalia 4,800 M-16 rifles, 8,400 6-millimeter recoilless rifles; 24 machine guns, 75 81-millimeter mortars, landmines. Guess what happened? Mr. Aided would use them to kill 23 American soldiers.

This has really gone on long enough. There ought to be some basic standard by which we measure whether it is in our country's interest to continue shipping arms to every single dictator in the world, to country after country, dictator after dictator, without regard to how those countries behave or without regard to whether American men and women wearing our uniforms may face those same weapons made by American workers again at some point in the future.

We are not proposing anything radical. We are proposing something that says arms transfers ought to be made in circumstances where they are promoting democracy, where they are respecting human rights, not killing innocent people, where they are observing international borders, not attacking their neighbors, and where they participate in the U.N. conventional arms registry. That makes a lot of common sense.

It is especially now time for this country to lead. It is time for America to provide leadership on this issue. Frankly, this chart is appalling. This country, the symbol of freedom, the torch of liberty for the world, ought not be the world's arms merchant. No one ought to be able to point to a chart and say the United States of America provides 52 percent of all the arms

transfers in the world. And a substantial majority go to countries in which the State Department says those countries are countries with authoritarian governments who are abusing human rights of people in their own countries.

I do not ever want to be able to point to a chart like this in the future. I want foreign arm sales and military sales and arms transfers to be made when it represents good common sense, when it is in our interest, when it is in the world's interest. If we can provide leadership and the Europeans can provide leadership to develop a code of conduct on when arms should be transferred, this will be a safer world—yes, for the children that Senator FEINSTEIN talked about, for my children, your children and all children.

To keep doing what we are doing makes no good sense at all for anyone in this world. It provides a more unstable and a more unsafe world. This amendment, if adopted, would provide for a safer, more stable world. I hope the Senate, when it votes this evening, will finally, after some two long decades of having this discussed, take the first step to say this is the right direction, this is a step toward a safer world, this is a step toward American leadership to do what is right.

I yield the floor and I yield back the balance of my time. I ask for the yeas and nays on our amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCONNELL. I ask unanimous consent the Dorgan amendment be temporarily laid aside to take up an amendment of Senator DOMENICI and Senator D'AMATO.

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

The Senator from New Mexico.

AMENDMENT NO. 5047

(Purpose: To restrict the availability of funds under the Act for Mexico until drug kingpins are extradited or prosecuted)

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of myself, and Senators D'AMATO, HUTCHISON, FEINSTEIN, MURKOWSKI, SHELBY, HELMS, HATCH, GRAMM of Texas, BINGAMAN, KEMPTHORNE, and FAIRCLOTH, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. D'AMATO, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mr. MURKOWSKI, Mr. SHELBY, Mr. HELMS, Mr. HATCH, Mr. GRAMM, Mr. BINGAMAN, Mr. KEMPTHORNE, and Mr. FAIRCLOTH proposes an amendment numbered 5047.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is 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).

Mr. DOMENICI. Mr. President, this amendment is an amendment that is urging Mexico, is pleading with Mexico, to cooperate to bring to justice the 10 most wanted, previously indicted drug lords living in Mexico.

Now, Mr. President, anyone in the Senate who has read the record over the past 10 years of what the Senator from New Mexico has said and done with reference to Mexico would know that I have been a staunch advocate of those policies in Mexico which are calculated to create a better standard of living for the Mexican people and to increase their economic prosperity.

I have from time to time even bragged too about the quality of the Mexican leadership, as it looks in hindsight. I do not regret that one bit. Frankly, my State is one of those States that borders on Mexico, and we know better than the rest of America that unless and until Mexico prospers and their standard of living for their average people goes up, the problem of illegal activities on the border can never be controlled.

What I do today is not a very major monetary measure. There is no great big money denial. The economic package that is in place is not taken into account. We do not assault it and remove pieces of it, we just take a tiny program worth \$1 million in foreign aid for military education and training. The amendment provides that it shall not be delivered to the Mexican Government unless and until they cooperate with us to do some things.

Let me talk for just a little bit with the Senate and with the people who are observing this, and yes, I might say to the leaders of the Republic of Mexico, we have some very distinguished Senators who are very pro-Mexico who are on this amendment. You will note a couple are from the State of Texas, my immediate neighbor. You will note one is from CALIFORNIA, another major border State.

I will start by asking a couple of questions: Do you know how much good law enforcement work and taxpayers' money it takes to get an indictment of a major drug trafficker or drug kingpin? An indictment is a grand jury's written accusation issued after it has heard significant evidence. The next step in the judicial process is supposed to be a trial. Getting an indictment is the sum of surveillance, interdiction of evidence, usually massive quantities of drugs, wiretaps, untangling the money-laundering networks. It is not uncommon for a border agent or two to lose their lives in a case where an indictment is sought and obtained.

According to the Department of Justice, there currently are 99 outstanding U.S. extradition requests for 110 criminals known or believed to be in Mexico who have been indicted in the United States—107 Mexican nationals have been indicted under our Federal drug kingpin statute, which is a very large number, at a very large expense, and a very major risk of life.

This has not occurred because anybody is picking on Mexico. This has occurred because we know in the United States that the enormous growth in drug trafficking through Mexico, which I will delineate with more specificity shortly, is having an enormous negative affect on Americans, and that unless we take some of those kingpins, some of those multimillionaires, who have huge cartels that are growing as fast as the cartels did in Colombia a decade ago, and we put some of those people in jail—whether it is Mexican jails or American jails—then at least one-half of the equation of trying to get drug trafficking under control is going untended. We are leaving a huge portion of it unattended and doing nothing about it.

Now, many of these requests, Mr. President, are for violent individuals involved in the drug trade. They include the top leaders of four major

Mexican cartels. In the U.S., we get indictments, but the indictments are not worth the paper they are written on because the Mexicans won't try these people in their own courts, and they will not honor our extradition requests.

Now, Mr. President, I know that Mexican officials will say they are trying, and they will say we must be understanding, and that they are having difficult times. Well, let me suggest that this Senator understands that. What I am trying to do with this amendment is to let the Senate go on record saying to Mexico: Do something about it. Your friend from the north, the United States, wants to be helpful. If you need more help in terms of apprehending these criminals and trying them, if you need more help from the executive branch of our Government, speak to us and ask us for it.

Obtaining indictments is a dangerous business when you are dealing with drug lords and drug kingpins. In fact, last year, 140 Border Patrol agents were assaulted while apprehending illegal alien drug smugglers. So you ask, why don't we do more on the border by way of patrols? Why don't we put more people there? I will tell you pretty soon that we have done pretty well at putting in more. But 140 of these agents were assaulted while apprehending illegal alien drug smugglers. All of this money has been spent in efforts needed to culminate in bringing these drug dealers to trial.

All of this is necessary if we are ever going to stop the drug trade. Only after Senator D'AMATO held hearings on this issue in the Banking Committee in March did Mexico finally extradite its first national—actually he had dual citizenship—to the United States. Since then, drugs have continued to invade our border, causing crime and despair. The "unextraditables," as the drug lords call themselves, live comfortably. This is unacceptable. The situation at the border is getting worse. Drug seizures used to be measured in ounces and pounds. Now they are measured in tons.

Several years ago, the smugglers cut the ranchers' fences and caused mischief at night. For anyone who has seen our border, it is a couple of strands of barbed wire that border between Mexico and America. In many places, it is two single strands of barbed wire. There is Mexico on one side and America on the other. Here is a rancher from Mexico on this side and a rancher on this side.

Now, instead of just cutting fences and doing mischief at night, heavily armed Mexican drug gangs terrorize the ranchers in broad daylight. Some of the ranchers have sold their ranches, according to information we have, to the gangs or to their front men.

Several years ago, an El Paso customs inspector was killed by a drug

smuggler who was running the border. More recently, a 12-year-old girl was injured when a drug smuggler was trying to run through the border crossing at one of the crossings in El Paso, TX. These smugglers now have 18-wheelers and 727 jet airplanes. They own them, travel around in them, in defiance of everyone.

Just yesterday, in the Washington Post, Ricardo Cordero Ontiveros, who quit the Mexican attorney general's office, charged that corruption and inaction at the border had prevented key drug-related arrests. He cited two examples: an intentionally unacted upon case. Even though there was a reliable tip, no action was taken, and they could have captured Ismael Higuera Guerrero, when he was in the community of Los Cabos in Mexico. It was clear that he could have been arrested. He went unattended. He is the right-hand man of the Tijuana drug cartel run by Benjamin and Ramon Arellano Felix.

On another occasion, Mexican officials had been advised that a jet carrying 20 tons of cocaine was going to land on an airstrip known to be used by the drug dealers. The Mexicans knew about it ahead of time. In addition, the plane was unable to lift off again after landing. But believe it or not, even after landing and being unable to take off, the cocaine was never intercepted.

Caro Quintero, who heads up the cartel at Guadalajara and is one of the top ten most wanted, openly admitted on a Mexican radio program that Mexican authorities "don't find me because they don't want to. I go to banks, I drive along the highways, I pass through military and Federal police check points, and it doesn't matter that they know me. Everybody knows me, and nothing happens," says this kingmaker.

Mr. President, I offer this amendment concerning Mexico, which I, unfortunately, believe should be added to this bill. I say "unfortunately" because it is not often that I come to the floor of the U.S. Senate to criticize our neighbor from the south. Mexico has, in recent years, made tremendous progress on a number of issues concerning its relationship with the United States. I believe we are still quite appropriately called their best friends.

Northern Mexico is becoming, however, a land of laundered drug money, riddled with corruption and violence. I have been a longtime friend, and I don't cavalierly say these things. It bothers me greatly. It is a country with a young and vibrant population and has the potential for a real future. But drug-driven cartels are threatening the very sovereignty of Mexico.

For many Mexican residents, the map of northern Mexico is determined by the frequently changing territories controlled by drug-trafficking organizations. There is one area where I be-

lieve there has not been enough progress, and that involves Mexico's failure to capture, prosecute, or extradite to the United States known major drug traffickers under indictment in the United States.

This amendment—I read off the sponsors—would at least send a signal that this concerns us greatly, not that we are trying to tell Mexico what to do, but essentially that we are worried. We hope the leaders of Mexico are worried. We see what has happened to other countries, and it is going to happen to Mexico.

All this amendment does is prohibit the release of a small amount of money which was going to be appropriated under this bill. It says it will not be released until they either turn over to the U.S. for us to prosecute, or until Mexico apprehends and prosecutes the 10 most-wanted of the already U.S.-indicted drug kingpins living in Mexico. This drug trade is \$100 billion a year as a business operation in Mexico.

The State Department estimates that Mexico supplies 20 to 30 percent of the heroin, 80 percent of the marijuana, and 70 percent of the cocaine coming into the United States. One drug dealer reportedly makes \$200 million a week from sales to the United States to our children across this land. In my State of New Mexico, use of drugs by teenagers is skyrocketing because the two interstates transverse our State, and they are used as a communication link to take the cocaine and other serious drugs from their border habitats across this land.

These cartels are like multinational companies with sophisticated operations that rival any of the Fortune 500. They have advanced networks of drug distribution channels. One drug baron is called "The Lord of the Skies" because he has a fleet of 747's at his disposal. He is headquartered in Juarez, not far from my state.

Mr. D'AMATO. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. D'AMATO. Does the Senator really believe that the number of outstanding requests, 99 criminals, have been identified and indicted?

Mr. DOMENICI. The Senator is correct.

Mr. D'AMATO. Some of these go back 3 and 4 years with these extraditions?

Mr. DOMENICI. They are longstanding.

Mr. D'AMATO. Is it not true that there has only been one Mexican-national who has been extradited to this country out of all of those requested?

Mr. DOMENICI. That is correct. That happened after the hearings were held.

Mr. D'AMATO. That person was a child molester. It was right to send him here. But none of the others who have been indicted for murder or drug

dealing—have any of them at all been extradited?

Mr. DOMENICI. To our knowledge, statements that I made here would indicate that they have not—except for Juan Garcia Abrega who had dual citizenship. I know of the Senator's genuine interest. I praise him for actually starting this. The Senator from New York started this in a hearing that had to do with the certification of Mexico a "fully cooperating" with the drug effort. They were certified by our U.S. Department of State. We did not succeed in not getting them decertified. That was not the case. I am not here trying to do that. But I think it is quite appropriate that the Senator from New York is on the floor as this amendment is offered, because he has had great concern about this issue.

I want to suggest to him and to those who are listening that as a border State of New Mexico next door to Texas we are becoming the victims of this drug wave from Mexico in ways you cannot believe. I told you that our border is the barbed wire fence. There is evidence that, in the State of Texas, the kingpins or their followers with their money are buying the ranches on the border so they will have a habitat, a place of refuge, in America on an American ranch on the American side of the border. It is already tough to get rid of them and apprehend them and to arrest them. What if they own the place?

I have asked that a serious investigation of that take place. I for one recognize property rights. But it would not take much for me to be in favor of a statute that would take that land away from them. If we can find any relationship to drug money, we ought to confiscate those ranches under our forfeiture statutes. Those ranchers may have been paid. I do not know. It seems like some have been scared to death. But I believe they have been paid.

Mr. D'AMATO. With drug money?

Mr. DOMENICI. With drug money. What else? They are there with that money all night long.

Mr. D'AMATO. In some cases they have paid many times the value.

Mr. DOMENICI. We understand that there are, at least anecdotally, a couple of stories around that they were paid much more than the value of the land. I do not see why they would not. That land is cheap. These ranchers are in big trouble. As you know, we have had a drought. The price of grain is very high. The cattle are at the lowest price in many decades. So they are hurting financially. You put these drug smugglers and their threats on top of that financial burden to make these ranchers really hurt and you do not have much life on that border.

In addition, in a city like Albuquerque, which is on the main highway, an interstate to go east out of El Paso, TX, and Juarez, we are just literally

feeling the pressure in many of our neighborhoods where gangs now all have drugs; where cocaine is everywhere. That is just the spillover in transit across America to probably get it up to New York where they can sell a lot more of it.

Mr. D'AMATO. Seventy percent of the cocaine in the streets of America come right through the passageway from Mexico that the Senator has described.

Mr. DOMENICI. Mr. President, in 1993, GAO reported that Mexico had become the primary transit country for steering Colombian cocaine into the United States.

These cartels are like multinational companies, with tremendously sophisticated operations that rival those of any of the Fortune 500. They have advanced networks of drug distribution channels.

One drug baron is called the Lord of the Skies because he has a fleet of 747's at his disposal. He is headquartered in Juarez, not far from my State.

Some estimate that the Mexican cartels budget close to a half a billion dollars per year to pay bribes to corrupt officials, including officials in the United States.

The wealth, combined with the violence inherent in the drug trade, has proven deadly in Mexico and I fear that if these drug lords are not brought to justice, the violence may spill over into the United States.

In Juarez, one young drug smuggler was found shot in the head 23 times—the victim of a violent attack carried out on the orders of one of the drug lords.

A recent Los Angeles Times story reported how wealthy Mexican drug smugglers have intimidated ranchers and infiltrated police and sheriff's departments, drug task forces and even the court system on both sides of the west Texas/Mexico border.

These last reports are particularly troubling to me, because my home state lies just to the west of Texas and because citizens in New Mexico are beginning to see many of the same problems faced by their Texas neighbors.

Without an effective drug control and interdiction strategy involving help from the Mexican government, the 175 miles of shared Mexico/New Mexico border can, and does serve as a huge segment of the pipeline through which illegal drugs flow into the United States.

According to the DEA, in the past 2 years, law enforcement officials seized over 60,000 pounds of marijuana, 3,000 pounds of cocaine and 51 pounds of heroin at the major points of entry from Mexico into New Mexico.

These numbers pale in comparison to the quantities of drugs which actually make it into the United States: law enforcement officials estimate that we stop only around 10 percent of the

drugs that smugglers bring to our borders.

One drug baron offered the police chief of Tijuana \$100,000 per month to "turn a blind eye" to drug trafficking in that city. When the chief refused and instead got tough with these drug dealers, he was brutally murdered on a highway in Tijuana.

In 1993, Catholic Cardinal Juan Jesus Posadas-Campos was gunned down at the Guadalajara airport. Many believe that his murder was an accident, related to a feud between violent drug groups. The Cardinal however was an outspoken critic of the cartels, and some believe that his murder may not have been an accident.

Congress has continuously funneled resources to the Southwest Border in an attempt to control drug smuggling, but without Mexico's cooperation, the United States cannot possibly control the flow of drugs into the country.

Patrolling the border costs taxpayers a lot of money. Funding for the Border Patrol has increased by \$183 million or 42 percent in the last three years. Congress has increased Border Patrol staffing to add at least 700 new agents each year for the past 3 years and we now have 5,253 border patrol agents in the field; 328 of those agents are on board in New Mexico.

Despite this stepped-up law enforcement presence at the border, the amount of drugs entering this country from Mexico continues to grow. As we all know, more drugs lead to more crime.

A group which I helped establish, called New Mexico First, recently published a report on crime in New Mexico. The report notes that the "common and recurring characteristic—of those committing crime in New Mexico—is substance abuse."

When President Zedillo was elected in 1994, he stated that drug trafficking was the single greatest threat to his nation's security. These statistics demonstrate that Mexican drug trafficking also is a threat to our security.

Mr. President, my amendment will restrict a small amount of United States aid to Mexico until the President certifies that Mexico has either extradited or prosecuted themselves, the DEA's 10 most wanted Mexican drug kingpins.

The amount of aid to Mexico is not the issue here. What is at issue is whether Mexico will cooperate more completely with our attempts to capture and imprison these drug barons.

I wish my colleagues would invite them to the border to better understand the situation. The drug cartels are well equipped. They have out planned, out manned, and outgunned the U.S. Border Patrol, Customs Service and DEA.

The Clinton administration claims that one of its new drug policies is to attack drugs at their source.

While this is not a new idea, I would suggest that the best way to attack the source of drugs in the United States is to go after the major suppliers in the country which sends us the vast majority of our illegal narcotics.

There is no greater threat to our borders and our population than the threat that drugs will continue to flow unimpeded into our country from Mexico. This amendment goes right to the top of these drug cartels and calls upon Mexico to get tough.

I hope that my colleagues on both sides of the aisle, particularly those from border states, will join with me in support of this amendment.

I want to say, so that anybody listening who might think that we are not doing our part, that the U.S. Government has indicted these criminals. That is not easy. That is costly. We put our best people on it. They take risks, and they get hurt.

We have dramatically increased our Border Patrol. This year, we will increase it still more. But until some of them know they are going to jail and their property confiscated, it is a losing battle. We cannot put up a fence between our two countries. It has never been there. It will never work. But we surely can together cooperate in a new kind of fence—a fence of cooperation in terms of getting rid of the criminals.

This will not do much. Mexico can say, who cares about that little million dollars? I did not put \$50 million in or \$20 million of the aid going to them. I just said, let us give ourselves a little bit to hang this on and let it be a signal, a message, to our friends. Let us try to put some of these people in jail.

My last admonition, before the Mexican officials react and say we should not be doing this, I hope they understand that Americans are very worried about the increase in drug use in this country. They are looking around. They are going to be easily convinced that we should do everything we can on these borders in apprehension and trial of these kinds of people and we want Mexico to know that you cannot let yourself be corrupted by it because it is going to destroy your country. We are really not here as gringos from the north trying to tell you what to do. We are really trying to be helpful, and I hope it is taken in that context.

In any event, I hope we start seeing some trials or returns to America for trial of some of these already known criminals who have been indicted.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I do not want to interrupt the debate on this very important amendment.

In fact, I ask unanimous consent that I be added as a cosponsor to the amendment by the Senator from New Mexico.

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

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me first say that I think it is obvious over the years that the senior Senator from New Mexico has demonstrated repeatedly that he is one of the most discerning, knowledgeable, and thoughtful of all of our Members on both sides, and as the record indicates—not the rhetoric of Senator DOMENICI; the record—there has been no greater friend to the people of Mexico, no greater friend. As a matter of fact, I attempted to get his support on some legislation that I have proposed that would take tough action for the inaction of the Mexican authorities in a number of cases, and the Senator felt it went too far, it was too harsh, that, indeed, these are our allies, these are our friends, these are our neighbors, the Mexican people in particular.

There is no one who has greater empathy for the plight of those Mexicans who are attempting to earn a living, and he has been supportive in terms of making moneys and resources available to help the Mexican economy. So I think it means that there is a point at which even the strongest of friends, the greatest of supporters must say to their friends and to their allies, "You are not doing enough," and that is what Senator DOMENICI's amendment says.

It does not act in a manner in which it could in terms of being much more punitive, but it sends a signal—and it is an important signal, and it is about time that we say it to our friends, because we are talking about friends—of one country recognizing the sovereignty of another country and recognizing our responsibility as good neighbors and being there. This Congress of the United States was there, the President was there, Republicans and Democrats were there in Mexico's time of need. I myself had great reservations, but my colleague said, no, it is important that we give to the Mexican Government and more importantly to the people an opportunity to be able to pay their debts, to meet their obligation, to work their way out. There they were. There was Senator DOMENICI, a supportive friend and ally.

But there comes a point in time when you have to say, how is it that you can protect drug smugglers, criminals, people involved in killings, in murders, in the distribution of billions of dollars worth of cocaine and crack that is creating havoc in the streets of America? How can you as an ally protect these people?

Mr. President, we have 99 warrants outstanding and 110 people identified over a period of 4 years, since 1992, and only one Mexican national has been extradited. There are some who we could go into detail about who prance around, who live openly without fear of

apprehension because the police and the Mexican Government in control of the various provinces, indeed, are part and parcel of the cartel—only one attempt to extradite, only one attempt. And when they do go through some of the process, it is rigged. No successful extradition of a Mexican national except one, when they heard of a hearing of the Banking Committee in March of this year. We say wonderful for that one. That was a child abuser.

Talking about abuse of children, what is creating more havoc with our young people than the menace of drugs entrapping people?

The State Department by its own report says—this is not Senator DOMENICI or Senator D'AMATO. This is the U.S. Department of State, Bureau for International Narcotics and Law Enforcement Control Strategy Report, March 1996. Senator DOMENICI referred to part of that—page 140:

No country in the world possesses a more immediate narcotics threat to the United States than Mexico.

I am not going to read the rest, because then it goes into detail and talks about the tons and tons of drugs and we cannot get one of these Mexican traffickers extradited. We have indicted them—killers, murderers.

Let me give you the testimony of a border agent just this March, testimony of a brave person, because there are some people who did not want him to testify before our committee. Senator FEINSTEIN and I had a hearing on proposals that would, yes, impact on Mexico because we do not think our friend and ally is doing nearly enough. It is really giving aid and comfort to killers, to terrorists, to people who are terrorizing our communities, to the drug lords.

This is the testimony of T.V. Bonner. He is the National President of the Border Patrol Council, those people who are out there, the agents out there. Let me just read to you this little part of his testimony because this is real. This is what is going on. T.V. Bonner says:

On January 19, 1996, Border Patrol Agent Jefferson Barr was shot and killed while intercepting a group of drug smugglers in Eagle Pass, Texas. One of his assailants was wounded in the exchange of gunfire. The individual fled to Mexico where he was captured.

They captured him.

The FBI interviewed the suspect in a hospital in Mexico, and the United States subsequently charged him with murder and sought his extradition. The Government of Mexico has refused to extradite the accused. Even though the United States has an extradition treaty with Mexico . . . not a single Mexican national has been extradited to date, despite numerous requests.

That is not totally accurate because when Senator FEINSTEIN and I had a hearing before the Banking Committee, the same day or the day before,

they announced: "We are going to extradite someone," an unnamed person. They would not even tell us who it was. We said, "Who is it?" "We don't know, but we are going to extradite someone."

Now, what does it take to get the Mexican Government—and this is the Mexican Government. This individual who shot and killed a U.S. border agent was arrested and yet we have not been able to get him extradited. How outrageous.

I think this amendment of the Senator is so thoughtful. I believe we have to go further. But at some point in time we have to say we are not going to continue to do business as usual. We have an obligation to provide for domestic tranquility. Our country is failing miserably, Republicans and Democrats, for years.

Oh, during every campaign we get more border agents, more this, more that: Show business. After the campaign—I saw it happen in the last administration and the administration before that—after the election is over everything is forgotten, the agents do not get the support, they do not get the equipment, and it just dwindles down.

It has happened with this administration. We went from 100-plus people in the White House working on international drugs and domestic drugs down to nothing. Election time comes, they see on the scope that this is an important issue, that drug use is up, so they bring in a respected leader, General McCaffrey, terrific and respected, and I do not want to demean him and his efforts, but we should not be part-time warriors, fighting for domestic tranquility in our communities, to keep our streets safe.

We ought to be ashamed of ourselves for allowing the plight of Americans, to be held captive in so many communities where they are afraid to go out, to take a walk in the park, to go to church in the morning, to use mass transportation in off-peak hours because they may become a victim. And so much of it, 70 percent of it the FBI Director estimates, is powered by illegal drugs: 50 percent of the violent crime. And here our ally is giving aid and comfort to drug dealers and killers.

We could go into example after example. Because I think it is so poignant, although Senator DOMENICI referred to it I am going to take the liberty of referring to it again, that is the article that appeared yesterday—yesterday. How prophetic.

This amendment, by the way, was prepared long before this article, long before this article. How prophetic that it appeared in the Washington Post yesterday. Let me just read part of it. Listen to these words:

It's a joke for the people of Mexico and for the people of the United States who think Mexico is fighting drugs.

Do you know who makes that statement? The former agent in charge, Ricardo Cordero Ontiveros. He was the former head of the National Institute for Drug Combat branch in the border city of Tijuana.

Do you know what he said, the former head, because, you see, he would not succumb to the payments that they offered him, he refused to turn his head another way? This article goes on to report that at one point he was told by his superiors: Why don't you keep quiet. Do you know how many people want this job? Somebody is willing to pay as much as \$3 million for this job that you have—\$3 million. Then he was told you could make \$100,000 a month. Just keep quiet.

Let me go on. He says:

The only thing they are fighting for is to make them disappear from the newspapers.

Brandishing official memos and tape recordings that . . . proved his points, Cordero said that [the attorney general] cut him off when he tried to present evidence.

He says:

Lozano told me that people would pay \$3 million to have my job. . . . He was so angry I thought he would hit me.

Here is what the attorney general's office says.

Mr. Cordero Ontiveros is obliged to prove the seriousness of his allegations, not just to go to the news media. . . .

What do you think somebody does when the attorney general tells him to keep quiet, when the record demonstrates clearly we cannot get proven killers and murderers extradited when they actually have them in custody of the Mexican Government? Our own border agents are wondering about our commitment to this war when they see our U.S. agents being shot and killed and a total failure of our Government to be able to get our friends and our allies to cooperate and have the murderers and have the drug dealers turned over.

I compliment Senator DOMENICI for his thoughtful amendment. I think it should serve as a harbinger of things we are prepared to do with our friend and ally, unless they begin to treat us as friends; unless they begin to respect us and our rights and the rights of our citizens and our youngsters who are being victimized every day as a result of their failure to even enforce basic, fundamental law.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise to support Senator DOMENICI's amendment. This amendment would restrict all International Military Education and Training [IMET] funds to Mexico until the Mexican Government extradites the leading drug trafficking figures hiding there.

It is clear that there is a flood crossing our borders that threatens the very health and lives of all Americans—a flood of drugs, crime, and money laundering. The source of that flood is Mexico.

At a joint Finance Committee and Senate International Narcotics hearing Senator GRASSLEY held earlier this week, I brought the deteriorating situation in Mexico to the attention of Secretary of the Treasury Robert Rubin. At that hearing I raised the issue of Mexican cooperation in apprehending and extraditing drug traffickers wanted in the United States. I also questioned whether Mexico is really making any effort to enforce its own laws on official government corruption or if it is just spinning its wheels in endless prosecutions that never result in convictions. I am expecting answers to the questions and more in the coming week as we hold another hearing on this issue.

The dramatic increase in drug trafficking from Mexico is one of the unfortunate by-products of NAFTA trade liberalization and our success in getting tough on drug smuggling in the Caribbean. Reacting to the pressure of U.S. efforts such as "Operation Gateway" in Puerto Rico, drug smugglers have found even greater access to the U.S. in Mexico. The Mexican Attorney General has estimated that traffickers accumulate \$30 billion in revenues each year. Mexican traffickers or their front companies have also purchased numerous ranches or Maquiladora plants in Mexico and the United States to ferry drugs across the Rio Grande.

The impact is undeniable. Only ten years ago, almost no cocaine came across the border from Mexico. Today, nearly 70 percent of all cocaine coming into the United States passes through Mexico. Mexico also supplies between 20-30 percent of the heroin consumed in the U.S. and up to 80 percent of the imported marijuana. In fact, the Drug Enforcement Administration [DEA] estimates that Mexico earns over \$7 billion a year from the drug trade, making illegal drugs Mexico's third largest export to the United States.

The United States response to this escalating crisis has been inadequate. While the President talks tough on drugs and crime—backing it up in the case of Colombia—when it comes to Mexico he has bent over backwards to accommodate failure. Based on mutual declarations of cooperation at the Summit of Americas and the limited success of Mexican and United States efforts to seize large drug shipments, President Clinton certified to Congress on March 1, 1996 that Mexico was "fully cooperating" with U.S. counter-narcotics efforts. This allowed \$38.5 million in bilateral aid to continue to go to the Mexican government in addition to the \$20 billion of U.S. taxpayer funds provided in the tesobono bail-out last year.

Our good intentions and assistance have produced few results. Mexico's efforts to eliminate corruption among government officials and capture the worst drug offenders have produced

thunder but no rain. To date, there have been no convictions in the hundreds of ongoing prosecutions for corruption among officials in the Mexican Attorney General's office. There has been little more success within the Ministry of Finance or federal police. Laws which have been on the books for years to end government corruption have been ignored while hundreds of cases have been thrown out of court over minor technicalities.

Even more glaring is the lack of a bilateral extradition treaty between the United States and Mexico. As of April 15, 1996, there were 99 outstanding formal extradition requests by the United States to Mexico involving 110 different individuals. Mexico has acted on only one of these requests—that of Juan Garcia Abrego who is being held without bond in Texas in advance of his September trial. He faces a life sentence. I have asked Secretary Rubin to provide detailed information on the current status of all the United States requests, especially for members of the drug cartels that have been indicted in the United States and are fugitives in hiding in Mexico—Denjamin Arellano-Felix and his brothers Francisco, Ramon and Javier; Amado Carillo Fuentes; and, Miguel Caro Quintero.

Enough is enough. It is time to get tough with Mexico just as we did in the Caribbean. The United States must send a strong message to Mexico that there are limits to our patience. We must continue to strengthen our partnership to stop the drug trade. But we cannot continue to flail in endless investigations and prosecutions nor can we continue to allow criminals to avoid extradition to the United States to face judgment. We must ratchet up the pressure on the government of Mexico to clean up this tide of drugs, crime, and official corruption or risk our neighbor becoming another Colombia.

This amendment by Senator DOMENICI provides that message. It provides a targeted and flexible response to the building problems in Mexico. It also serves notice that the Mexican Government must improve the enforcement of its laws and agreements. We must make clear that our relationship cannot continue to be one where the United States gives and gives while Mexico takes and takes. This was not acceptable with Colombia and it should not be with Mexico either.

Mr. President. If Congress and the President are really serious about keeping Mexico from "becoming Colombia" and reducing international crime and drug trafficking, we must take action now. I urge my colleagues to support Senator DOMENICI's amendment.

Mr. HELMS. Mr. President, I am pleased to join Senators DOMENICI and D'AMATO in introducing the pending amendment. The United States has a stake in Mexico—as our neighbor, as a

key trading partner, and as the recipient of a \$20 billion loan underwritten by American taxpayers. Mexico's problems often become, in a very real way, our problems. No problem affecting our two nations is more critical than drug trafficking because it directly effects the lives of millions of Americans.

At the same time, we must not forget that for many, many years, the U.S. State Department turned a blind eye to widespread drug corruption in Mexico. In its latest International Narcotics Control Strategy Report, the U.S. State Department admits that in 1995 "endemic corruption continued to undermine both policy initiatives and law enforcement operations" in Mexico. The report adds that "official Mexican Government corruption remains deeply entrenched and resistant and comprises the major impediment to a successful counter-narcotics program."

So, Mr. President, it is no surprise that Mexico is the gateway to the United States for smuggling in massive amounts of cocaine and heroin. Mexico is also a major producer of methamphetamine, one of the most dangerous drugs available. Many corrupt officials in the Mexican Government have long had an open door policy for the Mexican cartel kingpins, providing protection for a price. Mexican President Ernesto Zedillo has made some positive gestures to combat drugs and drug corruption, including appointing an Attorney General from the opposition PAN party and supporting money laundering legislation.

Nor is it a surprise that violent crime in the United States is increasingly linked to drugs. The Justice Department estimates that over one-third of violent crimes are committed by people in illegal drugs.

Regrettably, over the past 5 years, cocaine and heroin seizures in Mexico, as well as arrests of Mexican drug traffickers, have dropped by 50 percent. Seventy percent of cocaine enters the United States through Mexico, all too often with the assistance of corrupt Mexican police officers. Drug kingpins spend an estimated \$500 million annually to buy politicians and law enforcement officials. There are too many credible allegations that these officials assist kingpins' efforts to expand their power and conceal ill gotten gains. While Zedillo administration officials may not be accomplices, they are supposedly responsible for the investigation and prosecution of these drug traffickers and corrupt officials.

Yet each year, in exchange for empty promises and well publicized anti-drug speeches, the U.S. administration certifies that the Mexican Government has "cooperated fully" in the war on drugs and continues to provide military equipment, technical assistance, and precious foreign aid.

Mexico is indeed our neighbor and a sort of business partner. The State De-

partment is obviously nervous about offending Mexican Government officials by pushing them to take strong measures to fight drugs and corruption. Foggy Bottom must get over its nervousness. The United States has no greater national interest than to protect the safety and security of American people, especially the most innocent—our children and grandchildren.

It won't help either the Mexican or American people for the U.S. Government to make the tragic mistake of providing unrestricted assistance to a corrupt, morally bankrupt 67-year-old regime. This amendment will send the message that we demand cooperation with the Mexican Government—but real, effective cooperation, not more empty promises.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with the distinguished chairman of the Budget Committee and the distinguished chairman of the Banking Committee in offering an amendment which I think is of great importance.

As my colleagues know, the problem of drugs coming into our country from Mexico has reached epidemic proportions.

Seventy percent of all illegal drugs entering the United States, including three-quarters of all the cocaine and 80 percent of all foreign-grown marijuana, are smuggled through Mexico. Ninety percent of the precursor chemicals used to manufacture methamphetamine are smuggled into the United States from Mexico.

We need cooperation from Mexico in many aspects of counternarcotics: from border control, to cracking down on money laundering, to combating corruption.

There has been some progress in these areas, but not nearly enough, and much more is needed. Perhaps the most basic area in which we need cooperation is in cracking down on the drug lords who run the smuggling rings. Mexican drug lords are getting rich poisoning our kids, and the Mexican Government must help us do something about it.

That means extraditions. Although the United States has had an extradition treaty with Mexico since 1978, Mexico has never extradited a Mexican national to the United States for drug charges.

Juan Garcia Abrego was not extradited—he was deported as an American citizen. And extradition orders have been signed for one Mexican national, Jesus Emilio Rivera Pinon, but he remains in a Mexican jail. Ninety-nine outstanding formal extradition requests have not been acted upon.

This amendment is designed to create additional incentive for Mexico to move forward with the extradition of our most wanted drug lords. If Mexico does not arrest them, they should at least arrest and prosecute these drug lords themselves.

If Mexico fails to take these steps, the United States will withhold funding for the International Military Education and Training Program with Mexico. This is a reasonable, and not overreaching, point of leverage to encourage the Mexicans to do what they should be doing anyway.

If Mexico will comply with these extradition requests, it will be an important step toward addressing the problem of Mexican drug trafficking.

I strongly urge my colleagues to support this amendment. Thank you, Mr. President. I yield the floor.

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

Mr. DOMENICI. Mr. President, parliamentary inquiry. If we are finished, do we then proceed to a vote? What is the situation, I ask the manager of the bill?

Mr. MCCONNELL. My plan is to lay aside the Domenici amendment and go to the Brown amendment. It is the plan to stack several votes. That we would take them up, again this is just a guess, an estimate, around 6 o'clock. It would be my plan. I understand no one wants to speak in opposition to the Domenici amendment. Has the Senator gotten the yeas and nays?

Mr. DOMENICI. No.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, let me just summarize very quickly so no one will think these indictments that the American Government has put all these resources in are just indictments of people who are out there dealing in a few ounces of cocaine. I want to give just four names, with a brief biography, that are under indictment, that it is incredible to this Senator that Mexico does not know about and could not, if willing, to either apprehend and try in Mexico or extradite them to the United States.

Here is one:

Tijuana cartel, Arellano-Felix organization: Benjamin Arellano-Felix and his brothers Francisco, Ramon and Javier head Mexico's most violent drug family. They are responsible for the murder of Catholic Cardinal Juan Jesus Posadas in Guadalajara in 1993. Some believe that the Mexican Cardinal was killed by accident during a violent confrontation between rival drug dealers, but others believe he may have been killed because of his vocal opposition to the drug trade.

Let me move on to the Juarez cartel: Amado Carillo Fuentes is now considered the wealthiest and most powerful drug baron in Mexico. He has a strong relationship with Miguel Rodriguez Orejuela, the leader of the Colombian Cali cartel. Carillo is known as the "Lord of the Skies" because he owns a

fleet of 727's which allows him to transport drugs from Colombia to Mexico. His drug operations are estimated to bring in \$200 million a week.

I ask unanimous consent that a more complete biography of these cartel leaders be printed in the RECORD.

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

LEADERS OF THE MAJOR MEXICAN DRUG CARTELS INDICTED IN THE UNITED STATES

TIJUANA CARTEL (ARELLANO-FELIX ORGANIZATION)

Benjamin Arellano-Felix and his brothers Francisco, Ramon and Javier head Mexico's most violent drug family. They are responsible for the murder of Catholic Cardinal Juan Jesus Posadas in Guadalajara in 1993. Some believe that the Mexican Cardinal was killed by accident during a violent confrontation between rival drug dealers, but others believe he may have been killed because of his vocal opposition to the drug trade. The Arellanos also are responsible for the murder of Frederico Benitez Lopez, the Tijuana police chief who vowed to clean up the city and refused to accept a \$100,000 per month bribe from the brothers. The cartel controls the 1,000 miles of border between Tijuana and Juarez. The DEA estimates that the cartel generates around \$15 million every two weeks and has a \$160-400 million net worth. The Arellanos, once known for publicly flaunting their protection from local Mexican police and federales, now are fugitives in hiding in Mexico. Benjamin and Francisco have been indicted in San Diego for drug trafficking.

JUAREZ CARTEL (CARILLO FUENTES ORGANIZATION)

Amado Carillo Fuentes is now considered the wealthiest and most powerful drug baron in Mexico. He has a strong relationship with Miguel Rodriguez Orejuela, the leader of the Colombian Cali cartel. Carillo is known as the "Lord of the Skies" because he owns a fleet of 727's which allows him to transport drugs from Colombia to Mexico. His drug operations are estimated to bring in \$200 million a week. Murders in Juarez have increased since he took control of the organization, and in 1995 the leader of a juvenile gang Carillo used to smuggle drugs across the border was found shot 23 times in the head. Carillo is the nephew of Ernesto Fonseca Carillo, who was imprisoned in Mexico in 1985 for the torture and murder of DEA Special Agent Enrique Camarena. Carillo has been indicted in Miami for heroin and marijuana trafficking, and in Dallas for cocaine distribution.

SONORA CARTEL (CARO QUINTERO ORGANIZATION)

Miguel Caro Quintero now heads the group made up of remnants of the old Guadalajara Cartel, best known for their involvement in the brutal 1985 torture and killing of DEA Special Agent Enrique Camarena. The Sonora Cartel was among the first Mexican organizations to transport drugs for the Colombian kingpins. The group's main trafficking routes run through Arizona border area known as "cocaine alley" with movements also coordinated through the Juarez Cartel in the territory controlled by that organization. Caro Quintero openly admitted on a Mexican radio program that Mexican authorities "don't find me because they don't want to . . . I go to banks. I drive along highways. I pass through military and fed-

eral judicial police checkpoints and it doesn't matter that they know me—everybody knows me." Miguel's brother Rafael is serving time in a Mexican maximum security prison for his involvement in the Camarena murder, but reportedly runs the cartel from jail. Miguel has been indicted in Denver and Tucson on drug trafficking charges.

GULF CARTEL (GARCIA ABREGO ORGANIZATION)

Juan Garcia Abrego was the first major Mexican cartel leader expelled to the United States for trial. In January 1996, Mexico claimed that his dual U.S./Mexican citizenship allowed them to deport him to the U.S. to face his indictment. Mexico's government had offered a \$1 million reward for his capture, and the FBI offered an additional \$2 million. Members of Garcia Abrego's group remain in Mexico and continue to smuggle narcotics. The Gulf Cartel was the first to begin accepting payment from Colombian drug lords in cocaine rather than cash and they at one time were responsible for half of the cocaine entering the United States from Mexico. The Gulf Cartel also shipped bulk amounts of cash across the U.S. border and during a four-year period (1989-93) the U.S. seized \$53 million in cash belonging to the organization. Two American Express bankers in Brownsville, Texas were indicted for laundering \$30 million for Garcia. Garcia Abrego is currently held without bond in a west Texas prison awaiting trial in September. If convicted, he faces life imprisonment. Seventy members of his organization have been prosecuted in the U.S.

Mr. DOMENICI. Mr. President, drugs are the engine of violence. According to the DEA, 50 percent of all violent crime happens because people are on drugs. One-third of all homicides in the United States have a relationship to narcotics. The relationship to this amendment, 70 percent of the cocaine comes across from Mexico; 50 percent of the marijuana, and much of the other substances that we fear so much. In fact, substantial amounts of Mexican-grown heroin is sold here.

In summary, we go through a great effort to indict Mexican drug kingpins and the indictments are not worth the paper they are written on because 99 outstanding extradition requests, 110 individuals are under indictment from us, and the Mexican Government will do nothing about it so far.

Mexico is the safe haven for drug smugglers. Indicted drug lords live an open life in a notorious style, in many cases, in many parts of Mexico. When the DEA Administrator was in Mexico in April, one of the top three most wanted barons called in to a talk show and stated, as I have said before: "They don't find me because they don't want to. I go to banks, I drive highways, I pass through Federal judicial policy check points, and it doesn't matter."

Mr. President, I hope this discussion today, and the vote, which I think will be overwhelming, will indicate to Mexico we are gravely concerned about our country and at the same time we are gravely concerned about theirs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Domenici amendment be temporarily laid aside. As I indicated earlier, it is my intention to take it up for a rollover vote along with some other amendments that have been laid aside, probably around 6 o'clock.

I yield the floor.

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

Mr. BOND. Mr. President, due to a failure to communicate, I did not convey to the floor manager of the bill my very strong opposition to the Dorgan amendment. The time was yielded back.

I ask unanimous consent that I may be recognized for 5 minutes prior to the vote on the Dorgan amendment, which I feel is fatally flawed and will have very serious consequences. I would like to have the opportunity to have appropriate time to address that amendment.

I ask unanimous consent for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I wonder if the Senator from Kentucky will yield for a question.

Mr. MCCONNELL. Yes. I am happy to respond to a question of my friend from Georgia.

Mr. COVERDELL. Is it not true that my amendment which would restore the funding level for the international narcotics funding was seconded under regular order?

Mr. MCCONNELL. It is my understanding. It is my recollection that the Senator from Georgia came over last night and first offered the amendment that would restore the drug funding level to the request of the Clinton administration.

Mr. COVERDELL. That is correct. We have now, it is my understanding, disposed of 24 amendments?

Mr. MCCONNELL. Yes.

Mr. COVERDELL. There is an amendment which I have pending, but we have been unable to get the other side to agree to a time for debate, which is holding up this amendment which restores their President's, our President's, funding for international narcotics.

Mr. MCCONNELL. I say to my friend from Georgia, we had hoped that his amendment would be first voted on this morning since he was first to the floor last night to offer a very responsible amendment, which I happen to support.

Mr. COVERDELL. I appreciate the response of the Senator from Kentucky and for, of course, his work on this bill and assistance on this amendment.

Mr. President, I ask unanimous consent that following consideration of this amendment, my amendment No. 5018 be the regular order and that there be a time agreement of 1 hour equally divided.

Mr. MCCONNELL. Mr. President, reserving the right to object, obviously, I do not object, but I do not see anyone on the Democratic side in the Chamber. In fairness to them, I feel they should be given an opportunity to respond.

Mr. INOUE. Mr. President, in behalf of Senator LEAHY, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 5018

Mr. D'AMATO. Mr. President, I think maybe it is appropriate, when we speak about those countries that are responsible in large measure—and it is not countries, it is governments, corrupt governments, corrupt officials who give aid and comfort to drug dealers, traffickers, growers, money launderers, the whole cartel—probably no case cries out for this country taking action more than the people of Burma and on behalf of the citizens of my State and the citizens of this country.

When we look at the record as it relates to drugs, in 1994, Burma was responsible for 94 percent of the opium produced worldwide. It is estimated that 60 percent of the heroin that comes into the United States originated in Burma.

When we look at the record of not only the question of narcotics and the dismal record in terms of counternarcotics efforts, there is only one thing that is even worse, and that is its record with respect to human rights. It kills those who are in opposition; it slaughters them. It imprisons those who speak out against them.

Their record on human rights and counternarcotics and its refusal to let the democratically elected National League for Democracy assume office should be immoral, and, more important, it is immoral, but it should be unacceptable to our Nation.

We need to send a strong message. Somehow we have become so imbued with economics and what company is going to benefit and make more money that we have lost the moral fiber to stand up for our citizens. I believe this. And I do not believe it is just the case as it relates to the legislation we discussed sponsored by Senator DOMENICI with respect to Mexico. I don't think it is just Burma, but certainly this is a case that cries out.

In 1988, the SLORC—SLORC—that stands for the State Law and Order Restoration Council. What a name; what a name. Talk about a fascist name. The State Law and Order Res-

toration Council, SLORC, has one of the most dismal records in human rights. They were responsible for killing more than 3,000 prodemocracy demonstrators—3,000—and thousands more have been jailed, thousands more driven from their homes, thousands more hiding. That is this SLORC group. Their record in counternarcotics is one of total complicity with the drug lords and the generals—total complicity. That is where they earn a lot of their money.

But now we are supposed to be doing business with them, helping them, helping their economy, helping their people. We are supposed to totally ignore the fact that they don't help their people, that they enslave their people, that they kill their people, that they deny them free and fair elections and say, "If we can allow projects to go there, it will foster democracy."

That was not fostering democracy when we took on the Soviet Union for their failure to address the human rights and human needs and considerations of its people. We did not say "Let's give them most-favored-nation status." We did not say, "Oh, no, you can continue to discriminate against Jews and Catholics and Pentecostals" when the Soviet Union was engaged in that barbaric treatment of their citizens.

We said if a country doesn't respect its citizens, how do we ever expect it to respect the rights of others, the rights of our citizens. How quickly we forget. Incredible.

This country has lost the moral fiber that we don't even have the ability to stand up to those countries who are sheltering known terrorists and killers who are responsible for killing U.S. citizens. Why? The same reason: economics, greed, avarice.

"So and so is developing a big project there. It's an American corporation. If they don't do it, somebody else is going to do it." How often we hear that.

Then, when we are able to unite the people of this country, we have to worry about our allies. We passed a bill, the Iranian-Libyan sanctions bill, that said, "Listen, if you're going to help support their petroleum fields and they are going to continue to export terrorism"—and they have two people who we have indicted, two Libyan agents responsible for blowing a plane out of the air, Pan Am 103, we indicted them with specificity, Libyan agents, hiding in Libya. We cannot get them to turn them over here.

Yet, since 1988, when that tragedy took place, we didn't even have the courage to stop the importation of Libyan oil. We said, "We can't buy Libyan oil, can't buy it," and we went around and pounded our chest. Well, we didn't do through the front door what we allowed the oil man to deliver on the side or the back, because while we said U.S. companies can't do it, domestic companies, their foreign subsidiaries did.

They did that with both the Iranians and Libyans.

What a mockery. What a sham. How do you expect our allies to pay attention to us when we say, "We want you to join with us"?

It all comes down to the same thing, and maybe it takes a little longer to get to the point, and the point is, it is nothing more than greed, money and avarice, and, consequently, we have really allowed those states, whether they are smuggling drugs in here, whether they are bringing terrorists with bombs in here, whether they are killing our citizens in planes or in bases, to feel that they can operate with impunity, and we are not even going to take economic sanctions against them.

Our allies: "You will not allow our companies who do business with the Libyans to do business here?" Let me tell you, if we do not have the moral fiber to stand up and protect the rights of our citizens, it is no wonder why the people are angry and frustrated with all of us—with some of us even more—because they think it is all politics and we are not serious. In many cases, I think they are absolutely right. I really do. I think they are right.

Business is important. Providing economic growth and opportunity is important. But freedom and liberty is more important. The human dignity of each and every individual and their rights to live without being terrorized, both in this country and abroad, are more important.

We should not be providing succor and comfort to those who deprive millions and millions of people an opportunity to live free, an opportunity to be able to have their vote count and not just have some group, thugs by the name of SLORC, come in and take over whenever they want.

We have a right to say to those countries who are involved in exporting terrorism, whether it be by way of bomb or whether it be by way of drugs, that we are not going to countenance doing business with you as usual, and we are certainly not going to give you aid and comfort, and we are certainly not going to permit you to have access to the international money markets where U.S. citizens are participating in the international banks and say you can do business as if you are a good and decent citizen, when you are not.

I support the moves that we are taking and that this bill calls for in dealing with the SLORC in Burma. I just think it is symptomatic of the kinds of things that we have to do if we are really going to stand up and say that this Nation does make a difference, it does respect the rights of citizens, its citizens and others, to live in dignity and in freedom.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I just want to commend the Senator from New York for his observations about Burma. What is going on here, of course, is they had a Democratic election in 1990, internationally supervised. The side that won got 82 percent of the vote. And the State Law and Order Council locked up most of the leadership and put the leader herself under house arrest for 5 years.

That is what is going on here. We fiddle around—not just this administration, but the previous one—and have done nothing. As the Senator has pointed out, they have done absolutely nothing.

So the underlying bill calls for sanctions against Burma, something long overdue. I want to commend the Senator from New York for his leadership on this issue for his support.

We have had a sort of disjointed debate here on the Burma issue, Mr. President, over the course of the afternoon. At some point I am going to ask unanimous consent that all of that debate be consolidated in the CONGRESSIONAL RECORD because it will be hard for the readers to follow.

Mr. President, I ask unanimous consent that a letter I received today from the National Coalition Government of the Union of Burma, Office of the Prime Minister, be printed in the RECORD.

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

NATIONAL COALITION GOVERNMENT
OF THE UNION OF BURMA, OFFICE
OF THE PRIME MINISTER,

Washington, DC, July 25, 1996.

Senator MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: We understand that Senator Cohen has introduced an amendment to your bill—Section 569 of the Foreign Operations Appropriations Act, "Limitation on Funds for Burma." We have to reiterate our total support for your version of the bill because it is the most and only effective way of persuading the ruling military junta in Burma to enter into a dialogue with the pro-democracy leaders.

If the U.S. Senate fails to vote for economic sanctions on the junta as outlined in your bill, it will send a wrong signal to Burma. The military junta will see it as a sign of weakness on the part of the United States and encourage it to step up the ongoing suppression of the democracy movement.

The National Coalition Government therefore opposes Senator Cohen's legislation. The Senate cannot afford to send a wrong signal. The imposition of economic sanctions is needed because currently investments are only enriching the military junta and its associates and are discouraging them to negotiate with Daw Aung San Suu Kyi.

Daw Aung San Suu Kyi has called for the imposition of economic sanctions because it is the best option available at this moment. She understands Burma situation clearly and would not initiate a move that would harm the people. Daw Suu has categorically expressed her wish that investments in the country cease until a clear transition to democracy has been established. The National

Coalition Government fully supports Daw Aung San Suu Kyi's call for sanctions and that is why we have expressed our total support for your bill.

I look forward to welcoming U.S. businesses helping rebuild our country once a democratically elected 1990 Parliament is seated in Rangoon. The Burmese people will remember who their friends are.

The National Coalition Government also opposes any funding to the military junta in connection with narcotics control. I cannot find myself to condone any funding to a regime that plays an active role in providing a secure and luxurious life to the heroin kingpin Khun Sa.

I place my trust in the United States Senate to do the right thing. Each vote for sanctions is a vote for the democracy movement in Burma and our people who are struggling to be so desperately free.

Sincerely,

SEIN WIN,
Prime Minister.

Mr. MCCONNELL. Mr. President, essentially what it says is:

If the U.S. Senate fails to vote for economic sanctions on the junta as outlined in your bill—

Referring to the underlying bill . . . it will send a wrong signal to Burma. . . . [It will] step up the ongoing suppression of the democracy movement.

The National Coalition Government therefore opposes Senator COHEN's [amendment].

Which we will be voting on later, which is supported by the Clinton administration.

. . . currently investments are only enriching the military junta and its associates and are discouraging them to negotiate with Daw Aung San Suu Kyi.

Daw Aung San Suu Kyi has called for the imposition of economic sanctions because it is the best option available at this moment. She understands the Burma situation clearly and would not initiate a move that would harm the people. . . . The National Coalition Government fully supports Daw Aung San Suu Kyi's call for sanctions and that is why we have expressed our total support for your bill.

Mr. President, the distinguished Senator from Colorado is on the floor. He has an amendment to offer as well. We would like to take that up. Have we laid the Domenici amendment aside?

The PRESIDING OFFICER. The Domenici amendment is laid aside.

Mr. BROWN. Mr. President, before I offer my amendment, I simply want to express my strong appreciation to the distinguished Senator from Kentucky for his raising the question of the loss of rights in Myanmar. The fact is, that the level of political suppression that has gone on there is one that Americans cannot ignore. If we are to be true to our beliefs, and true to our commitment to freedom and human rights that is held so dearly by both parties, we cannot stand idly by.

I believe some Members have expressed concern that perhaps there could be a different way to phrase the concerns that the Senator from Kentucky has expressed. And I hope that we will have a debate on that, that positive suggestions will come forward.

Certainly we ought to use tactics that are most likely to be successful.

So some change in those words may be in order. But I hope that debate over the words does not lose sight of the intent and the very significance of the Senator from Kentucky's action. The fact is, we cannot stand idly by and ignore what has happened in that country and not stand up and speak out and take efforts that can be effective.

I believe that this subject will get a lot of debate. I suspect the conference committee may well come up with ways to amend the language that we have here. But I want the Senator from Kentucky to know that free people around the world appreciate his efforts, and appreciate him caring enough to move forward to have this Congress consider sanctions. I, for one, will be looking forward to the process that may well perfect the language that the Senator has. But I hope it does not dilute the spirit of what he is offering because I think that is the essence of the way Americans think about foreign policy.

AMENDMENT NO. 5058

(Purpose: To amend the NATO Participation Act of 1994 to expedite the transition to full membership in the North Atlantic Treaty Organization of emerging democracies in Central and Eastern Europe.)

Mr. BROWN. Mr. President, I rise to offer an amendment to the bill. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [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, proposes an amendment numbered 5058.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BROWN. Mr. President, this is the third in a series of efforts the Congress has made to address the issue of NATO expansion. Today the hearts of tens of millions of Americans are with us. No, not physically here in this Chamber, but they listen and they understand what we debate when we talk about NATO expansion.

Millions of Americans find their heritage hailing from central Europe. Over the last century—I should say most particularly the last half-century—they have had to swallow hard as this Nation watched Czechoslovakia dismembered by the Munich agreements, which Chamberlain agreed with, and saw a country that could have been the

bulwark against Hitler and Naziism dissolved and abandoned by its allies.

Millions of American hearts sank as they saw Poland invaded by the Nazis and, moreover, an agreement between the Soviets and the Nazis to divide and dismember that country. Moreover, their hearts sank as they watched the free countries around the world back away from promises and pledges of support. And we learned the painful lesson in World War II that one country's freedom is not independent of another country's and that aggression cannot be ignored.

These are countries that now share our commitment to Democratic values. And many of them, as new converts, are passionate believers. But the trail of history does not end with World War II. It follows into the tragic period of after World War II where some of these countries were abandoned, without an effort to save them from Soviet domination. The level of suffering that they have endured has truly been extraordinary in humankind.

Now the question comes, with the fall of the Iron Curtain and the end of the cold war, as to whether or not we will recognize that other countries have a claim to control their foreign policy, that is, whether other countries can cast their sphere of influence over central Europe and dictate to them their foreign policy. That is what this series of amendments over 3 years with regard to NATO expansion has dealt with, the hesitancy of the administration to allow democratic countries in central Europe who wish to join NATO to be allowed to join NATO.

These are countries that have democratized their country, that have given civilian control over the military, and have expressed an interest and a desire to stand shoulder to shoulder with America and other countries in NATO, to make the world safe for democracy. The hesitancy that has come out of the administration has been as to whether or not they should allow the government in Russia to cast its sphere of influence over the policy of those countries, whether or not we would defer to Russia in terms of deciding whether they should be allowed to join NATO or not.

It was out of concern over this policy, that I believe to be mistaken, in which we offered the first NATO Participation Act in 1994. That measure recognized their plea for NATO membership and authorized an assistance program to aid in their preparing to become Members of NATO.

The administration failed to act decisively concerning this issue, and in the following year we followed up with the NATO Participation Act of 1995 which develops specific criteria which those countries could be judged as to whether or not they were prepared to join NATO and receive aid to help them further move toward it.

Mr. President, another year passed without the administration acting. And thus, the purpose of the third NATO Participation Act.

The measure that is before the Senate does the following things, Mr. President. First of all, it authorizes funds for transitional assistance for countries in central Europe wishing to join NATO. Mr. President, this is not a huge amount of money in terms of dollars in the foreign assistance bill but it is an enormous issue in terms of the signal we send to free people around the world. It specifically names three countries that are eligible for transitional assistance in moving into NATO. Now, that is not NATO membership, but it is transitional assistance to NATO.

Second, it establishes clear standards for other Central European countries to meet to be eligible for transitional assistance. The purpose here was to take the thoughts of the administration and others and put them forward in clear rules so the countries who want to join free people pledging to defend freedom in the North Atlantic region know what they are working toward.

Third, Mr. President, it sets a clear policy statement for NATO expansion.

Next, it establishes standards for an authorization, for a regional airspace initiative.

Mr. President, this is a measure that is bipartisan. It is strongly supported by the administration. I might make clear that they strongly support the authorization for the regional airspace initiative. I do not mean to imply they strongly support this amendment. The portion that deals with the regional airspace initiative, which I believe can have a significant value in helping countries develop a common language through equipment and procedures, in helping to deal with air traffic control problems, can be of help. I should emphasize while this is not mandatory in terms of participation, it is supported by the administration.

Mr. President, this is a bipartisan bill. We are fortunate to have Senator SIMON join as a cosponsor of this bill, as well as Senator LIEBERMAN and Senator MIKULSKI. In the past, NATO expansion has received strong support from both sides of the aisle. I must say, Mr. President, I believe this measure is strongly supported by both Democrats and Republicans throughout our country, by a large measure.

In addition, the House has voted on a version that is nearly identical to this provision, and given its strong and clear support by a vote of 353 to 62, the House voted for the similar NATO expansion provision.

I might add, we have a stronger position in the White House for this measure than we have ever had. The administration has sent out a letter indicating they do not oppose this measure.

Mr. President, let me not mislead Members. I believe—it is at least my belief—the White House has some concerns about various provisions of it. They are not opposing it. It is the strongest, most supportive effort we have had in these last 3 years. I believe the key to making this work is indeed to get all parties—the administration, Congress, Democrats, and Republicans—to work together for a common purpose.

Mr. President, there are some differences between this measure and the measure that passed the House of Representatives. Let me just name two of them that may be the more significant, although I am not sure there are significant differences. In the findings, paragraph 15, in the wording involving the caucuses, ours is not as strong a language in terms of indicating a NATO involvement in the caucus as the House language. I do not mean to indicate we lack interest in the caucuses, or concern. We do, and we express that. There is a difference between our language and the House language with regard to caucus States.

Second, we add in this bill specific criteria for the transition into NATO. We thought in the interest of being clear and precise and moving ahead, that was helpful. Those are the key differences with the House bill. On the whole, they are not major. I do not anticipate any problem in working out the differences in conference.

I should indicate, Mr. President, there are at least three concerns I am aware of, and I know Members obviously are much more able to articulate their concerns and offer alternatives than I. Senator SIMON is interested in offering a modification of the measure that deals with the history of deployment of nuclear weapons in some NATO countries. I view—while we have not seen final language that Senator SIMON offers—I view that as an accurate statement of the past policy, and can well be a plus.

Senator BIDEN has concerns about making it clear that Slovenia is immediately eligible for the transitional assistance in the measure that is before the Senate. We have not placed them in the three countries that are designated as immediately eligible for assistance, but I think Senator BIDEN has identified a country that does meet the standards, as I understand them. I do not consider that to be a major problem.

In addition, my understanding is that a very thoughtful Member of the Senate, Senator NUNN, has concerns, particularly with paragraph 4 in the findings, and my hope is we will be able to consider his concerns and work something out with regard to that.

Mr. President, I do not want to take an extended amount of time with regard to this except to say this: What we do with this amendment is very im-

portant. The symbolism is far more important than the modest amount of money that is authorized in this bill. The message it sends is that the countries of Central Europe are not going to have their fate decided by the influence of another country; that their fate will not be decided by someone saying that they have a sphere of influence that controls that part of the world; that we recognize their ability to commit themselves to free and democratic principles, and to seek alliances that will help secure their land. That is enormously important, and it is a commitment that we should not back down on.

Second, Mr. President, I hope every Member has some sense in their heart and in their mind and in their very being how these countries hunger to be free and independent and how much they look to the United States with admiration, and, yes, with love and with commitment. They see America as a country that has held up the torch of freedom and liberty, and they want to join us. They want to join us in the burden of holding that torch of freedom high. They want to join us in making sure the world is safe for democracy.

If we turn our backs on them, we turn our backs on the very ideals that made this country strong and free and independent. Can we turn our backs on Central Europe's freedom? Of course, it has happened before. But who among us would come forward saying that turning our backs on their freedom worked prior to World War II or worked after World War II? My guess is every Member would have to admit that those were follies of policies, that the world lost millions of lives because we failed to recognize how much their yearning for freedom was tied to ours.

Mr. President, this amendment is offered in the hope we will not repeat the mistake of the past, that we will respect their admiration and their desire to stand with us, and that we will continue the clear signal that we care about their freedom and their future.

I welcome the debate on this issue. I yield the floor.

Mr. MCCONNELL. Mr. President, I know the Senator from Georgia wants to speak on this issue, but my preference would be, and I consulted with Senator LEAHY on this as well, to dispose of some agreed-to amendments. I have also consulted with the Democratic leader, who would like to have a couple of votes shortly because he must be absent from the Senate around 6:30.

It would be my plan, I say to my friend from Georgia, just for his information, to have votes on the Hatfield-Dorgan amendment and the Domenici amendment beginning at 5:50, and then we would go back to the pending amendment of Senator BROWN, on which I know the Senator from Georgia wishes to speak.

I ask unanimous consent the Brown amendment be temporarily laid aside.

Mr. NUNN. Reserving the right to object, I do not mind laying aside the amendment and going ahead with the votes, but I would like to make a brief statement of 2 or 3 minutes, outlining my concern here on this amendment before we vote.

Beyond that, if that is accommodated, I do not object.

Mr. MCCONNELL. I was going to suggest the Senator from Georgia go right ahead.

Mr. COHEN. I want to inquire in terms of when we intend to proceed to vote on my amendment. Is it following the resolution of the Brown amendment, at some time later this evening?

Mr. MCCONNELL. Yes.

Mr. COHEN. At what point?

Mr. MCCONNELL. I say to the Senator from Maine, I want to just make a few more remarks about his amendment, and I am not aware of any speakers, other than I assume he would like to close on his own amendment, but we will need to do that after we dispose of these.

Mr. COHEN. I understand that. We will dispose of the other two amendments. There was no indication how long the Brown amendment may take this evening. I am just trying to find out whether or not we—

Mr. MCCONNELL. If the Brown amendment is controversial, then we will move on with Burma. We will lay Brown aside and dispose of Burma and go back to Brown for whatever discussion may be forthcoming.

Mr. COHEN. All right.

AMENDMENTS NOS. 5059 THROUGH 5065, EN BLOC

Mr. MCCONNELL. Mr. President, I send seven amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes amendments, en bloc, numbered 5059 through 5065.

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

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

The amendments are as follows:

AMENDMENT NO. 5059

(Purpose: To express the sense of the Congress regarding expansion of eligibility for Holocaust survivor compensation by the Government of Germany)

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.

AMENDMENT NO. 5060

(Purpose: To allocate funds for commercial law reform in the independent states of the former Soviet Union)

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".

Mr. KYL. Mr. President, I am pleased and honored to offer an amendment to the Foreign Operations Appropriations bill for assistance to Ukraine. Ukraine's achievement this year in the areas of ethnic stability, human rights and constitutional reform are significant, and fully justify the substantial earmark of aid being proposed. My proposal will not change the total amount of the appropriation, but it will provide assurance that appropriated funds will be used in the interest of both the United States and Ukraine.

I believe that the best forms of foreign aid are those which strengthen the recipient from within and lead toward self sufficiency and, ultimately, independence from any assistance from the United States or other foreign sources.

In this spirit, I propose this earmark in the amount of \$25 million for the purpose of helping to create a complete, modern system of commercial law in Ukraine, including not only substantive laws which are compatible with international standards but also training and equipping of an independent judiciary and legal profession, which as we know are the cornerstones of law-based economy.

Such a fundamental transformation—from a totalitarian command economy to a self-sustaining free market—cannot be achieved without substantial technical assistance. Until now, assistance for comprehensive commercial law reform has been provided to Ukraine largely through pro bono publico, through a commendable program of donated aid known as the Commercial Law Project for Ukraine. These private efforts, no matter how

praiseworthy, are inadequate to bring about the fundamental reforms which are so urgently needed, the earmark which I propose would fill that need and bring the goal of economic self-sufficiency for Ukraine closer to a reality.

The philosopher John Locke wrote, "Where law ends, tyranny begins." It is also true that, where law begins, tyranny ends. In this spirit, I propose an earmark for legal and commercial law restructuring in Ukraine.

I ask unanimous consent to have printed in the RECORD three letters in support of this amendment from Yuri Shcherbak, Ambassador of Ukraine, Orest A. Jejna, President of the Ukrainian American Bar Association, Askold Lozynskyj, President of the Ukrainian Congress Committee of America.

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

EMBASSY OF UKRAINE,
Washington, DC, July 5, 1996.

Re foreign assistance appropriations for fiscal year 1997—sub-earmark for legal reform-commercial law restructuring.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: Thank you very much for your successful sponsorship of a foreign aid earmark for Ukraine in the Foreign Operations Subcommittee. Please call on me or my staff at any time if we can assist you in the coming weeks to win Congressional approval of the earmark.

I am writing at this time to indicate my support for the addition of a sub-earmark for legal reform and commercial law restructuring as recently proposed by the Ukrainian American Bar Association. I respectfully request that you support the addition of such a sub-earmark, which will help to assure that U.S. assistance will promote the establishment of the rule of law in Ukraine.

This sub-earmark would be especially encouraging for my country in respect to the adoption of the New Constitution of Ukraine and preparation of a great number of legislative acts following the Constitution.

Ukraine wants from the U.S. only that assistance which will make her self-sufficient and independent of all foreign aid. Proposals such as that by the Ukrainian American Bar Association help to bring the goal of self-sufficiency closer to realization.

Thank you once again for your support for our common cause of revitalization of Ukraine.

With warmest regards, I remain,
Respectfully,

YURI SCHERBAK,
Ambassador of Ukraine to the USA.

UKRAINIAN AMERICAN
BAR ASSOCIATION,
Phoenix, AZ, July 2, 1996.

Senator MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: Thank you for your sponsorship of an earmark of aid to Ukraine. Your courageous advocacy has promoted vital U.S. interests while bringing freedom to the people of Ukraine.

I want to add my voice to those who are requesting inclusion of an additional sub-earmark for legal reform and commercial law

restructuring as necessary to support a decentralized, market-oriented economy. The funds granted to date by the U.S. government for comprehensive commercial law reform in Ukraine have been woefully inadequate to provide Ukraine with the necessary foundation for a functioning private sector.

I believe it is incumbent upon Congress to support assistance projects which will promote Ukraine's self-sufficiency and eventual independence from U.S. foreign aid. Commercial law reform and other fundamental legal reforms are among the most important priorities in achieving self-sufficiency for Ukraine.

If it is feasible at this juncture, I urge Congress to adopt an additional sub-earmark for legal reform in Ukraine as follows:

"\$25,000,000.00 for legal restructuring necessary to support a decentralized market-oriented economic system, including the creation of all necessary substantive commercial law, all reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys and law students, and public education designed to promote understanding of a law-based economy."

If you wish any additional information on the position of the Ukrainian American Bar Association, do not hesitate to contact me at (602) 254-3872. Thank you for your consideration of this subject of vital concern.

Respectfully,

OREST A. JEJNA,
President.

UKRAINIAN CONGRESS,
COMMITTEE OF AMERICA,
New York, NY, June 11, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

Dear Senator McConnell: On behalf of the Ukrainian Congress Committee of America, Inc. (UCCA), the representative organization of the Ukrainian-American community, please allow me to once again thank you for your leadership in the passage of the \$225 million earmark for Ukraine in FY 1996. The continuance of foreign aid to Central Europe and Ukraine are vital to the security of the United States and the entire world. More importantly, foreign assistance, which is properly distributed, will help insure the stability and security of Ukraine.

Since independence almost five years ago, Ukraine and its people have been striving for political, economic, and social reform. The issue at hand is that Ukraine, like many other developing countries, cannot accomplish these reforms alone. Only by the guidance and assistance of the United States can Ukraine endure this transition period.

It has come to the attention of the UCCA that during the upcoming deliberations in the Senate Sub-Committee for Foreign Operations, the opportunity to introduce another \$225 million earmark for Ukraine will likely present itself, though issues remain as to how that earmark will be sub-marked. The UCCA strongly endorses the following programs as sub-earmarks for the next fiscal year.

A sub-earmark of \$50 million for energy-sector restructuring, designed to alleviate Ukraine's critical need for energy resources and to improve efficiency of its large fossil-fuel and nuclear plants, therefore lessening the chances of another catastrophic nuclear accident of global proportions;

A sub-earmark of \$50 million for the continued reform of the agricultural sector in

Ukraine under the Food Systems Restructuring Program (FSRP) to be matched with private sector funding. Presently, the agricultural sector in Ukraine comprises nearly 60% of its GDP. For Ukraine to become economically self-sufficient, it must be provided the opportunity for greater efforts to enhance agricultural reform;

A sub-earmark of \$45 million for the creation of a business incubator center that provides seed capital, as well as lending and equity investments to promote the growth of small- and medium-sized businesses in Ukraine.

A sub-earmark for \$25 million for legal system restructuring, designed to reform the Ukrainian judiciary system and provide Ukraine with critically needed course materials for its law schools. Commercial law reform also remains vital in identifying the types of law and legal procedures which are necessary for the operation of a decentralized free market economic system, with special emphasis on contract enforcement mechanisms and the establishment of arbitration courts;

A sub-earmark of \$20 million for business development programs targeting the privatization of large-scale enterprises, which would further stimulate the growth of the private sector in Ukraine;

A sub-earmark of \$15 million for democracy-building programs that enable the development and expansion of efforts for further democratization in Ukraine;

A sub-earmark of \$10 million for medication, hospital supplies, and training of physicians under a program to facilitate the treatment of cancers and other diseases related to the Chernobyl nuclear accident;

A sub-earmark of \$5 million to promote the formation of independent broadcast and print media centers, essential elements of a democratic, law-based society; and

A sub-earmark of \$4.5 million for FBI legal attaché offices, intended to respond to the increased threats of international terrorism and the troubling rise of corruption and organized crime in the former Soviet region which directly jeopardize U.S. interests at home and abroad.

Furthermore, business and university partnerships between Ukraine and U.S. should be developed to enhance a cooperation of business expertise and knowledge. These programs would provide training for sophisticated technology use and advance Ukraine in its commitment for economic reform. I urge that you consider the sub-earmarks proposed, which would guarantee Ukraine its fair share of the foreign aid directed to the NIS.

Again, thank you for your dedication to Ukraine's course of economic and political reform. If you have any questions, please feel free to contact Michael Sawkiw, Jr., Director of the Washington, D.C. office of the UCCA at (202) 547-0018 (tel) or (202) 543-5502 (fax).

Sincerely,

ASKOLD S. LOZYSKYJ,
President.

AMENDMENT NO. 5061

(Purpose: Urging continued and increased United States support for the efforts of the International Criminal Tribunal for the former Yugoslavia to bring to justice the perpetrators of gross violations of international law in the former Yugoslavia.)

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 indicated a second time by the International Criminal Tribunal, charged with genocide for the killing of up to 6,000 Muslims and 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 (Serbia 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 war 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.

(a) 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.

Mr. LIEBERMAN. Mr. President, I rise on a matter of some urgency. Several colleagues, from both sides of the aisle, and I, have introduced an amendment which we hope will advance the twin causes of peace and justice in the former Yugoslavia. I thank my co-sponsors, Senator LUGAR, Senator BIDEN, Senator SPECTER, Senator FEINSTEIN, Senator MOYNIHAN, Senator HATCH, Senator LEVIN and Senator D'AMATO, for joining in what is, and must be, a bi-partisan effort to bring indicted war criminals to justice. It should now be apparent that we cannot divorce peace from justice in this traumatized region. To fail to address fundamental issues of justice in the former Yugoslavia, and Bosnia in particular, will mean the certain failure of

the current international efforts to secure a lasting peace in the region.

I will explain why the problem is one requiring urgent attention in a moment. Let me first summarize the problem and the solutions required.

The problem is that progress in the rebuilding of Bosnia has been slow at best. This slowness is, in part, due to the slowness in overcoming the antagonisms engendered throughout a tragic war and the effect of the creation of ethnic areas. Nevertheless, the majority of Bosnian peoples of all ethnic affiliations, desperately seek peace and accommodation. Bosnia had been a relatively unified, multiethnic state, with extraordinarily high percentages of interethnic marriages, prior to the manipulative actions of power hungry nationalist leaders during the late 1980's. It can again become a multiethnic state, if those seeking to build civil institutions and a civil society are allowed to do so by those initially responsible for these antagonisms and divisions.

The problem, then, is simply stated: those attempting to build a civil society with functioning democratic institutions, are being prevented from accomplishing their mission. The prerequisites for such a development include fundamental protections of human and minority group rights, and the rule of law.

But how can these conditions be achieved while war criminals are roaming freely in and out of the Bosnian Federation? Gross violations of law, such as the support and direction of snipings and massacres of innocents, have made Karadzic and Mladic war criminals. The underlying philosophies which guided those actions continue to drive these men today. Institution-building, a task that many Bosnians are working diligently towards, is imperiled by the very xenophobic, ultra-nationalist criminals that contributed to the dismantlement of Bosnia in the first place.

Mr. President, I applaud the recent efforts of Ambassador Holbrooke to reduce the deleterious effects of war criminals that are allowed to freely impact on Bosnian politics. This is a substantial accomplishment that will do much to help us reach our ultimate goal. However, the signed statement in which Radovan Karadzic has agreed to remove himself from the political life of the country, is not the final end we must seek. Let's not forget the reasons we call for the apprehension of these war criminals. Support and direction of indiscriminate snipings of men, women and children during the long, agonizing, siege of Sarajevo, as well as, the unspeakable and calculated acts of genocide at Srebrenica, in which men were exterminated and buried in mass graves, underline the reasons for the necessity of this resolution. Recent discoveries of the mass graves in

Srebrenica, with the grueling sight of twisted bodies, a sight not scene in Europe since the liberation of Dachau and Auschwitz, will ensure that antagonisms will remain alive so long as justice is hindered by timidity. No peace can survive in this torn land as long as justice is not achieved. The freedom of these criminals is an insult, a wound to those hundreds of thousands of people who lost relatives or who were forcibly removed from their homes during the war. That the future peace of the region should depend on the word of war criminals with a track record for breaking promises, seems an absurdity; surely fellow Bosnians will view the situation that way when elections arrive in September.

Now, let me be clear, Mr. President, that the Bosnian people bear the brunt of the responsibility for putting their house in order. Yet, they need help in this process. We have provided that help, both with a military component, the NATO-led Implementation Force, or IFOR, and the civilian reconstruction effort, led by the High Representative, Carl Bildt. Let us remember that the peace agreement forged at Dayton, that led to this peace mission, was done for two reasons: One, because it is an important U.S. interest that we control the conflagration that could, and still can, spread to our allies in Europe; and Two, because the costs of our intervention are reasonable, given the benefits, and the intervention is politically and militarily feasible.

But, as I said, the intent of our mission in Bosnia, the intent shared by many peace-seeking Bosnians, is being contravened by war criminals who are continuing to poison the politics of the region. Our purpose in Bosnia remains a national interest that can and should be pursued. However, we are failing to implement the peace plan hammered out at Dayton. We are failing to execute a plan that provides for feasible solutions. By so doing, we are guaranteeing a failure for institution-building in Bosnia. By allowing the virtual free reign of war criminals, we are not adhering to agreements we made which were designed to achieve success. This leaves Bosnians at the mercy of criminals and undermines confidence in the law. The results, to date, are obvious: refugees are unable to return to their homes, freedom of movement is severely limited due to a continuing solidification of ethnic camps within the country, and the conditions for free and fair elections are non-existent. Mr. Cotti, the OSCE Chairman, confirmed recently that conditions for a free and fair vote do not exist.

Mr. President, here then is my first reason for pressing the urgency of this issue. With elections scheduled for September 14, we have little time to reverse this situation. The first task to reversing this situation must be the apprehension of war criminals, most

notably the former President of the Bosnian Serb Republic, Radovan Karadzic, and the Bosnian Serb General, Ratko Mladic. The tools for effecting their apprehension are available to us at minimal cost. We are not asking for house-to-house searches by IFOR troops to apprehend these war criminals. All that we are demanding is that IFOR has as one of its primary missions, the apprehension of indicted war criminals in the conduct of its many routine patrols. Despite administration claims to the contrary, troops on the ground continue to confirm that apprehending war criminals is not a priority actively sought by military members on the ground. Apprehension of these war criminals is not only a prerequisite for success of peacekeeping in the country, it is a requirement of the signatories of the peace accord.

Apprehension of the war criminals is, then, our first task because none of the other conditions required for peace in Bosnia, that I have discussed, can be addressed while the criminals remain influential. Despite their two indictments for genocide and crimes against humanity, by the International Criminal Tribunal, as well as, the issuance of international arrest warrants by the Tribunal, Karadzic and Mladic have continued to control or influence the organs of government, the media, as well as, party politics and party competition. They do not need to hold formal positions of power to exercise this influence. In this situation, moderates seeking peace continue to place their lives at risk. Certainly, the politics of a free people, with freely organized and competing parties, is impossible under these circumstances.

Mr. President, we have the capabilities for shaping the peace in Bosnia. The need to shape conditions for the upcoming elections is an urgent one. This urgency has been proclaimed by a recent letter of President Clinton written by Human Rights Watch. This excellent letter states quite eloquently the necessity for immediate apprehension of the war criminals. More importantly, this letter has 72 signatories. The groups that have signed on to this letter are diverse, including, Amnesty International, B'nai B'rith, and Doctors of the World.

My second reason for pressing the urgency of pursuing war criminals lies in the threat to U.S. and NATO credibility as our threats are made and then ignored. These recent occurrences are very reminiscent of the failure of previous peace efforts that spoke loudly but carried a little stick. The costs of failed prestige, however, are significantly higher. Now, it is the resolve of the U.S. and NATO that is on the line. It is essential both to NATO's long term future, as well as, the success of the Bosnian mission, that the NATO-led IFOR not become a paper tiger as did its predecessor, UNPROFOR. U.S.

leadership and credibility are also directly impacted by the actions and reactions in Bosnia. The United States threatened to reimpose sanctions on Belgrade unless Karadzic and Mladic were removed from power by the end of June. Another deadline has come and gone, and we are again failing to follow through on our threats. What might have emerged from the recent G-7 summit as a powerful statement with respect to apprehending war criminals in Bosnia, instead became a replay of U.S. credibility being snubbed by thugs in Bosnia. We hope that another snubbing is not soon to follow Ambassador Holbrooke's efforts, although I am not hopeful.

The final reason that I am pressing this issue as one requiring urgent attention is that apprehension of the war criminals is the strategic action required, at this time, which can determine whether peace in Bosnia will be fleeting or long-lived. Mr. President, I fear that if we do not act now on the issue of apprehension, our forces will have been sent to Bosnia for naught. Elections, with the current mix of ethnic-based politics, will only solidify opposing camps bent on ethnic exclusion. Further conflict over ethnic enclaves will certainly ensue. Tragically, any uncertainties on this issue will almost certainly embolden the ultra-nationalists to set up their terror campaigns against dissenting, moderate voices. The greatest irony of all could be that we intervened for peace only to ensure that ethnic based divisions became not only more solid, but also legitimated by the very elections that we insisted upon.

A Washington Post editorial stated the problem well. Referring to the recent disregard of IFOR and the High Representative by Karadzic, the Post has this to say:

Recall that peace was not meant simply to consolidate and extend "ethnic cleansing," a process that carries with it the confirmation of massive injustice and the prospect of further war. It was meant to open a path back to a multi-ethnic federal Bosnia. The Karadzic taunt is taking Bosnia exactly the wrong way. It is making the would-be peacemakers in and out of NATO, not least Clinton, bit players in a Karadzic-led charade.

Mr. President, we can assist in the creation of conditions for free and fair elections. Eliminating the taunts from the "Karadzics" and the "Mladics" of Bosnia is the first step. And, no new initiatives need be diplomatically crafted. We must insist upon enforcement of our agreements made at Dayton. Security Council Resolution 1031 charged IFOR with ensuring compliance with the Dayton agreement, which includes a requirement that all parties cooperate with the Tribunal. Article 29 of the Tribunal's statute sets forth the various forms of cooperation that are due, including "the identification and location of persons," "the arrest or detention of persons," and "the

surrender of the transfer of the accused to the International Tribunal."

That said, the resolution that my colleagues and I have put forward is designed to see that our international agreements are enforced. It calls for four actions, each of which has already been agreed upon in other international fora. First, it calls for the increased and continued U.S. support for the efforts of the International Criminal Tribunal to investigate and bring to justice war criminals. Second, it calls for support by the United States for economic sanctions on the Federal Republic of Yugoslavia and the so-called Republika Srpska unless those regimes comply with their obligations to apprehend the war criminals. Third, it calls on the signatories to Dayton and those guided by the relevant U.N. resolutions, to exercise their authority to bring the war criminals to justice. Finally, it calls for the prohibition of the offending parties, specifically the Federal Republic of Yugoslavia and the so-called Republika Srpska, from admission to international organizations and fora, until these parties comply with their obligations under the Dayton Peace accord.

Mr. WELLSTONE. Mr. President, I would like to commend Senator LIEBERMAN for his initiative in once again calling to the Senate's attention to the problem of the continued freedom of indicted war criminals in the former Yugoslavia, by offering this amendment to the Foreign Operations bill expressing support for the efforts of the International Criminal Tribunal in the Hague. Although I have some questions and concerns about how certain portions of this amendment would be implemented, especially with respect to the NATO-led Implementation Force's (IFOR) detention of indicted war criminals, I support the part of this amendment which calls for reimposition of economic sanctions on the so-called Republika Srpska and the Federal Republic of Yugoslavia unless and until certain war criminals are delivered to the War Crimes Tribunal. For too long, we in the West have allowed these indicted war criminals and their allies to thumb their noses at those who would bring them before the bar of justice. That must not continue.

All of the signatories to the Dayton accord agreed to meet certain obligations, one of which was to ensure full and effective implementation of the agreement "to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law." That obligation must be borne squarely by the Federal Government of Yugoslavia. So far, even in the face of recent intense pressure from U.S. Envoy Richard Holbrooke, Milosevic has refused to budge on this question, and to apply sufficient pressure on his Bosnian Serb allies to allow these war criminals to be arrested and brought to the tribunal to face charges.

On two separate occasions since July of last year, the International Criminal Tribunal issued indictments for Radovan Karadzic, former President of the Bosnian Serb administration of Pale, and Ratko Mladic, military commander of the Bosnian Serb administration, charging them with genocide and crimes against humanity, as well as numerous other charges outlined in the amendment. Each time, the so-called "Republika Srpska" and the Federal Republic of Yugoslavia have failed to arrest and turn them over for prosecution.

Most recently, just 2 weeks ago, the War Crimes Tribunal re-issued international arrest warrants for Karadzic and Mladic, charging them with genocide and other crimes against humanity. This time, the warrants authorized their arrest if they cross any international border, and are again based on substantial credible evidence of their involvement in initiating and/or overseeing some of the worst atrocities of the war.

In my view, it is virtually impossible for free and fair national elections in Bosnia and Herzegovina to take place in September as long as key war criminals, including Karadzic and Mladic, remain at large and able to influence political and military developments. Although I acknowledge and commend the effort by Mr. Holbrooke earlier this month which resulted in the agreement to remove Karadzic from office—which hopefully will at least remove him from involvement in the political process once and for all—the fact that Mladic was not subject to this agreement, and that both Mladic and Karadzic remain free and able to influence events there remains a serious problem. As Mr. Holbrooke himself observed, the agreement he was able to reach fell far short of what he was seeking, and far short of the steps necessary to fully comply with the Peace Agreement which the U.S. is seeking.

This amendment acknowledges that the Dayton signatories on the Serb side have ignored their key responsibilities, by refusing to bring indicted war criminals to justice, and calls for several steps to force that action. I believe the most prudent course of action is to reinstitute economic sanctions in response to the failure of the signatories of the Peace Agreement to detain these individuals, and convey them to the Hague. That is the most substantial leverage we now have in the West over these people, and it is time to use it.

After careful consideration, almost a year ago I supported the participation of U.S. peacekeepers in the NATO peacekeeping mission in Bosnia. I did so because I believed then and I believe now that the Dayton Agreement was the best, and probably the last, chance for peace in the region. Although not yet fully implemented, it has proven to be successful in stopping a brutal civil

war and given the parties a chance to recover, rebuild their cities and rebuild their nations.

But even though we have played a key role in developing and carrying out this agreement, let us not forget one critical thing: this is their agreement, not ours. It was developed by the parties, not imposed by outsiders. They have asked other nations, including the U.S., to help secure the future of that agreement. And by signing the agreement, they assured us, NATO, and the UN Security Council that they will respect its terms. The Serbs have failed to fulfill their commitments on war criminals, and that failure requires a tough response.

Bringing indicted war criminals to justice is a centerpiece of the peace process. Continued failure to bring Mladic and Karadzic before the International Criminal Tribunal will seriously hinder the ability of the parties to conduct free and fair elections in September, by allowing these war criminals to remain as the focal point for nationalist fervor and attention, and by allowing them to influence events there. We must increase the pressure on those who would seek to undermine the peaceful future of the former Yugoslavia. This amendment should help, however modestly, to do that.

I join Senator LIEBERMAN in his call to support the request of the President of the International Criminal Tribunal to reimpose full economic sanctions on the Federal Republic of Yugoslavia and on the so-called Republika Srpska, in accordance with United Nations Security Council Resolutions. These sanctions should remain in place until Bosnian Serb authorities have fully complied with their obligations under the Dayton accord to cooperate fully with the International Criminal Tribunal. For those who take seriously the rule of law, the obligations of justice, and the judgments of history, there is no other responsible alternative but to finally bring these indicted war criminals to justice.

AMENDMENT NO. 5062

(Purpose: To state the sense of the Senate on the delivery by the People's Republic of China of cruise missiles to Iran)

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; to

(2) the President should enforce all appropriate United States laws with respect to the delivery by that government of cruise missiles to Iran.

Mr. PRESSLER. Mr. President, last November, Vice Admiral Scott Redd, Commander of the United States Fifth Fleet in the Persian Gulf, revealed that Iran had begun developing an integrated ship, submarine, missile, and mine capability in the Persian Gulf. The missile component was to be a new type of Chinese-made cruise missile—known as the C-802 missile. It is an anti-ship cruise missile. It is about 20 feet long, has a range of 75 miles and carries a 350 pound warhead. This is a low flying, turbojet-powered, cruise missile. This is a highly advanced conventional weapon in every sense. It can evade radar and will make any missile offensive launched by the Iranian Navy difficult to track. At that time, it was reported that these missiles would be deployed on patrol boats, also provided by China. In addition, news reports indicated that Iran was seeking a land-based version of the C-802 from China.

In January, Admiral Redd reported that Iran had test fired a C-802 missile. The Admiral noted that this new weapon, in the hands of the Iranians represented a "new threat dimension" to the many tankers and ships that use the Persian Gulf as a commercial shipping lane, and of course, to the 15,000 Americans—sailors, marines, and airmen—in the Persian Gulf.

Last February 22nd Dr. John Deutch, the Director of Central Intelligence, told the Senate Select Committee on Intelligence that the intelligence community "continues to get accurate and timely information" on "cruise missiles to Iran." And, on June 19 Undersecretary of State Lynn Davis—the State Department's senior non-proliferation official—told the House International Relations Committee that the federal government has "evidence" that Chinese cruise missiles are in Iran.

So, Mr. President, there is no doubt that Chinese cruise missiles are in Iran. Further, I do not expect anyone would disagree with Admiral Redd's assessment that these advanced weapons represent an immediate and real threat to our interests and most important, to our fellow Americans in the Gulf.

Mr. President, in 1992 Congress passed the Iran-Iraq Arms Non-pro-

liferation Act of 1992. It is commonly known as the Gore-McCain act—for the honorable former Senator from Tennessee, now Vice President of the United States; and the distinguished senior senator from Arizona. Their legislation calls for very severe sanctions against companies and countries that knowingly transfer advanced conventional weapons to Iran. "Knowingly" is not at issue here; nor is there a question of whether a cruise missile is an advanced conventional weapon.

The Sense of the Senate amendment I have offered along with my distinguished colleague from New York, Senator D'AMATO, is very simple. It merely calls on the Chinese authorities to cease deliveries of cruise missiles to Iran. Second, it calls on the President to enforce the law. Nothing more.

Frankly, action from the Administration is long overdue. After Admiral Redd reported the test firing last January, I and three of my colleagues—the distinguished Chair of the Banking Committee, Senator D'AMATO; the distinguished Senator from Florida, Senator MACK; and the distinguished Chair of the Intelligence Committee, Senator SPECTER—sent a letter to the President, urging that the Gore-McCain law be enforced. Simply put, we urged the President to impose sanctions, or waive them if he deemed that necessary. That letter was dated January 31, 1996—nearly 6 months ago. The President has not taken any action in response to this letter. I will ask unanimous consent later that a copy of this letter to President Clinton appear in the RECORD at the conclusion of my remarks.

Our letter apparently was not the first call for action. According to a story that appeared in the Washington Times on February 10, 1996, the Pentagon recommended to Undersecretary of State Davis that the Clinton Administration declare China in violation of Federal law for exporting advanced cruise missiles to Iran. When was that recommendation made? Last September—10 months ago.

I have been quite outspoken about Chinese weapons proliferation activities this past year. Sadly, there has been too much to talk about. I referred earlier to the testimony by Director Deutch last February. In his testimony, Director Deutch noted that the People's Republic of China also had transferred nuclear technology and M-11 missiles to Pakistan—both sanctionable offenses under Federal law. The M-11 transfer, in particular, is quite disturbing because the Clinton administration obtained a written agreement from China in September 1994, which stated that China would cease transferring ballistic missiles and related technology to Pakistan. Finally, this week, it was reported that China may have transferred ballistic missile guidance systems to Syria,

which if true would be sanctionable under Federal law as well.

This is quite a track record of proliferation, Mr. President. It is a track record that is fostering instability in South Asia and the Middle East. It is a track record that has put the lives of our troops in the region in even greater danger. Congress has provided the tools for the Executive Branch to punish weapons proliferators. Our Nation's non-proliferation policy is based on a simple premise: proliferation carries a heavy price. Yet, even with this track record, the administration has yet to take any action, or impose any price against a nation that is providing cruise missiles to a terrorist nation.

Mr. President, recently Congress sent to President Clinton the Iran oil sanctions act. I know my good friend from New York, Senator D'AMATO, has worked very hard on this legislation. He is to be commended for his efforts. I hope the President will sign it.

Clearly, if we are going to get tough on those who buy Iranian oil, we should get even tougher on those who sell advanced cruise missiles to the Iranians. We owe that to our friends and allies who utilize the Persian Gulf to further their commercial interests. Most important, we owe that to Admiral Redd and all of our fine men and women serving our country in the Persian Gulf. That's why we should pass this amendment.

I ask unanimous consent that the letter I mentioned earlier be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, January 31, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has come to our attention that Iran recently test-fired a new, low-flying cruise missile. This missile was identified as a C-802 anti-ship missile, which is produced by the People's Republic of China (PRC). If that is the case, we believe sanctions may have to be imposed against the appropriate parties in the PRC pursuant to federal law. This warrants your immediate attention.

As you may know, today's New York Times reported that the Iranian Navy test fired a C-802 cruise missile from the northern Arabian Sea on January 6, 1996. Vice Admiral Scott Redd, Commander-in-Chief of the United States Fifth Fleet, stated that the C-802 adds a "new dimension" to Iran's military capabilities against free shipping in the Persian Gulf. This mobile missile can evade radar and will make any missile offensive launched by the Iranian Navy difficult to track.

Mr. President, Title XVI of the Fiscal Year 1993 Department of Defense Authorization Bill contains the Iran-Iraq Non-Proliferation Act. This act provides for sanctions against any persons and countries respectively, that transfer certain advanced conventional weapons to Iran. The act also defines advanced conventional weapons to include "long-range precision-guided munitions" and "cruise missiles."

Clearly, Admiral Redd's acknowledgement of the C-802 test-firing would appear to be an official recognition of an illegal transfer to Iran of advanced conventional weapons by Chinese defense industrial trading companies. Please inform us as soon as possible of your intention either to enforce the sanctions pursuant to federal law, or to seek a waiver.

Thank you for your attention to this vital national security matter.

Sincerely,

LARRY PRESSLER.
ARLEN SPECTER.
ALFONSE D'AMATO.
CONNIE MACK.

AMENDMENT NO. 5063

(Purpose: To state the sense of the Senate on delivery by China of ballistic missile technology to Syria)

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.

Mr. PRESSLER. Mr. President, the amendment I have offered along with

my friend and colleague from New York, Senator D'AMATO, is very simple. I offer it in response to recent reports that China has shipped ballistic missile technology to Syria. This was first reported in the July 23rd edition of the Washington Times. I'm sure all my colleagues agree that this is a very serious allegation. It is the latest dark chapter in what certainly is a troublesome year for nonproliferation advocates.

Mr. President, I ask unanimous consent that the Washington Times story just mentioned be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. PRESSLER. Specifically, our intelligence sources noted that last month a defense industrial trading company—the China Precision Machinery Import-Export Corp.—delivered military cargo to the Scientific Studies and Research Center in Syria.

China Precision Machinery is to mislead production what McDonald's is to burger production. In fact, the United States had imposed sanctions twice against China Precision Machinery—in 1991 and 1993. In 1993, the firm shipped M-11 ballistic missile technology to Pakistan—a violation of the so-called Missile Technology Control Regime, or MTCR. The MTCR sanctions were lifted 1 year later after China promised the United States it would not export M-11's or related technology. If the Syrian missile deal proves to be true, it would represent a clear violation of both the MTCR and the 1994 agreement.

The Syrian firm that was reported to have received the cargo is the heart of Syria's efforts to produce ballistic missiles, and other advanced conventional arms. The firm is reported to be building a version of the Scud C ballistic missile. If Syria has received M-11 related technology, that would represent a significant technological upgrade in Syria's ballistic missile capability. No doubt, it would destabilize a region struggling to achieve peace.

Our weapons proliferation laws are based on a simple premise—proliferation carries a price. Traditionally, sanctions under the MTCR are imposed only after a clear determination has been made that a specific violation has taken place. However, in 1994 Congress passed legislation I sponsored that would lower the standard of proof when a suspected transfer goes to a nation that supports international terrorism. Clearly, any MTCR violation is very troublesome—to the United States and the other 30 nations that are co-signers of the agreement. However, our law is clear—when missiles or missile technology are being sent to a terrorist country, far more swift action is necessary. In that case, the President need

not wait for conclusive evidence—he can impose sanctions and compel the sanctioned country to come forward to prove it has not violated the MTCR.

The reason for this lower standard is obvious—we need to be far more aggressive to ensure ballistic missiles and related technology do not fall into the hands of terrorist elements.

Let me make clear that the amendment I have offered today does not make any firm conclusions about the reported transfer from China to Syria. It simply makes three key points: First, it is in our Nation's national security interest to prevent the spread of ballistic missiles and related technology to Syria; second, it calls on China to honor its 1994 agreement not to export missiles or related technology that would violate the MTCR; and third, it calls on the President to exercise all legal authority to prevent the spread of ballistic missiles and related technology to Syria. That's all my amendment calls for, Mr. President. I'm sure all of my colleagues would agree with each of those points. I'm sure my colleagues will agree that the MTCR agreement and the laws we pass to enforce it mean nothing unless enforced vigorously.

I'm sure my colleagues also would agree that any effort by Syria to expand its ballistic missile capability represents a direct and clear threat to our friend and ally, Israel. Just as important, it could threaten current efforts to achieve a lasting, secure peace in the region. The people of Israel know all too well what it feels like to be on the receiving end of a ballistic missile attack. The people of Israel looked to us to stand by them during the Gulf War to withstand the Scud assaults on their country. We did stand by them.

The Gulf War is now a memory, but the threat and reality of a ballistic missile attack remains. We should still stand by Israel. The best way we can do so is to enforce the MTCR agreement—to ensure that those who engage in missile proliferation will pay a heavy price. That's what my amendment calls for.

EXHIBIT 1

[From the Washington Times, Feb. 10, 1996]

CIA SUSPECTS CHINESE FIRM OF SYRIA MISSILE AID

(By Bill Gertz)

The Chinese manufacturer of M-11 missiles sent a shipment of military cargo to Syria last month that the CIA believes may have contained missile-related components, agency sources said.

The CIA detected the delivery to Syria early in June from the China Precision Machinery Import-Export Corp., described as "China's premier missile sales firm."

The suspect military delivery raises questions about China's pledge to the United States in 1994 not to export missiles or missile components that would violate the Missile Technology Control Regime.

It also follows China's recent export of nuclear-weapons technology to Pakistan in vio-

lation of U.S. anti-proliferation laws, which was disclosed by The Washington Times in February.

The Syrian company that received the Chinese cargo was identified as the Scientific Studies and Research Center, which conducts work on Syria's ballistic missiles, weapons of mass destruction and advanced conventional arms programs, the CIA said in a classified report circulated to senior U.S. officials.

The Syrian center is in charge of programs to build Scud C ballistic missiles and a program to upgrade anti-ship missiles.

U.S. intelligence agencies said the Syrian center has received help from the China Precision Machinery Import-Export Corp. in recent years for both missile programs.

"The involvement of CPMIEC and the Syrian end user suggests the shipments [last month] are missile-related," one source said.

The exact nature of the equipment was not identified, but it was described as "special and dangerous," the source said.

CIA and State Department spokesmen declined to comment.

Chinese officials promised the State Department in 1994 not to export M-11s or their technology in exchange for a U.S. agreement to lift sanctions against Chinese Precision Machinery and the Pakistani Defense Ministry, which were involved in M-11-related transfers.

The missile-control agreement bars transfers of missiles and technology for systems that travel farther than 186 miles and carry warheads heavier than 1,100 pounds. Transfers of both the Chinese M-11 and Syria's Scud C are banned under the accord.

Syria has purchased Scud C missiles in the past from North Korea and is working on developing production capabilities for them, according to U.S. officials.

The delivery of Chinese missiles or components to Syria, if confirmed, would trigger sanctions against China because Syria is classified by the State Department as a state sponsor of international terrorism.

William C. Triplett, a China specialist and former Republican counsel for the Senate Foreign Relations Committee, said the administration does not need hard evidence to impose sanctions because the sales involved Syria.

A 1994 amendment to the Arms Export Control Act, sponsored by Sen. Larry Pressler, South Dakota Republican, says the president may presume a transfer violates the 31-nation missile-control agreement if it goes to a nation that supports terrorism.

"If it goes to a terrorist country, we consider that a much more significant event than if it goes some other place," Mr. Triplett said.

China Precision Machinery already is under intense scrutiny within the U.S. government over the earlier M-11 sales to Pakistan.

U.S. intelligence agencies concluded earlier this year that Chinese M-11s are operational in Pakistan, but the State Department is challenging the intelligence conclusion to avoid having to impose sanctions on China.

U.S.-China relations have been strained over Beijing's proliferation activities, as well as disputes concerning human rights and widespread copyright infringement.

In May, the Clinton administration decided not to impose sanctions on China for violating U.S. anti-proliferation laws with sales of nuclear weapons technology to Pakistan because Chinese officials claimed they did not know the sale took place.

China Precision Machinery has been slapped with U.S. economic sanctions twice in the past. The Bush administration in 1991 sanctioned the company, which is part of the official Chinese government defense-industrial complex, for selling missile technology to Pakistan. Sanctions also were imposed in 1993, again for the transfer of M-11 technology.

Kenneth Timmerman, director of the consulting firm Middle East Data Project, said the Syrian center that received the June shipments from China is a major agency involved in weapons research, procurement and production.

Mr. Timmerman said that North Korea and China have helped to build two missile-production centers in Syria and that Syrian missile technicians have been trained in China.

Israel's government said in 1993 that Chinese technicians were working in Syria to develop production facilities for missile-guidance systems, according to Mr. Timmerman.

AMENDMENT NO. 5064

(Purpose: To treat adult children of former internees of Vietnamese reeducation camps as refugees for purposes of the Orderly Departure Program)

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 Nations 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.

Mr. MCCAIN. Mr. President, the amendment I am offering reinstates the eligibility for resettlement in the United States of the adult married children of Vietnamese reeducation camp detainees.

Last April the State Department declared that the unmarried adult children of reeducation camp detainees would no longer be considered for derivative refugee status under the Orderly Departure Program [ODP]. In short, it said these people, roughly 3,000 people, would be permitted to come to the United States only under worldwide refugee standards and that

any special obligation we may have had to them had effectively been fulfilled. The amendment I am offering corrects this by once again making them eligible under the ODP. It has been evaluated by the Congressional Budget Office, and I am informed that it will have no significant budgetary impact.

The amendment has the support of the Catholic Conference and Refugees International. I ask unanimous consent that letters from these organizations supporting the amendment be printed in the RECORD.

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

INTERNATIONAL RESCUE COMMITTEE,
New York, NY, July 25, 1996.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I am writing to express the International Rescue Committee's deep appreciation for your amendment to H.R. 3540 which reinstates refugee status to adult children of former reeducation camp prisoners in the Orderly Departure Program.

Since 1989, about 150,000 former prisoners and their families have successfully resettled in the United States through the ODP. However, in April 1995, the Department of State announced that adult unmarried children of former prisoners would no longer be permitted to accompany their parents to the U.S. Since then, approximately 3,000 unmarried adult children of former prisoners have been stripped from existing cases and denied resettlement. Their parents, former reeducation camp prisoners, waited years for their casework to be processed and relied on the promise of refuge for their entire family. Now these former prisoners are being asked to leave their children behind to an uncertain fate.

Your amendment represents a just and practical approach to this group of refugees. These refugees need their adult children to help them resettle successfully; they are older and some are not in good health. Their children would help make their resettlement economically, as well as emotionally, viable.

The IRC fully supports your efforts to overturn this arbitrary and unfair policy.

Sincerely,

ROBERT P. DEVECCHI,
President.

MIGRATION AND REFUGEE SERVICES,
OFFICE OF THE EXECUTIVE DIRECTOR,
Washington, DC, July 17, 1996.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the United States Catholic Conference, I would like to express our deep appreciation for your ongoing support for the Indochinese refugee program. We support your Amendment to H.R. 3540 which reinstates derivative refugee status to the unmarried adult children of former reeducation camp prisoners. Alleviating the suffering of those imprisoned for aiding the purposes of the United States in Vietnam has made the former re-education camp prisoner program the core of the Indochinese refugee program.

Since completion of negotiations with the Vietnamese government in 1989, about 150,000 former prisoners and their families have successfully resettled in the United States. However, in April 1995, the Department of

State announced that adult unmarried children of former prisoners would no longer be permitted to accompany their parents to resettlement. This arbitrary change in policy affects approximately 3,000 adult children, many of whom remained unmarried in order to qualify to accompany their parents. This inhumane decision to force apart long suffering families should not be allowed to taint the final stages of this dignified program.

Your Amendment, which restores the original policy, is not only just but also represents practical resettlement policy, as the aging former prisoners would have a much better possibility of establishing an economically viable family unit if their unmarried adult children were permitted to accompany them.

Thank you again for your commitment to this special group of refugees.

Sincerely,

JOHN SWENSON,
Executive Director.

REFUGEES INTERNATIONAL,
Washington, DC, July 10, 1996.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Thank you for your Amendment to H.R. 3540, to reinstate refugee status to adult children of former internees. Granting refugee status to family members, especially unmarried adult children, who are vulnerable to persecution, has been, and continues to be, of utmost importance. Refugee status is the only way to include these children into the Orderly Departure Program. Since its establishment in 1975, the program has allowed 150,000 prisoners and their families to resettle here successfully. When the Department of State changed the eligibility criteria of this program, it jeopardized the possibility of U.S. resettlement for thousands of former prisoners and their families. By reinstating the established U.S. policy allowing for the resettlement of former prisoners with their married, adult children, the successful resettlement of these former prisoners might become a reality.

Approximately 3,000 unmarried adult children of former prisoners have been stripped from existing cases and denied resettlement since April 1995. Many of these children have remained unmarried to qualify for resettlement together with their parents and siblings. These children would suffer from the persecution they would undoubtedly face in Vietnam; meanwhile, their parents would once again be victimized. After waiting years for their casework to be processed and relying on the promise of refuge for the entire family, these former prisoners are now being asked to leave their children behind to an uncertain fate. Furthermore, these former prisoners need their adult children to help them resettle successfully; they are older and some are not in good health. Their children would help make their resettlement economically, as well as emotionally, viable.

By pressing to reinstate the former U.S. policy allowing reeducation camp internees to resettle with their adult, unmarried children, you have taken a step forward to help a truly vulnerable group.

Thank you for your continued interest in the plight of these and all Indochinese refugees.

Sincerely,

LIONEL A. ROSENBLATT,
President.

Mr. MCCAIN. Under current policy, since the change, Vietnamese nationals who are able to establish that they

were imprisoned for the 3 years in Vietnam as a result of their connection with the Republic of Vietnam or the United States war effort in Vietnam are admitted to the United States as refugees. Permitted to accompany them are their spouses and unmarried sons and daughters under the age of 21.

However, in many cases, these former prisoners have only adult children and have suffered so terribly from their imprisonment or are of sufficient age that they require their assistance. From the inception of ODP until last April, this situation was accommodated, as was the imperative to keep families together, by allowing adult unmarried children—over the age of 21—to immigrate with them to the United States.

The State Department has cited several reasons for removing their eligibility. Among those listed in a letter to me were: First, the assertion that the sons and daughters of former prisoners no longer face persecution as a result of their parents' association with the former South Vietnamese government. Second, the persistent problem of fraud associated with claims. Third, and the need to complete resettlement of the current case load in order to bring the program to a close and into conformity with worldwide refugee procedures.

I would like to make my case for this amendment in part by addressing these points one at a time.

On the first point, the assertion that "there is no evidence that . . . the adult children of former detainees are subject to official persecution based on their parents' association with the former South Vietnamese government," I should point out that the new State Department report on human rights, which covers the time period in which this decision was made, does cite a limited degree of discrimination encountered by these families.

On the second point, the problem with fraud, I believe fraud has always been a problem in administering U.S. immigration policy or any other Government program. The fact is that the world is still brimming with people who want to make a better life for themselves in the United States, and many times they will say and do whatever it takes to achieve their dream. It is the task of our immigration policy to identify fraud and disqualify intended immigrants appropriately. The existence of fraud, however, is no reason to exclude an entire class of prospective immigrants who merit consideration. This seems to me very unfair to those with legitimate claims. If the existence of fraud is a reason to shut down a class of eligibility, I am not sure any immigration program on the books could pass muster.

On the third point, the need to bring the ODP program to a close, I would appeal to principle. ODP was designed to fulfill a special obligation we have to those who identified themselves

with our cause during the war in Vietnam. It should remain open until we have fulfilled our commitment to the fullest extent. It should not be brought to a close prematurely by changing eligibility requirements. The former re-education camp detainee sub-program of ODP is 90 percent complete. It is not fair to those who are left—those who have waited the longest—to be told that they can either drop out of the program or leave their adult children behind.

If the original policy is not restored, these children will have to wait at a minimum 6 years before immigrating to the United States to care for their parents.

I was assured by the State Department last year that in response to my concern and the concerns of others, that "INS and ODP (would) remain alert to individual cases in which there are significant humanitarian reasons for allowing an aged-out son or daughter to accompany the principal applicant." Although this assurance was made with some qualifiers, I accepted it. I am informed now, however, that exceptions have not, in fact, been made.

It is very important to many former detainees that their adult children be permitted to emigrate with them, often because of their advanced age or deteriorating health. Additionally, many of their children have made life decisions, such as refraining from marriage, based on the requirements of a program which has now changed its eligibility standards.

I would like to close by commending the committee for addressing this issue in their report. Indeed, as stated in the committee report on the bill: "It was not the original intent of the program [ODP] to see the former prisoners separated from their family in such a manner."

The United States has a special obligation to those Vietnamese who have been persecuted for their association with the United States and the cause of freedom for which we fought. They certainly deserve, at the very least, the benefit of a consistent, compassionate admission policy for themselves and their families.

AMENDMENT NO. 5065

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.

Mr. MCCONNELL. Mr. President, one amendment is by Senator INOUE, with a colloquy between Mr. PRESSLER and myself; an amendment by Senator KYL regarding legal reform in Ukraine; an amendment by Senator LIEBERMAN regarding war crimes tribunal; an amendment by Senator PRESSLER regarding PRC and Iran missile transfer; a PRESSLER amendment with reference to Syria; a McCain amendment regarding ODP; an amendment by myself relating to Korea.

For all Members of the Senate, I say that with the disposition of the amendments that we are currently aware of, we are almost completed. Other than the amendments which have been laid down, I am not aware of any other amendments upon which we will have to have votes. So we are getting close to the end of the line here.

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

The amendments (Nos. 5059 through 5065), en bloc, were agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, it is my understanding that Senator BOND is on the way to use his 5 minutes just prior to the Hatfield-Dorgan vote.

I yield to Senator NUNN.

AMENDMENT NO. 5058

Mr. NUNN. Mr. President, I will just take a moment at this juncture, because I know the Brown amendment will be laid aside. My friend from Colorado has indicated he will be willing to work with me and Senator BIDEN on troubling language in this amendment. I think it is essential to work out the troubling language.

There are several paragraphs that are indeed troubling here. I say that with this background: On June 27, I proposed an amendment on the floor and worked with Senator MCCAIN and, as I recall, Senator COHEN and others in offering the amendment posing a substantial and very important series of questions to the administration, to the President, to answer regarding NATO enlargement.

Now, Mr. President, I recall once coming in on the floor when I was a much younger Senator and watching the esteemed Senator from Minnesota, Senator Humphrey, propose a series of questions to the floor manager of the bill, and without ever pausing, and I think without realizing it, having said that he had to have the answer to these questions before he voted on the measure that was pending, he proceeded to answer his own questions and to come

out on one side of the issue in a very decisive way. He answered his own questions, and nobody else intervened, and he solved his own problem.

Mr. President, I don't think we ought to do that regarding the questions that have been posed in a serious way. These questions were posed to the administration on June 27 by a unanimous vote in the Senate. A number of paragraphs in the Brown amendment would answer those questions only 2 weeks later, without any kind of analytical report, or any kind of thought process even, by the administration.

I don't believe we were posing these questions to ourselves. I think we were posing them to the administration and asking them seriously to answer them. So I hope that we can not have some of the findings that are in the Brown amendment, and particularly the paragraph in that amendment which states in paragraph 4 on section 4, page 8:

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.

These countries are all doing well and should be considered as NATO members under the due process that has been set forth. But for the Senate of the United States to decide and imply that that already has been decided, which is what this amendment does, it seems to me is answering the question, the serious question, with no analytical process at all and without consulting the administration or our partners in NATO.

So, Mr. President, I have a long history of being involved in NATO. I have written at least three reports on NATO, and I really think it may be time to remind the Senate of the United States about that history. I am prepared to do so. I normally do not like to take the time of the Senate. But on an amendment of this magnitude, where we are making findings, it would be entirely inappropriate for the Senate to vote on this without having a very keen reminder of the history of NATO and what the alliance is all about. That may take several hours, maybe even several days.

I am hoping that we will be able to eliminate the provisions in the Brown amendment that answer the serious questions without any intervening report from the administration, and all in a 2-week period after the Senate has gone on record, I believe unanimously, in favor of posing these serious questions in a serious way.

I will be glad to work with my friend from Colorado. I know the Senator from Delaware, Senator BIDEN, has some questions himself that we will be glad to work on. I see the Senator from Missouri on the floor. I wanted to let my colleague know that this is a serious amendment about a serious subject

matter. I have serious reservations about the way the amendment is now drafted. I will be glad to work with my friend from Colorado on the amendment.

Mr. McCONNELL. Mr. President, the Senator from Missouri is on the floor to claim his 5 minutes prior to the vote on the Hatfield-Dorgan amendment.

Therefore, I ask unanimous consent that, at 5:55, the Senate proceed to back-to-back rollcall votes, first a 15-minute rollcall vote on the Hatfield-Dorgan amendment, and that the second amendment be a 10-minute rollcall vote on the Domenici amendment.

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

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 5045

Mr. BOND. I thank the Chair and the managers of the bill. I rise in opposition to the Dorgan-Hatfield amendment. I have great respect for both of the sponsors of this amendment. I can sympathize with their objectives. I think they are operating from the noblest of motives. Once again, I believe that this amendment causes far more problems than it solves. The current Arms Export Control Act requires the executive branch to assure that any sales are in the interest of the foreign policy of the United States. When the executive branch decides to go forth with a sale, the Congress is notified and reviews the sale. Modifications to sales or a withdrawal of the sale request has occurred because of these congressional reviews. Pakistan is one such example.

Now, the restrictive nature of the amendment on which we are going to be voting in a few minutes would arbitrarily cut out all but a few select countries in the world. Many other countries would argue that perhaps even the United States could not meet these standards. There is yet to be a clear definition of a political prisoner or what constitutes aggression under international law or discrimination on the basis of race, religion or gender. Very few countries have a history of elective democracy such as ours. We are not against the intent of this amendment, but I think it puts overly restrictive limitations on the administration and on our military and economic sectors.

There are over 40,000 export licenses for munitions issued per year which we may very well have to review on a case-by-case basis above and beyond what the executive branch already does.

Some of our NATO allies would be called into question. For example, Turkey, as well as our long-term friends like Israel who might be challenged on the basis of the treatment of Palestinian terrorists, or political prisoners. Spain can be attacked on the basis of

its treatment of Basques, or perhaps even England for its quagmire with the IRA. Saudi Arabia and Egypt could be adversely affected by this amendment.

Where we have not had contact in countries like Cuba, communism continues to flourish in spite of our ever increasingly restrictive sanctions. They are not working there. This amendment would not prevent the procurement of weapons. It would allow the procurement of weapons from possibly rogue states and arbitrarily lock us out of a major conduit of foreign policy.

Mr. President, this is a very serious amendment. Its effect would be to immobilize the administration from normal conduct of its foreign policy, trade policy, and military policy as it would create lists of countries for congressional approval every year and then await for approval each year. Each year this body would be tied up in the process of giving a country-by-country approval needlessly antagonizing countries who support our policies. And it will most likely not affect the trade policies of our competitors, including allies. There will be no reduction in arms sales—only in U.S. businesses, jobs and, most importantly, U.S. influence.

The influence extends beyond business and military interests. It extends to our ability to work diplomatically and subtly across all policy issues. The world has changed, continues to change. The Communist monolith is crumbling. But the fact is that the countries with whom we have had a defense relationship are in general gravitating towards more democratic political systems and market-oriented economies.

There is no empirical evidence that by unilaterally denying ourselves access to other countries' military and political infrastructures that we have had or will have any positive impact on democratizing them or improving their human rights records.

The legislation is counterproductive. It would make the world less stable. We would have less influence over proliferation and lose our ability to provide a positive political effect on a military policy of friendly countries.

I urge my colleagues to recognize that while this amendment has been offered with all good intentions and with the highest of purposes, it is a significantly flawed piece of legislation that would have very much an unanticipated and very harmful impact.

I hope we will vote it down.

The PRESIDING OFFICER. Is there further debate?

Mr. BOND. Mr. President, I move to table the Dorgan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri to lay on the table the amendment of the Senator from North Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—65

Abraham	Frahm	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Murkowski
Bond	Graham	Nickles
Breaux	Gramm	Nunn
Brown	Grams	Pressler
Burns	Grassley	Robb
Byrd	Gregg	Rockefeller
Campbell	Hatch	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hollings	Simpson
Cohen	Hutchison	Smith
Coverdell	Inhofe	Snowe
Craig	Johnston	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kerrey	Thomas
Dodd	Kyl	Thompson
Domenici	Lieberman	Thurmond
Faircloth	Lott	Warner
Ford	Lugar	

NAYS—35

Akaka	Feinstein	Mikulski
Biden	Harkin	Moseley-Braun
Bingaman	Hatfield	Moynihan
Boxer	Inouye	Murray
Bradley	Jeffords	Pell
Bryan	Kassebaum	Pryor
Bumpers	Kennedy	Reid
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 5047

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the question now occurs on the amendment of the Senator from New Mexico [Mr. DOMENICI]. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced, yeas 96, nays 3, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—96

Abraham	Bryan	Craig
Akaka	Bumpers	D'Amato
Ashcroft	Burns	Daschle
Baucus	Burns	DeWine
Bennett	Byrd	Domenici
Biden	Campbell	Dorgan
Bingaman	Chafee	Faircloth
Bond	Coats	Feingold
Cochran	Cochran	Feinstein
Cohen	Cohen	Ford
Conrad	Conrad	Frahm
Coverdell	Coverdell	

Frist	Kennedy	Pressler
Glenn	Kerrey	Pryor
Gorton	Kerry	Reid
Graham	Kohl	Robb
Gramm	Kyl	Rockefeller
Grams	Lautenberg	Roth
Grassley	Leahy	Santorum
Gregg	Levin	Sarbanes
Harkin	Lieberman	Shelby
Hatch	Lott	Simon
Hatfield	Lugar	Simpson
Heflin	Mack	Smith
Helms	McConnell	Snowe
Hollings	Mikulski	Specter
Hutchison	Moseley-Braun	Stevens
Inhofe	Moynihan	Thomas
Inouye	Murkowski	Thompson
Jeffords	Murray	Thurmond
Johnston	Nickles	Warner
Kassebaum	Nunn	Wellstone
Kempthorne	Pell	Wyden

NAYS—3

Bradley Dodd McCain

NOT VOTING—1

Exon

The amendment (No. 5047) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that the RECORD reflect that Congressman BONIOR was instrumental in formulating the proposal that is reflected in the amendment on the Chernobyl disaster sponsored by Senators ABRAHAM and LEVIN, and I also ask unanimous consent that the following Senators be listed as cosponsors of Senator BUMPERS' amendment on Mongolia: Senators HATFIELD, GORTON, SIMON, JOHNSTON, BURNS, REID, and ROTH.

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

AMENDMENT NO. 5058

The PRESIDING OFFICER. The Senate now resumes consideration of the amendment by the Senator from Colorado [Mr. BROWN], No. 5058.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I ask unanimous consent that Senator SLADE GORTON be added as a cosponsor of the Brown amendment.

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

Mr. BROWN. Mr. President, we have been working in the interim to try to accommodate Members' concerns. I spelled out concerns by Senator SIMON, Senator NUNN, and Senator BIDEN.

MODIFICATION TO AMENDMENT NO. 5058

Mr. BROWN. Mr. President, we have reached agreement with Senator SIMON that I believe is a clear statement of current NATO policy with regard to thermal nuclear weapons and their deployment. I hereby ask unanimous consent that the Simon-Brown amendment be incorporated in the Brown amendment, or more precisely, Mr. President, I ask unanimous consent to modify my amendment with the Simon language.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has the right to modify his own amendment. The amendment is so modified.

The modification is as follows:

Add on page 7 at the beginning of line 13: (21) 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 a priori 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.

Mr. BROWN. Mr. President, we also have had concerns expressed about Croatia. It is my understanding we have cleared on both sides sense-of-the-Senate language that relates to Croatia and their potential future discussions with NATO countries. I ask that I be allowed to modify my amendment to include that sense-of-the-Senate language regarding Croatia.

The PRESIDING OFFICER. Again, the Senator has the right to modify his own amendment. The amendment is so modified.

Mr. BROWN. Mr. President, I ask unanimous consent to vitiate the last request to modify. I ask that Senator GORTON be added as a cosponsor of my Croatian amendment No. 5043 agreed to earlier today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BROWN. Mr. President, with regard to the NATO amendment, my understanding is that we are working with Senator NUNN. He has concerns he would like to share. We are also working with Senator BIDEN to work through his concerns. I yield the floor. Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we can see the light at the end of the tunnel. There is a vote left to be held on the Cohen amendment and on the Coverdell amendment. We are hoping that the Brown amendment will be worked out.

I ask unanimous consent that a vote on the Cohen amendment occur at 7:20 and that the time between now and 7:20—that is 20 minutes on a side—be equally divided, and the time controlled by Senator COHEN and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, will the Senator from Kentucky tell us what we might expect for the remainder of the evening?

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Yes. I thought I had just done that. Let me make it clear. We are going to vote on the Cohen amendment at 7:20. Remaining to be disposed of are the Coverdell amendment—your side has indicated they are willing to reach a time agreement on that—there is a Brown amendment, just discussed by Senator BROWN, to which Senator NUNN objects at the moment. Discussions are going on between the two of them. We hope to get that resolved. It is possible we can go to final passage after that. There are a few other amendments, but we are getting very close to finishing up here.

Mr. COHEN. Can we add, with respect to the Cohen amendment, there be no second-degree amendments?

Mr. MCCONNELL. I modify my unanimous consent agreement that no second-degree amendment is in order. I say to my friend I will make a motion to table at the appropriate time.

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

Mr. MCCONNELL. Mr. President, I yield 10 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 5019

Mr. MOYNIHAN. Mr. President, the Senate faces a moment of profound moral choice. We are dealing here with the proposal of the Senator from Kentucky, joined by others, to place the United States emphatically on the side of the freely elected democratic regime of Burma, which was elected with 82 percent of the vote and then instantly overwhelmed by a military coup.

The restoration of a military regime, which had earlier, in 1962, crushed the nascent democratic society of Burma. Before that Burma had succeeded through a succession of elections beginning with one for a constituent assembly prior to independence, and then three free elections thereafter. As I say, this all ended in 1962 and was followed by 25 years of atrocious government and oppression under General Ne Win. The country never submitted to this. The resistance was always widespread, emphatic, admirable to a degree that Americans can only imagine, given our long and stable history. Now, the issue has become an international issue. Our Senate was the first to raise this issue in 1988, and we have persisted in the matter. The proposition is to isolate the military regime, to deny it the recognition of the free world and to make clear that such denial has consequences in the economic development of that potentially rich and prosperous and happy society.

I speak with some knowledge of Burma, not enough, but enough to know how important this is to the whole movement toward democracy in Asia.

We have just seen Russia conduct two democratic presidential elections, the first in their history. We have just seen Mongolia conduct a free election and choose a democratic government. The Senator from Virginia and former Secretary of State Baker were both in Mongolia as election monitors. There are many such nations in the early stages of a democratic transition. We must associate with them and stand by them. And when democracy is threatened we must make our objections known. Just this June, the European Parliament has risen up and stated that the time has come for the whole of the European Union to boycott this regime. Most American firms have already done so. Most American observers have urged us to act.

The Wall Street Journal, in an editorial of May 30 this year, put it this way:

Throughout the world, foolishness and greed are sometimes draped with a veil of respectable sounding phrases like "constructive engagement," based on the promise that by doing business in a country like Burma you expect to change it. The problem is that once companies and governments climb into the boat with dictators, they are very reluctant to rock it, lest their deals go overboard.

The request for this embargo, the proposition, has been endorsed by Secretary of Commerce Kantor who stated last month with regard to Serbia, South Africa, Libya, and Iran, "There are times when economic restrictions done in an appropriate fashion can be very helpful. With regard to Burma, I'm in favor of taking effective action with regard to the actions of this regime."

Witnesses from South Africa, who benefited to a degree no one could imagine from American leadership in just this mode, Nelson Mandela and Bishop Tutu, have told us to have faith in our own experience. Burma will yield if the democracies stay together and the United States leads.

Most emphatically and importantly, the elected Prime Minister, an extraordinary person, a winner of the Nobel Peace Prize, Aung San Suu Kyi, asks us to do this. She has sent videotaped to the European Parliament last week with a statement supporting sanctions. She said, "What we want are the kind of sanctions that will make it quite clear that economic change in Burma is not possible without political change."

That is the record of the past three decades. A country that could be prospering today is all but prostrate because of the military regimes that have succeeded, one after the other. She went on to say, "We think this is the time for concerted international efforts with regard to the democratic process in Burma."

That, I respectfully suggest, is what is at issue in the vote we are soon to have. I hope chairman MCCONNELL will prevail. I hope democracy will prevail.

I cannot doubt it will if we but keep to a firm line of principle and conviction. I thank the Senator for his time, and I yield the floor.

Mr. MCCONNELL. Mr. President, I want to thank the distinguished senior Senator from New York for his inspirational remarks. He has been a very knowledgeable observer of the Burmese scene for many years. I thank him for his leadership on this most important issue.

I yield 5 minutes to the junior Senator from New York.

Mr. D'AMATO. Mr. President, let me first say that I want to commend the manager of this bill, the distinguished Senator from Kentucky, for his leadership and his courage in saying clearly that the United States does stand up for those who are oppressed, that we have the courage to look at facts as they are, as discomfiting as they may be, and sometimes painful for people to recognize.

We have become a world so interested in commercial advantage that we look aside. We make believe things are not happening. Sometimes it is not pleasant to acknowledge that there is evil, that there are people that we know, governments that we do business with that are involved in perpetuating evil. The killing of innocent human beings, killing them, imprisoning people, terrorizing them, depriving them of their most basic fundamental freedoms that are important. And if we just continue business as usual with them, as if all is well, because we may be commercially advantaged, then I suggest to you that we are betraying the greatness and the heritage of this country. We betray the principles on which so many have laid down their lives for our freedom and the freedom of others. That principle, when we have adhered to it, has always inured to the benefit of mankind and, more particularly, the benefit of our citizens here, not just the people who we have stood up for abroad.

Our history is replete with the times in which we have stood nobly and fought for freedom, and the times we have stepped aside and looked and allowed a petty dictator to terrorize his people on the altar of political expedience. We have contributed to many of the nations who fall under totalitarian domination, because we did business as if nothing was wrong with petty dictators. We condoned, in essence, their actions.

This is an opportunity for us to do what is right and to stand for people who are oppressed. No one has brought this to the table in a more eloquent way than the senior Senator from New York, Senator MOYNIHAN, who has pointed out very clearly that those people who are fighting for freedom, who are there and being oppressed, say, "Don't believe this nonsense that if you cut off doing business, you are going to be hurting the average citizen,

because you are not because the government that is in control now, the junta, the dictatorship, will use those funds for their own purposes, and no real economic benefit will come to the people."

So I hope that we will continue to maintain the beacon of freedom and that we will support the chairman's mark.

Mr. COHEN. Mr. President, I yield 2 minutes to the Senator from Idaho.

Mr. CRAIG. Mr. President, I have but a few comments. I find it important to make them in support of the Cohen amendment. Mr. President, this debate, in my opinion, is not about being soft on a bunch of thugs.

At the core of this debate is the effectiveness of mandatory unilateral sanctions as a tool of foreign policy to encourage change in Burma. It is about the best policy to pursue that will bring about the changes that we all want to see in the nation of Burma.

As we address this situation, it is important that the United States engage other nations. A multilateral effort to evaluate the situation in Burma and develop ways we can work both independently and collectively will encourage the improvement in human rights and will move Burma toward a free and democratic society.

Mr. President, I support the Cohen amendment and all that it addresses. We all can encourage humanitarian relief, drug interdiction efforts, and the promotion of democracy. I believe that these activities, in addition to denying multilateral assistance through international financial institutions, and the establishment of a multilateral strategy will provide the best roadmap to reach the goals we seek in Burma.

I congratulate Senator COHEN for his effort in offering this amendment.

Mr. MCCONNELL. Mr. President, are there other speakers?

Mr. COHEN. I believe there is one other.

Mr. President, I yield 5 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Cohen amendment. I think we would all like to truly believe that, in an area of the world remote to the United States, this country can unilaterally impose a sanction which is going to have an effect. But it is not supported by anyone else in the area. I know of no other country in the area that will support this sanction.

Additionally, the administration—the State Department and the White House—is in support of the Cohen-Feinstein amendment. In essence, what this amendment does is, as Senator CRAIG just stated, seek to develop a multilateral alliance of the ASEAN countries, and others, to be able to deal with the problems that the SLORC regime presents to the people of Burma, or Myanmar, as some people might say. I think it is a well thought out amendment. It is an important amendment.

There is one U.S. economic venture in that country, and let us speak about it and speak about it candidly. It is a joint venture between Unocal and the French to build a pipeline. They will build schools, they will build hospitals, they will put to the community an opportunity for economic upward mobility. Let us say the unilateral sanction passes, and let us say Unocal cannot go ahead, do you know who will take Unocal's share in this? Mitsui, a Japanese company, or South Korea. They will do it without building hospitals, and they will do it without the schools. I wonder what is gained by it.

I hear many people say, "Shut down an economy and that will change a regime." I really believe that when you have an economy and you participate in it, and you bring Western values to a country, and you help with schools and you immunize kids, all of which is happening, it can be particularly effective.

Now, I very much respect Aung San Suu Kyi. I wish her well, and I think the SLORC regime would be well advised to work with her to improve the standard of living. And, at the same time, I believe it is extraordinarily important that the administration, and whatever administration, and the State Department, and whatever State Department, begin to develop the kind of multilateral alliance with the ASEAN countries that can be effective in meeting the human rights needs in this region.

So I believe that the Cohen-Feinstein amendment, which provides that there be no bilateral assistance, other than humanitarian and counternarcotics until the Government of Burma is fully cooperative with the United States on counternarcotic efforts, and the program is fully consistent with the United States human rights concerns in Burma. It promotes multilateral assistance by asking the Secretary of the Treasury to 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 and for Burma.

I think it makes a great deal of sense. I urge an "aye" vote on the Cohen-Feinstein-Chafee amendment.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I want to take a few moments. I have been asked to advise my colleagues that the administration supports the Cohen-Feinstein-Chafee amendment.

I ask unanimous consent that the letter be printed in the RECORD from the Assistant Secretary of the Department of State so advising my colleagues that the administration supports the Cohen amendment.

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

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. WILLIAM COHEN,
U.S. Senate, Washington, DC.

DEAR SENATOR COHEN: The Administration welcomes and supports the amendment which you and others have offered to Section 569 (Limitation on Funds for Burma) of H.R. 3540, the Foreign Operations Appropriations bill. We believe the current and conditional sanctions which your language proposes are consistent with Administration policy. As we have stated on several occasions in the past, we need to maintain our flexibility to respond to events in Burma and to consult with Congress on appropriate responses to ongoing and future developments there.

We support a range of tough measures designed to bring pressure to bear upon the regime in Rangoon. We continue to urge international financial institutions not to provide support to Burma under current circumstances. We maintain a range of unilateral sanctions and do not promote U.S. commercial investment in or trade with Burma. We refrain from selling arms to Burma and have an informal agreement with our G-7 friends and allies to do the same.

On the international level, we have strongly supported efforts in the U.N. General Assembly and the International Labor Organization to condemn human and worker rights violations in Burma. At the U.N. Human Rights Commission this month, we led the effort against attempts to water down the Burma resolution. We have urged the U.N. to play an active role in promoting democratic reform through a political dialogue with Aung San Suu Kyi.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report. We note, however, that the wording of two of the sanctions as currently drafted raises certain constitutional concerns. We look forward to working with you and the conferees to address this.

We hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

Mr. NICKLES. The definition of "new investment" in Burma in Section 569 of the amendment includes the entry into certain types of contracts. Does it also cover performance of contracts, or commitments entered into or made prior to the date of sanctions?

Mr. COHEN. It is not the intention of this legislation to compel U.S. persons to breach or repudiate pre-sanctions contracts or commitments.

Mr. BREAUX. Mr. President, I rise today in support of the amendment I have cosponsored with my distinguished colleagues Senator COHEN, Senator JOHNSTON, Senator MCCAIN, Senator FEINSTEIN, and Senator CHAFEE. I believe this amendment makes sense because it strikes a balance between unilateral sanctions against Burma and unfettered United States investment in that country.

Mr. President, the supporters of this amendment share the same objective as the supporters of unilateral sanctions. We all want to see an end to the

brutal, oppressive Burmese dictatorship and a return to a democratic government. No one will argue that the current regime in Burma is anything less than brutal, illegitimate and deplorable in almost every respect and recent events suggest that the government is escalating its oppression of the democratic opposition, even in the face of international condemnation. We all want to see the quick demise of this regime but we differ with opponents of this amendment on the way to bring this change about. In an effort to promote democratic change in Burma, this amendment prohibits new U.S. investment if the government rearrests or otherwise harms Aung San Suu Kyi, the most eloquent voice for democracy in that country.

Although the United States accounts for only ten percent of all foreign investment in Burma, allowing U.S. businesses to operate there will enable us to continue raising our concerns over human rights. I believe a U.S. voice in this process is critical if we are ever going to see real change in Burma. This amendment by the distinguished Senator from Maine also requires the President to work with our ASEAN allies and other trading partners to develop a comprehensive strategy to bring democratic change to Burma and improve human rights.

Mr. President, if our goal is to affect change in a foreign country, I don't believe unilateral sanctions are necessarily the right approach. We have seen what happens when the U.S. imposes unilateral sanctions. Our European and Asian allies are hesitant to follow suit and in this case, a U.S. withdrawal would just mean that foreign companies would fill the void when we leave. Abandoning our commercial interests in Burma will do nothing to advance human rights and democracy in that country which is the objective we all share. The U.S. already exerts pressure on the military regime in Burma by prohibiting U.S. economic aid, withholding GSP trade preferences, and decertifying Burma as a narcotics cooperating country, which requires us by law to vote against assistance to Burma by international financial institutions. This amendment takes the additional step of prohibiting new investment in Burma if the government commits large scale oppression against the democratic opposition. Our goal is to prevent repression of the democratically elected government and to promote a dialogue between their voices of democracy and the military regime.

This amendment has the support of Democrats and Republicans as well as the Administration. It is a reasonable compromise on a very difficult issue. I thank my colleagues who have worked on this amendment and I urge it adoption.

Mr. MURKOWSKI. Mr. President, I rise in support of the Cohen amendment on United States policy toward Burma. The current language within the foreign operations appropriations bill mandates immediate unilateral sanctions against Burma. The purpose of these sanctions is to punish Burma's ruling junta, the State Law and Order Restoration Council or SLORC, for failing to accede to the desire of the Burmese people for democracy and freedom and for its many past violations of basic human and civil rights.

I agree with the goals of Senator MCCONNELL and Senator MOYNIHAN. Not one person in this distinguished chamber will disagree that the United States has a clear national interest in seeing a democratically elected government in charge of a free society in Burma. The question is whether the immediate imposition of unilateral investment sanctions is the best policy to achieve that goal. I do not believe that they are.

First, Burma is not a throw-away issue. The wrong U.S. policy could substantially damage our relations with our close friends and our regional influence. The United States has a clear national security interest in balancing the rising influence of China in Asia. Our full engagement in southeast Asia is an integral part of that balance. Unfortunately, the administration has long been unable to articulate and clearly demonstrate the reliability of our long-term commitment to the region. In the face of this uncertainty, ASEAN is taking steps to ensure Burma and Vietnam become members to counterbalance Chinese influence. The U.S. willingness to work with them on Burma is seen as a key test case of the U.S. commitment.

Second, our allies do not support sanctions now and said as much to Presidential envoys Ambassador Brown and Mr. ROTH. Bringing Burma into ASEAN and the ARF force the SLORC to accept and live up to the values and responsibilities that membership entails in much the same way as NATO membership will require of the countries of central Europe. This approach establishes a forum for pressuring the SLORC to negotiate with Aung San Suu Kyi and other democracy movement leaders. Unfortunately, U.S. moral suasion on behalf of sanctions will have little impact unless the situation in Burma deteriorates dramatically. Expecting others to follow our lead even if it goes against their own cold calculation of national interests only ensures that we are falling on our own sword.

I want to make it clear that the SLORC and Burma are not the 1990's equivalent of apartheid in South Africa. South Africa relied on access to the outside world. Isolating them cut off the very roots of their export-oriented economy. For most of the past 30

years, Burma isolated itself from the world. Only now is Burma establishing ties with the outside world. Isolating them now would be about as effective as pruning a tree. In particular, United States investment in Burma—save for oil interests—is minimal and even its loss would have little impact because others will take our place. With South Africa, sub-saharan Africa was also united in support of sanctions. There is no similar regional mandate for action with Burma.

When sanctions were imposed against South Africa they were accompanied by extensive contact and assistance to the black community in South Africa and the NGOs working with them. The current language on Burma has none of that and would cut off our access and ability to support the democracy movement.

There are no potential incentives for the SLORC to work with Suu Kyi as none of the sanctions will be lifted until a fully democratically-elected government comes to power. But, as we saw in South Africa and before that in Poland, the movement to democracy is often a slow, tentative process and include transitional governments. If events unfold in a similar fashion in Burma, the current language has no means for easing or eliminating sanctions to cultivate the growth of democracy.

The current language would also give SLORC the wrong signal that it can do whatever it wants because we have already used up all our bullets.

OUR POLICY AND THE CURRENT AMENDMENT

Instead of the current draconian sanctions proposed in the legislation before us, we should adopt an approach that effectively secures our national interests. The Cohen amendment does just that.

One, it establishes a framework for United States policy towards Burma that stimulates intimate cooperation with our allies in the region, especially ASEAN, that is clearly in the national interest.

Two, it draws a clear line in the sand that should the situation in Burma deteriorate the United States and our allies would impose multilateral sanctions on Burma or the United States would go it alone if necessary. SLORC will be on notice and have to be on their best behavior.

Three, it provides incentives for SLORC and Suu Kyi and the other democratic leaders and ethnic minorities to start talking and move towards democracy and freedom. It would permit assistance to the democracy movement, support efforts to curb the flow of heroin, and ensure that Americans can visit, talk with, and influence the people in Burma as they have everywhere from the Albania to South Africa.

Four, it allows the President to remove sanctions and other restrictions

should there be progress towards the establishment of a full democratic government or if we are merely punishing U.S. investors.

Finally, it requires the administration to work closely with the Congress developing a multilateral strategy to bring democracy to Burma and in implementing the sanctions.

Mr. President. This is a solid strategy and bipartisan view of what the United States' policy towards Burma should be. It is a far better one than that currently envisioned in the legislation before us. I strongly urge my fellow colleagues to support this amendment.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Thirteen minutes fifteen seconds.

Mr. MCCONNELL. Mr. President, let me say that if my colleagues are looking for some ideological touchpoint on this issue, they will not find any. It is going to be an odd collection of players on both sides of the aisle.

As my senior colleague from Kentucky just indicated, the Clinton administration supports the Cohen amendment, and I oppose the Cohen amendment, along with Senator MOYNIHAN, from whom you have heard, Senator LEAHY who spoke earlier on the issue, and then Senator HELMS and Senator FAIRCLOTH also will be opposing the Cohen amendment.

So if you are looking for some ideological guidelines, you will not find any on this issue. So this would be a good vote upon which to just sort of set aside party label or ideological leaning and look at the facts and think about what America stands for.

The facts are these: In 1990, in Burma they had a Western-style, internationally supervised election. Eighty percent of the vote went to the National League for Democracy, a party organized around a dynamic leader that is becoming increasingly well-known in the world, Aung San Suu Kyi. As soon as the election was completed and it was clear who had won, the ruling military junta, supported by a 400,000-person army, used entirely internally to control the people of Burma, locked up most of the leadership and put Aung San Suu Kyi under house arrest. She was essentially incommunicado until July 1995, 2 days before a bill that I crafted and introduced was introduced here in the Senate last July.

They claim she was released. Well, it is some kind of release. She is allowed to address, from home, friends and supporters who come around sometimes on a weekly basis. But they do that at some risk. She does not feel comfortable communicating with the outside world. Yet, she smuggled out a tape a week ago for use at the European Union in their Parliament debate in which they call upon their members to institute unilateral sanctions.

So, clearly she does not feel comfortable to just sort of pick up the phone and call some reporter and say, "This is how I feel." But she has been getting her views out. She and the legitimate Government of Burma, much of it now in this country, support the provisions in the underlying bill and oppose the Cohen amendment. I have already put that letter, received today, in the RECORD.

I do not want to be too hard on the Clinton administration because, obviously, this is not a very partisan issue. We have people all over the lot on this question. But they are basically not interested in doing anything about this problem. But that does not distinguish them from the Bush administration, which had no interest either.

So there has been bipartisan neglect to address this problem. Neither administration has distinguished itself by ignoring a problem which I guarantee you, if there were a bunch of Burmese American citizens, we would have been bouncing off the walls 6 years ago over this. But there are not any Burmese American citizens. We have a lot of Jewish Americans who are interested in Israel, a lot of Armenia Americans who are interested in Armenia, and a lot of Ukraine Americans who are interested in Ukraine. Boy, when we hear from them, we get real interested. But you take some isolated country that did not have the immigration pattern to this country and somehow we act like it does not exist.

But with the Burmese regime, the State Law and Order Restoration Council, SLORC—you can hardly say it without laughing, but it is not funny—runs a terrorist regime in Burma. Some people may say, "Well, it is none of our affair." Sixty percent of the heroin in our country comes from Burma—60 percent of it. Heroin from Burma is tainting the lives of thousands of Americans. This regime cooperates with the people who send it here. So it does have a direct effect on Americans living here in this country as well as offending every standard that we have come to believe in and to promote around the world.

It is safe to say that the Burmese Government can be in a rather unique category with North Korea, Libya, Iran, and Iraq. It is just a small, little family here of truly outrageous regimes, and all the rest of them we have a great interest in and we have sanctions against or we are working to try to diminish the influence of in one way or another. But this country we seem to have no interest in.

The amendment of the Senator from Maine actually makes the situation worse, in my opinion. It will allow aid to this pariah regime to increase. In other words, in the opinion of the Senator from Kentucky, it is worse than current law because last year we voted to cut off a narcotics program in that

country because we did not have any confidence in dealing with this outlaw regime. This would make those dealings possible again should the administration decide to engage in it.

The second condition in the Cohen amendment which seems to me to be troublesome is it makes Aung San Suu Kyi's personal security the issue rather than the restoration of democracy. In other words, if you see that Aung San Suu Kyi is in trouble or there is large-scale trouble or violence, then you can take certain actions if you want to, but you do not have to because all of it can be waived.

In short, with all due respect to my good friend from Maine, it seems to me that this amendment basically gives the administration total flexibility to do whatever they want to do, which every administration would love to have. I can understand why they support this amendment. But looking at the track record of this administration and the previous one, given the discretion to do nothing, nothing is what you get. Nothing is what we can anticipate from this administration, and that is what we got from the last one.

Let me say this is not a radical step. Some people think that we should never have unilateral economic sanctions against anybody, but a lot of those people make exceptions for Cuba, for example. "Well, that is different," or they make an exception for a renegade regime like Libya.

The truth of the matter is we have occasionally used unilateral sanctions, and they have not always failed. I mean, it is very common to say they always fail. They do not always fail. In fact, we have a conspicuous success story in South Africa, a place where America led. When we passed the South Africa sanctions bill in 1986, which my good friend from Maine supported, and when we overrode President Reagan's veto, which both of us voted to override, we were not sure it was going to work. All of these arguments about unilateral sanctions were made then. Everybody said, "Well, nobody else will follow." In fact, everybody followed. America led and everybody else followed, and South Africa has been a great success story.

I think those followers are right around the corner. The European Union and the European Parliament took this issue up in July of this year—this month. Why did they get interested? Aung San Suu Kyi's best friend, a man named Nichols, a European who had been a consulate official in Rangoon for a number of different European countries, as the distinguished senior Senator from New York pointed out a minute ago, was arrested earlier this year. His crime was possessing a fax machine, and they killed him. He is dead; murdered.

So the Europeans all of a sudden have gotten interested in this because

one of their own has been treated by the Burmese military like it has been treating the Burmese people for years. Carlsberg and Heineken, two European companies, are pulling out. American companies and one oil company decided not to go forward, and all of the retailers who were either in there or on the way in are coming out—Eddie Bauer, Liz Claiborne, Pepsico are coming out. If America leads, others will follow.

Finally, let me say that this is what Aung San Suu Kyi would like, and she won the election. She is familiar with all the arguments that are made by those who do not want unilateral sanctions, that only the people of Burma will be hurt. She is familiar with those arguments. She does not buy it. She does not agree to it. This is what she has to say. She said:

Foreign investment currently benefits only Burma's military rulers and some local interests but would not help improve the lot of the Burmese in general.

She said in May this year, quoted in *Asia Week*:

Burma is not developing in any way. Some people are getting very rich. That is not economic development.

On Australia Radio in May of this year, she was quoted as saying, a direct quote:

Investment made now is very much against the interests of the people of Burma.

So, Mr. President, that sums up the argument. If America does not lead, no one will. If given total discretion, all indications are that this administration will have no more interest than the last one. The duly elected Government of Burma is in jail or under surveillance, and we do nothing. This is the opportunity, this is the time for America to be consistent with its principles.

So, Mr. President, I hope that the Cohen amendment will not be approved. I have great respect for my friend from Maine. But I think on this particular issue he is wrong, and I hope his amendment will not be approved.

Mr. President, last week, when she learned the European Parliament and European Union were debating a response to the death of their Honorary Consul, Leo Nichols, Aung San Suu Kyi was able to smuggle out a videotape appealing for sanctions against the military regime in Rangoon. This is the most recent of many courageous calls by the elected leader of Burma for the international community to directly and immediately support the restoration of democracy and respect for the rule of law in her country. She has repeatedly summoned us to take concrete steps to implement the results of the 1990 elections in which the Burmese people spoke with a strong, resolute voice, and the NLD carried the day.

Less we forget, the NLD did not squeak by with a 43 percent mandate as

did our sitting President—the leader of the free world. The NLD claimed 392 seats in the parliament winning 82 percent of the vote. Now that's a mandate.

Unfortunately, a shining moment for democracy has been blackened by a ruthless dictatorship. To this day, the generals who make up the State Law and Order Restoration Council [SLORC] maintain a chokehold on Burma's life.

Burma is a battleground between democracy and dictatorship, between those who believe in open markets and those who openly market their self-enriching schemes, between the many who embrace freedom and the few who breed fear, and between Suu Kyi's supporters and SLORC's sycophants.

There are few modern examples where our choice is so stark, where the battle lines are so sharply drawn.

Shortly after her appeal to the U.N. Commission on Human Rights, Suu Kyi called the elected members of the 1990 Parliament to meet in Rangoon. True to her commitment to be inclusive of all Burmese, she even invited SLORC supporters who had been elected.

SLORC's response was swift and devastating. In a matter of 48 hours they rounded up over 200 members of the NLD. If the member was absent when troops arrived for the arrest, a family member was detained instead. While each and every arrest was outrageous, I want to call attention to one which ended tragically.

As many people know, Suu Kyi's father died when she was quite young. In stepped Leo Nichols. He assumed an important role in her life offering friendship and support. He was often referred to as her godfather. The closeness of their relationship was reflected in the fact that following her release last July, Suu Kyi had breakfast every Friday morning with her "Uncle Leo".

Sixty-five years old, Leo Nichols was picked up in the April sweep and charged with the illegal use of a fax machine. Even the State Department acknowledged that his relationship with Suu Kyi was the motive behind his arrest. For his crime he was sentenced to 3 years prison. Suffering from a heart condition, he was denied medication and kept in solitary confinement at Insein Prison until June 20, when he was transferred to Rangoon General Hospital. An hour later he died, according to SLORC of a cerebral hemorrhage. He was immediately buried, with family and friends warned not to attend the funeral.

Given his transfer, death, and hasty burial, accounts of his torture have been difficult to confirm. There has been claims that he was badly bruised and beaten—true or not, there is no question his detention contributed to his death, reconfirming the brutal nature of this regime.

Leo Nichols is not SLORC's only victim. There is no question that arbi-

trary killings, detentions, torture, rape, and forced labor and relocations are tools routinely abused to secure SLORC's position, power and wealth. The U.N. Special Rapporteur for Burma has investigated and documented the abuses in several reports which I urge my colleagues to read.

Nonetheless, some may argue that Burma is too far away from the United States to warrant any interest, time, or attention. But, there are compelling reasons for every community and politician to be concerned about developments in Burma beginning with our drug epidemic.

The 1996 International Narcotics Control Report makes the following points:

Burma is the world's largest producer of opium and heroin;

Opium production has doubled since SLORC seized power;

Burma is the source of over 60 percent of the heroin seized on our streets; and

SLORC is making less and less effort to crack down on trafficking, in fact there has been an 80 percent drop in seizures and the junta is actually offering safe haven to Khun Sa, the regions most notorious narco-warlord.

Now this is a regime with over 400,000 armed soldiers, evidence that if SLORC wanted to crack down on trafficking, they clearly have the means to do so.

The Golden Triangle's deadly exports initially caught my eye, but it is the administration's policy—or lack thereof—which fixed my gaze. This is one of the few occasions where the White House has been consistent; unfortunately, they have been consistently wrong.

As Suu Kyi has repeatedly emphasized since her release, Burma today is not one step closer to democracy. Indeed, I think the situation has seriously, dangerously, and unnecessarily deteriorated.

In November 1994, after a long, disheartening silence, Deputy Assistant Secretary of State Tom Hubbard, traveled to Rangoon to issue an ultimatum. The administration called international attention to their new, tough line. SLORC was expected to make concrete progress in human rights, narcotics, and democracy. If they were appropriately responsive, they could expect improved ties. If not, in Hubbard's words, "the U.S. bilateral relationship with Burma could be further downgraded."

As most of us learn early in life, you don't taunt a bully. SLORC moved swiftly to call our bluff. Major attacks were launched against ethnic groups, generating tens of thousands of refugees. Democracy activists were rounded up, tortured, and killed. Negotiations over Red Cross access to prisoners ground to a halt, prompting the organization to close its office in Rangoon. And, the administration remained strangely silent.

As the situation worsened, there was another burst of interest, and Madeleine Albright was dispatched to repeat the message. This time it was underscored with a personal meeting and statement of support for dialog with Suu Kyi. Those of us who follow Burma were hopeful that our U.N. Ambassador with a reputation for toughness would press forward with a clear strategy.

Sadly, again, SLORC rose—or should I say sunk—to the occasion. As the noose tightened around Suu Kyi and the NLD, the administration remained silent.

In the wake of the April sweep against the NLD, there was stepped up grass roots interest in sanctioning Burma. To preempt these calls, once again the administration dispatched officials to size up the situation. This time, instead of visiting Rangoon, they traveled the region.

A stinging column carried in the Nation, characterized the American approach as "outspoken and critical but its repeated messages or threats often carry no weight because of a lack of back up action. It is a typical case of words not being matched with deeds."

The column quoted a senior Thai official who suggested the trip was "a conspiracy to thwart attempts by the U.S. Congress to pass an economic sanctions bill which is gaining growing support." The official went on to note "The American government is good at making empty threats and last week's trip is just another example."

In briefings following up the trip, the State Department made clear that the Special Envoys were not dispatched with a specific message—they had no orders to press any agenda for action—and as the Nation so clearly stated: "The two failed to spell out, in concrete terms, possible U.S. retaliatory measures."

After hollow policy pronouncements and weak-willed waffling from the administration, SLORC is convinced it will pay no price for repression. We are left with few real options with the potential for success.

The business community understandably prefers the status quo. They suggest that our ASEAN partners will not support a strategy of escalating isolation. A tougher line will only result in a loss of market share to our French, Italian, or other competitors.

But, let me point out, just as the call for sanctions has grown stronger in the United States, it has resonated through corporate halls and the corridors of power in Europe.

The European Parliament has called upon its members to take action to suspend trade and investment in Burma. The European Union has taken up legislation suspending visas and all high level contacts with the Burmese.

Heineken and Carlsberg have pulled out in response to public pressure. And, in an important development, the Danish Government has sold off all its

holdings in TOTAL, the French oil company with the largest investment in Burma. In announcing its decision, a spokesman for the fund said it was made in anticipation of "a possible international boycott of TOTAL due to its engagement in Burma and because of a televised report showing the intolerable living conditions in that country."

In this context, U.S. sanctions are hardly a radical step. In fact, I think it would be an unprecedented embarrassment to all this Nation represents to fall behind the European effort in supporting Burma's freedom.

In addition to suggesting that sanctions will only hurt U.S. business, opponents of my legislation argue economic progress will yield political results. This is Vietnam, they say. Burma is like China.

Well, I am a vocal advocate of MFN for China. I have supported normalizing relations with Vietnam. In both instances, we have effectively used an economic wedge to pry open access to totally closed societies. Trade is an important tool in these two cases because it is our only tool.

Burma is quite different. In Burma, millions of people turned out to vote for the NLD. The fact that they were robbed of the reward of free and fair elections defines both America's opportunity and obligation.

The appropriate analogy with Burma is not China or Vietnam, it is South Africa where our application of sanctions clearly worked, just ask Nelson Mandela. That is the course I recommend the United States pursue.

In 1996, the advocates for democracy in Burma are facing the same challenges as the 1986 opponents of apartheid. I heard exactly the same arguments then, as I do now. Let me draw some parallels for you.

When Senators ROTH, DODD, and I introduced the first sanctions bill a decade ago, both the Reagan administration and the business community argued the political value of our sizable capital investment.

U.S. investment was a meaningful catalyst for change. Major American corporations called attention to their hiring policies, scholarship programs, and contributions to hospitals, schools, and community development projects.

In sum, I was told that withdrawing U.S. investment would hurt, not help, the common man. Not so, says Bishop Tutu. In an April letter to the Bay Area Burma Roundtable he said, "The victory over apartheid in South Africa bears eloquent testimony to the effectiveness of economic sanctions."

There are other, relevant parallels. South Africa was the African fault line in our cold war struggle for power. With Soviet proxy forces engaged in neighboring conflicts in Angola and Mozambique, South Africa assumed an important position in our regional security strategy.

The Chinese colonization of Burma should sound similar alarms. If there is a single issue which should cause our ASEAN partners deep concern, it is the expanding military and political ties between Rangoon and Beijing. Like South Africa, Burma may not represent an immediate security problem, but the long term regional trends demand our attention.

In South Africa, there was a grassroots, well-organized, vocal African-American constituency supporting sanctions.

In Burma, the constituency should be every American community concerned by our drug epidemic.

In South Africa, good corporate citizens developed a corporate conscience and pulled out.

In Burma, Amoco, Columbia Sportswear, Macys, Eddie Bauer, Liz Claiborne, Levi Strauss, and now Pepsi have answered the call to divest.

In South Africa, sanctions affected substantial, longstanding foreign investment.

In Burma, less is at stake and sanctions are largely preemptive.

But, American investment—however little—is still propping up a few generals. We are not improving the quality of life for most Burmese. U.S. capital is simply subsidizing global shopping sprees for a handful of SLORC officials and their families.

Just as SLORC has increased pressure on Burma's democracy movement, we must increase pressure on SLORC. I believe the time has come to ban U.S. investment and aid and oppose any international lending to this pariah regime. We should cut off the source of SLORC's power.

Several weeks ago, Suu Kyi noted: There is a danger that those who believe economic reforms will bring political progress to Burma are unaware of the difficulties in the way of democratization. Economics and politics cannot be separated, and economic reforms alone cannot bring democratization to Burma.

She has emphatically opposed any foreign investment, calling instead for the international community to take firm steps to implement the 1990 elections. And, while she has stressed the NLD's commitment to solving political problems through dialogue, she recently warned the world that she was not prepared to stand idly by as SLORC attacked her supporters.

Shortly after these remarks, SLORC surrounded her compound with razor wire, effectively cutting off the thousands of loyal and peaceful citizens who make a weekly pilgrimage to hear her speak.

Suu Kyi is prepared to accept her rearrest. Although she is under constant surveillance and severely limited in her movements, she has not chosen to join her husband and children in exile. Aung San Suu Kyi has sacrificed over and over again to secure Burma's freedom.

Let us hope it will not take the sacrifice of her life to impel this administration to assume the mantle of leadership, fitting for the only remaining superpower, and chart a course for the ship we captain called liberty.

How much time do I have remaining? The PRESIDING OFFICER. The Senator has 45 seconds.

Mr. MCCONNELL. I will reserve the 45 seconds.

Mr. COHEN addressed the Chair. The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. How much time is remaining?

The PRESIDING OFFICER. The Senator has 6 minutes and 53 seconds.

Mr. COHEN. Mr. President, I ask unanimous consent that Senator THOMAS be added as a cosponsor to the Cohen amendment.

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

Mr. COHEN. Mr. President, as my friend from Kentucky has indicated, we have to set aside ideology on this particular vote, that and labels. He would have you believe that those who support the Cohen-Feinstein-Chafee amendment are for repression, for dictators, for brutality, for house arrests, against sanctions, against morality, against protecting Aung San Suu Kyi, against democracy.

My friends, it is not nearly so simple. And perhaps I have overstated the statements of my friend from Kentucky, but when we have allegations made that this is a profound moral choice, that this measure that I offer would, in fact, negate the impact of sanctions upon this particular regime, that it would lend support to the military junta—and we have heard statements made by our colleague from New York that adoption of the Cohen amendment would, in fact, aid and comfort the enemies of democracy—I must speak out with some vigor on such suggestions, or even implication.

We heard talk about the European Parliament boycotting Burma. Well, the European Union said no. As a matter of fact, there is a report in papers as of yesterday: "A Danish proposal for sanctions against Burma was toned down last week to one condemning the Government of SLORC." So they toned it down from sanctions to simply condemning, and we condemn them.

It was said that Mickey Kantor favors the subcommittee's approach, our Trade Representative favors it. I do not understand that. We have a letter introduced on behalf of the administration that the White House supports the approach that I and Senators FEINSTEIN and CHAFEES and others have taken.

No one has fought harder, if we talk about ideals, than our colleague from Arizona, Senator MCCAIN. He spent more than 6 years in prison keeping that flame of idealism alive, representing this country in a way that few of us

can even begin to contemplate, and yet he is supporting the approach that I am suggesting.

Those of us who are urging the support of this amendment are, in fact, calling for sanctions. We are calling upon our administration to impose sanctions, to not issue visas—except those required by treaty—to any government official from Burma. We are insisting that we cast a vote of “no” on any international lending organization loans to Burma. We are saying that if they make any attempt to imprison or harass Aung San Suu Kyi, sanctions go into effect immediately, that no further business can enter that particular country.

We are for sanctions. We are for, however, limited exemptions in the field of human rights, certainly for humanitarian assistance. Does anyone here want to cut off an attempt to feed starving people?

On counternarcotics: We have heard by just the last vote, an overwhelming vote, of our concern about narcotics coming into this country. Over two-thirds of all the heroin production in the world is coming out of Burma, are we saying let us walk away? Do we not want to engage in any way, even if it is certified by the administration that the SLORC is cooperating to try to reduce the flow of narcotics coming into our country? Is that what we want to go on record in favor of? Do we want to deny funding for the National Endowment for Democracy, organizations that people like Senator MCCAIN are actively involved in, that actively promote change by the Burmese junta?

My amendment tries to carve out a narrow exemption to give some flexibility to this administration or the next administration, not simply to look to the past and punish this junta for past deeds, but rather to see if there is any way we can use whatever leverage we have, and it is very small, to encourage this junta to come into the 21st century of pro-democratic activity.

It has been suggested that we have commercial interests in mind. I do not represent any oil companies. I do not have any business interests in mind. What I am asking is, what is the most effective way to produce change? Do sanctions work? Yes and no. They worked in South Africa because the world supported it. The frontline countries in Africa supported it. The frontline countries in Asia do not support this action by the subcommittee. Iran is another exception where sanctions can and do work. It is a terrorist-sponsoring nation, destabilizing its region, and so there is world condemnation of Iran.

And China, let me just mention China. Mr. President, I was looking through my desk here while the debate was going on, and I came across some interesting remarks made by my

former colleague from Maine, Senator Mitchell, some years ago in 1991–92, when debating China. He said something at that time that I think may bear some relevance here today. He said:

The year-long renewal of most-favored-nation trade status for China has brought the world precisely nothing in the way of reform in the Chinese regime.

It has not encouraged the Chinese regime to respect the human rights of any Chinese citizen.

It has not emboldened the Chinese Government to broaden its experiments with a market economy beyond one province.

That was said back in 1991, and then again in 1992. He may have been right at that time as far as his perception, but things have changed in China. They are now, in fact, making changes in Shanghai. They are now providing a legal system based upon ours, they are giving an accused individual a right to an attorney before he can be arrested and apprehended. They are making vast changes. It comes about more slowly there, not nearly as fast as we would like, but change has occurred.

Yes, we are standing up to our ideals on the issue of democracy in Asia, but when you talk to the Chinese they say, you talk about ideals. For 200 years you enslaved people. You put people in chains. You treated them like sub-humans. You robbed them of their families and their dignity and their lives, and it was not until about 30 years ago you finally decided to change. Give us an opportunity to bring about change in this region. Do not lecture us that you achieved your ideals all in one period of time.

So it took time for us to change over here. What we are saying with our amendment is that we can make more change in Burma from within than from without, and we can bring Burma out from the dark ages of repression into the sunlight of the 21st century and pro-democratic activity. We can do this not by trying to turn away, and trying to isolate them—because we cannot do it effectively—but by having some limited contact from within.

Mr. President, I suggest that the passage of my amendment will accomplish the goals that we all want to change the military dictatorship's activity.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, with all due respect to my good friend from Maine, his amendment makes everything permissible or able to be waived. There is no indication that this administration is interested, and, frankly, nor was the last one, in tightening the screws on Burma. If we want to do something about a pariah regime in Burma, tonight is the time. This is the vote. I hope all my colleagues will oppose the Cohen amendment.

Mr. President, I ask unanimous consent that a list of boycott resolutions,

a list of letters supporting sanctions, and a group of editorials, be printed in the RECORD.

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

BOYCOTT RESOLUTIONS

American Baptist Convention.
State of Massachusetts.
San Francisco, Oakland, Berkeley, CA.
Santa Monica, CA.
Ann Arbor, MI.
Chicago, IL.
Madison, WI.
Seattle, WA.

LETTERS SUPPORTING SANCTIONS

National Coalition Government of the Union of Burma
AFL-CIO
UAW
Bishop Tutu
Betty Williams, Huntsville, TX, Nobel Laureate, 1976
Asia American Civic Alliance of Florida
Kachinland Projects for Human Rights and Democracy of Illinois
Democratic Burmese Student Organization
United Front for Democracy and Human Rights

[From The Boston Globe, June 19, 1996]

WELD'S OPPORTUNITY

Awaiting Gov. William F. Weld's signature is a bill that would prohibit the commonwealth from purchasing goods or services from companies that do business with the illegitimate military dictatorship ruling Burma. Weld should sign this bill, not because it might work to his advantage in the U.S. Senate contest with John F. Kerry, but because this is legislation that embodies a principle of democratic solidarity rooted deep in the American tradition.

The people of Burma voted overwhelmingly in 1990 for the party of Nobel Peace Prize winner Aung San Suu Kyi. Although her National League for Democracy won more than 80 percent of the seats in Parliament, the State Law and Order Restoration Council, or SLORC, thwarted the will of the voters by seizing power and conducting a reign of terror. The junta profits from a narcotics trade that exports more than 60 percent of the heroin sold on the streets of American cities. And because the uniformed thugs of SLORC have accumulated tremendous debt, they are dependent upon foreign aid and investment and are desperately trying to counter a grass-roots campaign for American sanctions.

The timing of Weld's opportunity could not be more fortuitous. State Rep. Byron Rushing's Selective Contracting bill, modeled on legislation that helped end apartheid in South Africa, reaches the governor at a time when thousands of Burmese democrats have been risking their lives each weekend to attend gatherings at Suu Kyi's house in Rangoon, and when the Clinton administration has dispatched envoys to Asian and European capitals to make the case for multilateral sanctions.

If the envoys fail in their mission, a Senate bill proposed by Mitch McConnell, Republican of Kentucky, and co-sponsored by Democrats Patrick Moynihan of New York and Patrick Leahy of Vermont, will ask the United States to take the lead, as it once did for the people of Poland.

Weld has a chance to help protect Suu Kyi and her followers and to encourage Washington to do the right thing.

[From the New York Times, June 15, 1996]

BURMESE REPRESSION

The Burmese military junta has outdone itself in advertising its own crude ineptitude. Frustrated by the popularity and prestige of their democratic opponent, Daw Aung San Suu Kyi, the generals have now erected huge red billboards denouncing the 1991 Nobel Peace laureate as a foreign stooge. But every Burmese knows that Mrs. Aung San Suu Kyi endured years of house arrest rather than leave the country her father helped free from foreign rule. The real threat to the Burmese people is the junta, formally known as the State Law and Order Restoration Council, or SLORC.

The billboard blitz follows the recent detention of some 250 members of Mrs. Aung San Suu Kyi's National League for Democracy, the undoubted winner of 1990 elections the SLORC then nullified. When, despite the crackdown, she attracted larger and larger crowds for speeches from her house, the junta responded with a decree banning virtually all political activities. So unwarranted were these measures that even diffident Thailand and Japan have condemned Burmese human rights abuses. Japan is the largest outside aid donor to the country the SLORC has renamed Myanmar.

Washington has commendably taken the lead in generating support for more effective collective measures to help the beleaguered Burmese democrats. The Clinton Administration has sent two senior diplomats, William Brown and Stanley Roth, to sound out Myanmar's neighbors on taking stronger political and economic measures against the SLORC. The mission itself may help deter still harsher repression. Its findings may also determine the feasibility of a ban on new American investment, as proposed by Senator Mitch McConnell of Kentucky, which the Administration is still weighing.

When the SLORC lifted Mrs. Aung San Suu Kyi's house arrest last year, there was hope that the generals might loosen their stranglehold on Myanmar. Unhappily, that has not proved to be the case. Until the Burmese junta frees its political prisoners and enters into genuine negotiations with Mrs. Aung San Suu Kyi and her supporters, it merits the strongest international condemnation.

[From the Washington Post, July 20, 1996]

BURMA BEYOND THE PALE

On June 22, James "Leo" Nichols, 65, died in the Burmese prison. His crime—for which he had been jailed for six weeks, deprived of needed heart medication and perhaps tortured with sleep deprivation—was ownership of a fax machine. His true sin, in the eyes of the military dictators who are running the beautiful and resource-rich country of Burma into the ground, was friendship with Aung San Suu Kyi, the courageous woman who won an overwhelming victory in democratic elections six years ago but has been denied power ever since.

Mr. Nichols's story is not unusual in Burma. The regime has imprisoned hundreds of democracy activists and press-ganged thousands of children and adults into slave labor. It squanders huge sums of arms imported from China while leading the world in heroin exports. But because Mr. Nichols had served as consul for Switzerland and three Scandinavian countries, his death or murder attracted more attention in Europe. The European Parliament condemned the regime and called for its economic and diplomatic isolation, to include a cutoff of trade and investment. Two European breweries,

Carlsberg and Heineken, have said they will pull out of Burma. And a leading Danish pension fund sold off its holdings in Total, a French company that with the U.S. firm Unocal is the biggest foreign investor.

These developments undercut those who have said the United States should not support democracy in Burma because it would be acting alone. In fact, strong U.S. action could resonate and spur greater solidarity in favor of Nobel peace laureate Aung San Suu Kyi and her rightful government. Already, the Burmese currency has been tumbling, reflecting nervousness about the regime's stability and the potential effects of a Western boycott.

The United States has banned aid and multilateral loans to the regime, but the junta still refuses to begin a dialogue with Aung San Suu Kyi. Now there is an opportunity to send a stronger message. The Senate next week is scheduled to consider a pro-sanctions bill introduced by Sens. Mitch McConnell (R-KY.) and Daniel Patrick Moynihan (D-N.Y.). This would put Washington squarely on the side of the democrats. Secretary of State Warren Christopher, who will meet next week with counterparts from Burma's neighbors, should challenge them to take stronger measures, since their policy of "constructive engagement" has so clearly failed.

The most eloquent call for action came last week from Aung San Suu Kyi herself, unbowed despite years of house arrest and enforced separation from her husband and children. In a video smuggled out, she called for "the kind of sanctions that will make it quite clear that economic change in Burma is not possible without political change." The word responded to similar calls from Nelson Mandela and Lech Walesa. In memory of Mr. Nichols and his many unnamed compatriots, it should do no less now.

[From the Washington Post, May 28, 1996]

THE BULLIES OF BURMA

The thuggish military men who rule Burma have now rounded up more than 200 democracy activists who were planning to meet last weekend. Again they show their regime, which goes by the appropriately unappetizing acronym SLORC (State Law and Order Restoration Council), to be worthy only of international contempt.

To the extent that Americans are at all familiar with Burma's plight, it is thanks to the courage of Aung San Suu Kyi, leader of the nation's democracy movement. Her National League for Democracy won an overwhelming victory in parliamentary elections in 1990, but SLORC refused to give up power, putting her under house arrest and jailing many of her colleagues. Although Aung San Suu Kyi was nominally freed last July, after winning the Nobel Peace Prize, the regime has refused even to begin talks on a transition to democratic rule.

It was to celebrate, as it were, the sixth anniversary of those betrayed elections that Aung San Suu Kyi called a meeting. In fear of the democrats' popularity, SLORC rounded up many of her supporters, including should-be members of parliament. This is far from SLORC's only abuse. Even before the latest events, hundreds of political prisoners remained in jail, according to Human Rights Watch/Asia. The regime promotes forced labor, press-ganging citizens to act as porters in areas of armed conflict and to build roads, according to the U.S. State Department. It has built a massive army, equipped mostly by China. And Burma is the world's chief source of heroin.

The United States already has barred official aid or government loans to Burma and

has influenced the World Bank and other multilateral organizations to follow suit. Now Sen. Mitch McConnell of Kentucky wants to bar private investment as well, a step supported by many of Burma's democrats. U.S. firms are the third-largest investors, Sen. McConnell said, led by Unocal Corp., which is helping develop Burma's natural gas fields. The structure of the dictatorship ensures that much of the benefit of foreign investment goes into the generals' pockets.

The most active proponents of trade, investment and engagement with Burma have been its neighbors in Southeast Asia. A nation of 42 million with high literacy rates and abundant natural resources, Burma cannot be ignored. But after SLORC's latest abuses, the burden is on those advocates of "engagement" to show what they have achieved and explain why sanctions should not be tightened. As much as South Africa under apartheid, Burma deserves to be a pariah until SLORC has given way.

Mr. McCONNELL. Mr. President, is all time used up?

The PRESIDING OFFICER. All time has expired.

Mr. McCONNELL. I move to table the Cohen amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to lay on the table amendment No. 5019, offered by the Senator from Maine [Mr. COHEN]. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced, yeas 45, nays 54, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—45

Abraham	Frahm	Lautenberg
Bennett	Frist	Leahy
Biden	Gorton	Levin
Boxer	Gramm	Lugar
Bradley	Grassley	Mack
Brown	Gregg	McConnell
Bryan	Harkin	Moynihan
Bumpers	Hatch	Pell
Byrd	Hatfield	Pressler
Campbell	Helms	Robb
Coverdell	Jeffords	Sarbanes
D'Amato	Kassebaum	Shelby
DeWine	Kennedy	Smith
Faircloth	Kerry	Specter
Feingold	Kohl	Wellstone

NAYS—54

Akaka	Dodd	Kempthorne
Ashcroft	Domenici	Kerrey
Baucus	Dorgan	Kyl
Bingaman	Feinstein	Lieberman
Bond	Ford	Lott
Breaux	Glenn	McCain
Burns	Graham	Mikulski
Chafee	Grams	Moseley-Braun
Coats	Heflin	Murkowski
Cochran	Hollings	Murray
Cohen	Hutchison	Nickles
Conrad	Inhofe	Nunn
Craig	Inouye	Pryor
Daschle	Johnston	Reid

Rockefeller
Roth
Santorum
Simon

Simpson
Snowe
Stevens
Thomas

Thompson
Thurmond
Warner
Wyden

NOT VOTING—1

Exon

The motion to lay on the table the amendment (No. 5019) was rejected.

Mr. COHEN. I move to reconsider the vote.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 5019 offered by the Senator from Maine.

The amendment (No. 5019) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. We can see the light at the end of the tunnel.

AMENDMENTS NOS. 5079 THROUGH 5082, EN BLOC

Mr. McCONNELL. Mr. President, we have more amendments agreed to which I will send to the desk at this point, a Helms amendment on deobligation of funds, a Bingaman amendment on Burundi, two amendments by Senator ABRAHAM, one on ASHA and one on geological surveys.

Mr. President, I send those amendments to the desk and ask that they be considered, en bloc.

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

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes amendments numbered 5079 through 5082, en bloc.

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. 5079 through 5082) are as follows:

AMENDMENT NO. 5079

(Purpose: To require the deobligation of certain unexpended economic assistance funds)

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 4 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."

Mr. HELMS. Mr. President, the Senate today is considering an \$11 billion foreign aid appropriations bill for fiscal year 1997. To hear the almost hysterical hue and cry about the so called devastating cuts in foreign aid—which is simply not so—some Americans may be misled to believe that the Agency for International Development [AID] will go broke if it does not receive its \$7.5 billion portion of this expensive foreign aid pie.

That, as I say, is simply not true—it is not even in the ballpark of accuracy. You see, Mr. President, much of this foreign aid money—all of it taken from the pockets of the hardworking American people—will be sitting for the next several years in what is known in Washington as a pipeline. This pipeline, which today contains more than \$6.7 billion, will allow AID to continue its spending orgy for years to come—even if Congress cut every penny from AID's budget this year. Simply put, this pipeline is the best-kept secret among the bureaucrats at the Agency for International Development—the foreign aid giveaway mechanism.

The pending amendment, which I am offering on behalf of myself and the distinguished majority leader, Mr. LOTT, proposes to reduce the amount of money in the AID pipeline by requiring that all money remaining for more than 4 fiscal years in the pipeline be returned to the U.S. Treasury. In its

study of Agency for International Development's pipeline, the General Accounting Office has recommended that un-used foreign aid be returned after 2 years. If enacted, this amendment would cut nearly \$1 billion from foreign aid.

Mr. President, you see that \$3.2 billion provided by Congress to AID in fiscal year 1995 remains unspent; more than \$1.6 billion from fiscal year 1994 has yet to be spent. This hidden reservoir of funds dates back even to foreign aid approved by Congress in 1985—more than a decade ago—which has been reposing all the while in the pipeline.

Why does all this money remain in the pipeline? Well, according to a 1991 General Accounting Office study, half of this money is unspent due to unrealistic or deliberately overstated project assessments by AID employees. But there is another reason for the existence of this pipeline. AID simply has received too much money over the years and, rather than admit that it cannot spend the money wisely, AID bureaucrats simply have stashed the money away in its secret bureaucratic pipeline until someone figures out a creative way to give it away.

Larry Byrne, AID's assistant administrator for management, in a 1995 internal E-mail spoke volumes about how the AID does business. According to Mr. Byrne, AID is "62 percent through this fiscal year and we have 38 percent of the dollar volume of procurement actions completed; we need to do \$1.9 billion in the next 5 months. So let's get moving." This AID administrator, Mr. Byrne, warned that this money in the AID pipeline, "imperils our ability to argue we need more money."

Lest anyone believe that this huge pipeline is merely an isolated problem, perhaps some details regarding AID's pipeline in various countries will be of interest. Mr. President, I ask unanimous consent this chart be printed in the RECORD.

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

AID'S HIDDEN SLUSH FUND

Country	Pipeline through 1996
Egypt	\$1.93 billion
Russia	566 million
Philippines	330 million
Ukraine	217 million
South Africa	205 million
India	192 million
Mozambique	72 million
Peru	71 million
Bolivia	63 million
Bangladesh	59 million
Total AID pipeline	6.75 billion

Source: AID Fiscal Year 1996 Statistical Annex.

Mr. HELMS. So, Mr. President, this pipeline affects almost all of the 101 countries to which AID hands out the American taxpayers' money. For example, the pending bill provides more than \$800 million in economic aid to

Egypt, despite the fact that more than \$1.9 billion in previously-appropriated foreign aid, lingers to this day in Egypt's pipeline. This bill allows more money for Russia—yet this nation has already received, but not yet spent, \$566 million in United States foreign aid. India has \$102 million in un-used foreign aid. At the current rate of spending all new foreign aid obligations to India could cease and it could still receive United States foreign aid uninterrupted for at least 3 more years.

The list goes on and on. The Philippines has \$330 million in unspent United States foreign aid; Peru has \$71 million. All told, a whopping \$6.7 billion in U.S. tax dollars—some more than a decade old—remains unspent. The pending amendment proposes that \$1 billion in surplus foreign aid will be returned to the Treasury, thereby reducing the amount Americans are forced to pay for the spiraling Federal debt.

I will conclude by providing what I consider one of the most egregious abuses of AID pipeline. In 1991—5 years ago—President Bush ordered all foreign aid to Pakistan be ceased because of that nation's development of a nuclear bomb. Apparently, the bureaucrats at the Agency for International Development did not get the message because, as recently as 1995, AID spent more than \$27 million for projects in Pakistan. This year, AID plans to provide more than another \$5 million. So, despite the President's decision to cut all foreign aid to Pakistan in 1991, AID's pipeline continues to gush with surplus giveaway money that the American taxpayers have been forced to provide.

Mr. President, the American taxpayers have been forced to provide more than \$250 billion in development and economic aid since AID was created, as a temporary agency in 1961. And AID certainly appears to be doling out cash to any number of nations around the world by making certain that this pipeline of foreign aid will continue to flow well into the next century.

Mr. President, I submit that it's high time that we do something for Americans. This amendment offers a fine opportunity: It will return to the U.S. Treasury \$1 billion in unspent—and unneeded—foreign aid.

AMENDMENT NO. 5080

(Purpose: To express the Sense of the Senate in opposition to the military overthrow of the government of Burundi and to encourage the swift and prompt end to the current crisis, and for other purposes)

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.

AMENDMENT NO. 5081

(Purpose: To provide for \$15,000,000 earmarked for the American Schools and Hospitals Abroad Program from the Development Assistant Account)

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".

AMENDMENT NO. 5082

(Purpose: To provide for \$5,000,000 earmarked for a land and resource management institute to identify nuclear contamination at Chernobyl)

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

The amendments (Nos. 5079 through 5082) were agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motions to lay on the table were agreed to.

AMENDMENT NO. 5026, AS MODIFIED

Mr. MCCONNELL. Mr. President, I ask unanimous consent that I be allowed to modify amendment No. 5026.

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

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

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is 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 previously authorized: *Provided further*,".

Mr. MCCONNELL. Mr. President, I ask unanimous consent that we com-

plete the debate on Senator BROWN's NATO amendment, that we lay that aside, and proceed to the debate on the Coverdell amendment, with 40 minutes equally divided, at which point we proceed to two rollcall votes.

The PRESIDING OFFICER. Is there objection?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I certainly do not want to hold up the Senate. I would be happy to work out anything that is fair to the parties. I have a statement on an amendment that the managers accepted. I would be happy to do it tomorrow or after—I need about 10 minutes.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. If I could just indicate to the Senate, there is a good chance that the two votes I just mentioned are the last two rollcall votes before final passage. So we are getting very close to the end.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Reserving the right to object, it is my understanding that the Senator from Colorado will be speaking to this. The Senator from Delaware and the Senator from Colorado and I have worked out the problems that we had with the Brown amendment. I understood the unanimous consent to include that as a rollcall vote. It is not my desire to have a rollcall required. The Senator from Colorado is planning on modifying his amendment, so I believe it would be wise to withhold any request for a unanimous consent for a rollcall vote until such time as the amendment is modified.

Mr. REID. Reserving the right to object, I know the leader has a lot of things to do. Everyone has places to go. I have been around here all day. As I indicated, if I could have some time tomorrow to do this, I will do it, or some time at a reasonable hour of the night. But I am not going to agree to final passage until I make a statement on something I think is extremely important.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, reserving the right to object on two points. The first, like the Senator from Nevada, I rise in part to thank the managers of the bill for accepting earlier in the day an amendment I offered with several colleagues to draw attention to the continuing freedom of indicted war criminals in Bosnia, and to urge we continue to make their apprehension and movement to the Hague a priority for all signatories.

I appreciate if at some point, either before final passage or as the Senator from Nevada has indicated, on a date certain tomorrow, to be able to speak at greater length on that matter.

Reserving the right to object, if I may ask the Senator from Kentucky, through the Chair, along with several colleagues I filed an amendment to reallocate funds for the Korean Peninsula Energy Development Organization. These two colleagues I believe were considering a second-degree amendment, and I wanted to state to the Senator from Kentucky with respect to that, I intend and hope to raise that matter before final passage.

Mr. MCCONNELL. Mr. President, let me say I am aware that is not quite tied up yet. My understanding was those discussions were underway.

With regard to the Senator from Nevada, there will be an opportunity for him to speak tonight, but I would like to move ahead on the votes. There will be plenty of opportunity to speak tonight.

Mr. REID. Further reserving the right to object, I am willing to come in early some time tomorrow for morning business.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from Kentucky?

Mr. LEAHY. Mr. President, would the Senator from Kentucky add to his request that before we start the Coverdell and the other matters, that the Senator from New Mexico, Mr. BINGAMAN, would have 2 minutes to speak on an amendment that has already been accepted.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Senator BINGAMAN be allowed to proceed for 2 minutes on an amendment we just passed, prior to the time running on the Brown NATO amendment and the Coverdell amendment.

Mr. REID. Mr. President, again, am I going to be allowed to speak, then, before final passage?

Mr. MCCONNELL. We do not have a time set for final passage. It should be no problem.

Mr. REID. No objection.

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

AMENDMENT NO. 5080

Mr. BINGAMAN. Mr. President, I wanted to just speak very briefly about the amendment that was earlier agreed to here in the Senate. It is an amendment cosponsored by Senator KASSEBAUM, Senator SIMON, and Senator FEINGOLD. The purpose of it was to express the sense of the Senate in opposition to the military overthrow of the Government of Burundi, to encourage the swift and prompt end of the current crisis, and for other purposes.

Mr. President, I rise today to speak about the current situation in Burundi and the growing evidence that the international community may soon

face a disaster similar to that which occurred in Rwanda in 1994 and to offer a sense-of-the-Senate resolution condemning the reported coup that is occurring today in Burundi.

Just this past Saturday, 300 people, the majority of whom were women and children, were slaughtered as part of the continuing violence between the Hutu and Tutsi in Burundi. Survivor accounts revealed that many of those killed had their hands and feet tied before being shot in the back of the head. The rest were hacked to death with machetes.

Mr. President, those 300 join the estimated 150,000 who have been murdered over the 2½ years in this small African nation. Those 150,000 join the estimated 500,000 to 800,000 who died in the horrible killing between Hutu and Tutsi in Rwanda in less than 2 months in 1994. Together, almost the equivalent of the population of my home State of New Mexico have died in this troubled part of the world.

Mr. President, I am concerned about the apathy we see regarding the current situation. I am also concerned about the lack of a concerted international effort to prevent another situation like that which occurred in Rwanda in this region.

On Tuesday, the headline in the Washington Post read, Killings Elicit Shock, but No U.N. Action. The article noted that this weekend's massacre of 300 women and children elicited expressions of horror from the members of the Security Council but that none of the member nations, including the United States, gave any sign that the United Nations might take action to halt the killing. Yesterday it was reported that the President of Burundi had taken refuge in the U.S. Ambassador's residence. This take place amid reports of the massive deportation of Hutu refugees from northern Burundi. Just this morning, Reuters is reporting that the army has seized power, outlawed political parties and closed the airport and land borders.

To even a casual viewer it seems clear that Burundi is now on a fast slide down the precipice that its neighbor, Rwanda, slid down in 1994. As Pope John Paul said yesterday, "Burundi continues to sink into an abyss of violence whose victims are drawn from among the weakest in society—children, women and the old. I cannot but state my horror."

Mr. President, in 1994, after the plane carrying the Presidents of Rwanda and Burundi was shot down, the world stood silent while Rwanda exploded in almost unspeakable violence.

While I commend the administration for the diplomatic initiatives it has undertaken prior to this week's events, in particular the appointment of former Congressman Howard Wolpe to the position of special negotiator for Burundi and Rwanda, those efforts have not

been enough. The administration's attention must now be refocused on this crisis. And while there have been those in Congress like my friends and colleagues, Senators KASSEBAUM, FEINGOLD, and SIMON, who have spoken about Burundi and Rwanda, it is now crucial that others begin to stand, and speak, with them as well.

Mr. President, some of the steps we should be supporting include:

Denouncing any extra constitutional seizure of power and making clear that the United States condemns any attempt to take power by illegal means and will not recognize or support any illegal government.

Clearly communicating to the President of Zaire that his support of Hutu rebels who are using Zaire as a springboard into Burundi where they commit unspeakable atrocities will not be tolerated by the United States.

Immediately increasing our diplomatic efforts and conducting those at a sufficiently high level to make clear that the United States is willing to be engaged in any serious effort at halting the current crisis.

Focusing our diplomatic efforts on moving the Organization of African Unity and the international community to begin assembling the regional rapid reaction force that the former President of Tanzania has negotiated with the Government of Burundi.

If the OAU is unable to organize such a force we should be prepared to support other efforts by the U.N. to develop an appropriate response to this crisis.

While I do not believe we should send U.S. ground forces to Burundi, I do believe that the United States should be ready to provide support to a rapid reaction force in the form of logistical, organizational and communications resources.

Strongly urging President Clinton to speak out once again against the violence in Burundi and make clear to the world that the United States has an interest in preventing another genocide.

Mr. President, we need not undertake another Somalia type mission to make a difference in Burundi. It does not require ground troops nor will it require large expenditures. What America can and should provide, however, is leadership and a strong, unwavering voice against the current situation.

The Pope spoke yesterday about the evil that is the ethnic hatred in Burundi and Rwanda. Today, the U.N. Under Secretary General for peacekeeping missions, Kofi Annan, said:

We have to move very quickly before everything blows up in our faces. As it is, history will judge us rather severely for Rwanda. I don't think we can repeat that experience in Burundi. What we need and what we are seeking now is the political will to act.

Mr. President, I agree and I think passage of this resolution will put the Senate on record as supporting peace in this troubled region.

This resolution puts the Senate on record urging action by our Government at the highest possible diplomatic levels to bring international attention to this problem, and try to bring peace to the situation there before the situation in Burundi deteriorates into the very kind of tragedy we saw in Rwanda in that same region this last year.

Finally, I thank my colleagues for all agreeing to the resolution that we earlier sent to the desk and had approved. I do think it is important that the Senate speak on this important issue as part of this foreign operations bill. I appreciate the courtesy of the Senator from Vermont and the Senator from Kentucky in allowing me to speak at this time. I yield the floor.

AMENDMENT NO. 5018

The PRESIDING OFFICER. Under the previous order there are now 40 minutes of debate equally divided on the Coverdell amendment.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, haggling over this amendment now for quite some period of time, I will put this in perspective. This is an amendment about an epidemic, a drug epidemic that is occurring in the United States.

In the last 36 months, Mr. President, 2 million children in our country have tragically been embroiled in this drug epidemic. That is 2 million sisters or brothers, next-door neighbors, because the drug war was shut down. This is but one of many attempts to reenergize our battle at home and abroad to deal with this drug epidemic.

In 1992, \$462 million was invested in international narcotics law enforcement. In fiscal year 1996, it dropped to \$135 million. I think the President of the United States has recognized this is a serious problem, both for our country and for his administration. So in the 1997 budget, he requested that \$213 million be invested in the international narcotics war. In other words, a turnaround. This bill, both House and Senate, undercut that.

The effort of this amendment is very simple. It is to simply meet the President's request to get it up to \$213 million. Mr. President, how do we do that? Well, first, in this budget for international operations, it appropriates \$31 million more than the President requested—more. So we take \$25 million of that surplus and move it back to help fill President Clinton's request for international narcotics law enforcement.

No. 2, in development assistance, we take a 2 percent across-the-board reduction, \$28 million, and move it over to international narcotics, bringing the appropriation for international narcotics and law enforcement up to the President's request—not a dime more—up to the President's request.

Mr. President, the drug war today, for the first time in history, is being

waged against kids. The last drug epidemic involved people 17 to 21 years of age; this epidemic begins at 8 years old, 8 to 13. They are the target. For us not to meet the President's request for international narcotics in law enforcement does not meet the test of logic, given what is happening to us in our own country. Millions of American families are at risk. Does this solve all of it? No. Is this an important piece of it? Yes. I find it somewhat incredulous that we are arguing over meeting the President's request—not exceeding it, but meeting it.

With that, Mr. President, I yield up to 5 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I think it has been very clearly noted that the essence of this amendment is: If you care about kids and the problems that they are having with drugs, the best place to fight that effort is before drugs ever get into this country—keeping the drugs out.

I strongly support the amendment to restore funding to the International Narcotics Control budget. In the last several years, beginning in 1993, that budget has been severely cut. Virtually without discussion the INL budget lost almost 30 percent of its funding in 1993. Funding in the last several years has been below the levels in the Bush administration. These cuts were in keeping with the downgrading of drug efforts by the Clinton administration. At the time, the administration did virtually nothing to support its own international counter-narcotics programs in Congress. Although Congress restored some of that funding last year, we still need to close the gap to ensure our international programs are adequately supported. This year I also note a surprising invisibility on the part of the administration to promote funding for its own programs.

As the task force report on National Drug Strategy notes, our overall drug effort needs to be sustained and it needs to be consistent. The administration, however, has done little to sustain its own programs. And there has not been much consistency. We must try to change this.

I am also aware that some members here feel that international programs do not do much to address the problem. To them I would say that responding to the drug problem in this country is a team effort. No single program is the magic solution to success. The problem is multi-dimensional. Our solutions must also be broad and multi-disciplinary. We cannot expect the small amounts of money, compared to the total, that we spend on international efforts to be the sole star of the show. INL programs are a part of the team and we must ensure that it is not the weakest member.

I hope that you will join me in voting for this amendment.

I yield the floor.

Mr. LEAHY. Mr. President, I see the distinguished senior Senator from Kansas on the floor. I ask how much time she may wish.

Mrs. KASSEBAUM. Mr. President, 5 or 6 minutes.

Mr. LEAHY. I yield 6 minutes to the distinguished senior Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise to speak in opposition to the amendment offered by my colleague from Georgia. I certainly would agree with him, and I think we all share a concern about the scope of the drug problem in this country. One cannot help but be disturbed by the growing use of life-destructive drugs.

As someone who cares deeply about the youth of this country, I certainly stand second to none in my concern about the destructive impact of drugs on children. I had worked long in community efforts in this area before I even came to the U.S. Senate. I know something about the different types of initiatives that have been undertaken. I also fully agree with the Senator from Georgia that this President has not offered the kind of moral leadership on this issue that we both need and expect. He has not spoken out forcefully against drugs. He has devoted little time to this issue, and until the appointment of General McCaffrey, he has not supported energetically those in his administration working on this problem.

Yet, despite my serious concern about the drug problem in our country, as well as my dismay about the administration's weak response, I must reluctantly oppose the amendment.

Mr. President, as has been pointed out, this amendment would increase U.S. spending for antinarcotics by some \$53 million over the Senate funding level, a level which is already \$45 million over last year's spending. If this amendment is approved, the Senate would nearly double what was spent last year on this program.

In a bill where every account has been straight-lined or decreased, there is absolutely no reason to support a dramatic increase for this program. Let me say why. We all want to help slow the flow of drugs into the United States. I have always been a believer, however, that where there is a demand, there will be a supply. There is a world of money to be made in drugs, and until we can address that in each and every one of our communities, we are not going to be able to effectively stop the supply into this country.

The international antinarcotics program has simply not been an effective use of scarce Federal dollars. To date, we have invested hundreds of millions of dollars in this effort. Yet, worldwide production of illicit drugs has increased dramatically. Over the past

decade, just 10 years, opium and marijuana production has roughly doubled, and coca production has tripled. For example, since 1990, the United States has spent over \$500 million on antinarcotics programs in Colombia alone. Yet, drug production in Colombia remains high, and the administration could not even certify Colombia as cooperating on antinarcotics programs.

Mr. President, the reality is that world production and supply of narcotics vastly exceeds world demand. Even under the best case scenario, global supply reductions are unlikely to have even a minimal effect on our domestic drug problem.

I fully appreciate the sentiments of my colleague from Georgia, and I agree with him. We all understand the destructive power of drugs, and we all want to end the flow of narcotics into the United States. But throwing more and more money at failed solutions simply does not make sense. I urge my colleagues to oppose the Coverdell amendment.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, we have been working very diligently with a number of Senators and the Democratic leader to reach some unanimous consent agreements that are very important for the body. If the Members will give me a few minutes, we can go through a number of these. The time will not count against anyone's time.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time not be taken out of the amendments.

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

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate insist on its amendments with respect to H.R. 3103, the health care reform bill, the Senate agree to the request for a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer appointed Mr. ROTH, Mrs. KASSEBAUM, Mr. LOTT, Mr. KENNEDY, and Mr. MOYNIHAN conferees on the part of the Senate.

Mr. LOTT. Mr. President, before we go to the other unanimous-consent requests, I again want to thank the distinguished Democratic leader for his efforts in this. He has worked very hard to get a medical savings account agreement. Senator KENNEDY has been involved in that. Senator KASSEBAUM has been very helpful in working to get a medical savings account agreement. We did come to an understanding on medical savings accounts, today.

Therefore, we now can go forward with appointing conferees to resolve the balance of the issues. I am prepared to give to the Democratic leader the language that we will be working on in conference as soon as we complete these unanimous-consent requests.

Would the Democratic leader like to comment?

Mr. DASCHLE. Mr. President, I will have more to say about this later on this evening. But let me just take a moment at this point to thank the distinguished majority leader for the effort that he has put forth over the last couple of weeks in particular. Were it not for the cooperation that we were able to demonstrate on both sides, especially from the majority leader, I do not know that we would be here tonight.

Let me also compliment the distinguished Senator from Massachusetts. No one has been more relentless and more cooperative and more helpful in providing us with ways in which to resolve the many complicated aspects to this negotiated settlement than has the distinguished Senator from Massachusetts. I thank him, as well as the chair of the committee, the distinguished Senator from Kansas.

This has been a very cooperative effort in the last several days. It has taken a lot to get to this point. We are here, and I applaud all of those who had a part to play in it, in particular the majority leader and the Senator from Massachusetts.

Mr. KENNEDY. Will the Senator yield?

Mr. LOTT. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to join in commending both the majority leader and the minority leader for giving such support and encouragement towards reaching this important agreement which hopefully will free us to move forward on the underlying issue, which is portability and the elimination of the preexisting condition for millions of Americans. This is legislation that reflected strong bipartisan support under the leadership of Senator KASSEBAUM and the Republicans and Democrats on that committee.

I think this agreement, which includes a real, fair test of some 750,000 policies and other consumer protections, will, I think, provide for a test of this concept. But most importantly, what it will do is move us closer to the day when we can provide for the 25 million Americans that have preexisting conditions and for the millions of Americans who want portability to achieve this goal.

This has been a time where there has been strong views on certain issues. But I think it is a real tribute to both of our leaders and the persistence of Senator KASSEBAUM, as well as the leadership of Mr. ARCHER over in the

House of Representatives, that we have been able to move this process forward.

I want to say how much I look forward to working with the majority leader and the other conferees to moving to the conclusion of the conference. But I join others in thanking Senator LOTT and Senator KASSEBAUM—and Senator DASCHLE, who has been such a strong supporter of moving this process forward. I thank them for their very strong support for this conclusion.

Mr. LOTT. I thank the Senator from Massachusetts.

Mr. President, I now ask unanimous consent that the Senate insist on its amendments with respect to H.R. 3448, the small business tax relief package, the Senate then agree to the request for a conference with the House, and the chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. BENNETT) appointed, from the Committee on Labor and Human Resources, Mrs. KASSEBAUM, Mr. JEFFORDS, and KENNEDY, and from the Committee on Finance, Mr. ROTH, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. SIMPSON, Mr. PRESSLER, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BRADLEY, Mr. PRYOR, and Mr. ROCKEFELLER conferees on the part of the Senate.

Mr. LOTT. Mr. President, Senator DASCHLE and I have been working with the chairman of the Finance Committee and Senators D'AMATO, MOYNIHAN, and REID, with regard to an issue involved in this conference. And the chairman of the Finance Committee has assured me, Senator D'AMATO, and Senator MOYNIHAN that the language, under this legislation, with regard to electric and gas utilities that are eligible for the two-county local furnishing rule under current law, will not cause them to lose their ability to issue tax-exempt bonds, including their ability to expand service within the counties and the cities they presently serve.

Mr. DASCHLE. Mr. President, I indicated to both New York Senators my desire to work with the majority leader to ensure that we are able to address their concerns to their satisfaction. I am sure that we can do that, and we will work with the two Senators from New York to make that a part of whatever agreement we reach in conference.

Let me also say that with regard to both conferences, the distinguished majority leader has indicated his desire to make these truly bipartisan conferences. He has given me that assurance on the floor on a number of occasions. He has related and reiterated his determination to make that happen privately to me on many occasions.

So, indeed, my expectation is that in both of these conferences we will have true bipartisanship in an effort to involve every Member of these delegations. That is the reason we appoint both Democrats and Republicans. I am very hopeful that our work can proceed

in a way that will allow us to complete the work on these bills sometime in the very near future. Working together, I am quite sure that can happen.

Again, I appreciate his assurances that we will see that bipartisanship through the deliberations of both of these conferences.

Mr. LOTT. Mr. President, if I could respond to that. First, the conferees on the welfare reform package did meet today—both parties—and I understand they are going to be meeting again in the morning, to work through the differences between the two bodies.

In the case of health insurance reform, the small business tax relief package, and the minimum wage issue, I do not see any way it could be concluded without bipartisan cooperation. In fact, we would not have been able to appoint these conferees tonight without a lot of cooperation across the aisle in the Senate and the bicameral cooperation on the other side.

When the Congressman from Texas, Mr. ARCHER, and the Senator from Massachusetts, Senator KENNEDY, can get together, I think we all can get together. These conferences will proceed in this bipartisan and bicameral manner.

Mr. KENNEDY. Will the Senator yield for a brief comment?

Mr. LOTT. I am glad to yield.

Mr. KENNEDY. I want to join in thanking both leaders in moving us forward, particularly on the minimum wage. I think all of us understand—there is virtually no difference—that we accept the House provisions on the minimum wage. We will have to make sure that we have a date for enactment in a timely way. I had hoped that we would be able to do that with a 30-day provision in there. We have done it in as short as 23 days in other times when we have had the increase in the minimum wage.

I want to join with Senator DASCHLE and others to say that these workers have waited a long time. And I am very, very hopeful that we can get to the conference and move ahead so that we complete the conference to at least try to make sure that the working families are going to get that raise hopefully by Labor Day or very shortly thereafter.

I thank the majority leader and Senator DASCHLE very much for moving ahead on this program.

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1997

Mr. LOTT. Mr. President, I ask unanimous consent then that the Senate now turn to the consideration of Calendar No. 509, which is H.R. 3845, the District of Columbia appropriations bill.

There being no objection, the Senate proceeded to consider the bill (H.R.

3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997, and for other purposes, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in *italic*.)

H.R. 3845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1997, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, Sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), \$52,070,000.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursement for expenses incurred in connection with Presidential inauguration activities, \$5,702,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803), which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$115,663,000 and 1,440 full-time equivalent positions (including \$98,691,000 and 1,371 full-time equivalent positions from local funds, \$12,192,000 and 8 full-time equivalent positions from Federal funds, and \$4,780,000 and 61 full-time equivalent positions from other funds): *Provided*, [That funds expended for the Executive Office of the Mayor are not to exceed \$1,753,000: *Provided further*,] That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commis-

sion: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$135,704,000 and 1,501 full-time equivalent positions (including \$67,196,000 and 720 full-time equivalent positions from local funds, \$45,708,000 and 524 full-time equivalent positions from Federal funds, and \$22,800,000 and 257 full-time equivalent positions from other funds): *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years [*Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses]: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$1,041,281,000 and 11,842 full-time equivalent positions (including \$1,012,112,000 and 11,726 full-time equivalent positions from local funds, \$19,310,000 and 112 full-time equivalent positions from Federal funds, and \$9,859,000 and 4 full-time equivalent positions from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in

any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1997, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed \$1,500 for the Chief Judge of the District of Columbia Court of Appeals, \$1,500 for the Chief Judge of the Superior Court of the District of Columbia, and \$1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed \$100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1997, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That in addition to the \$1,041,281,000 appropriated under this heading, an additional \$651,000 shall be transferred from the Department of Public Works to the District of Columbia Court System for maintenance and repair of elevators/escalators, heating, ven-

tilation, and air conditioning systems, fire alarms and security systems, materials and services for building maintenance and repair, and trash removal.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$758,815,000 and 11,276 full-time equivalent positions (including \$632,379,000 and 10,045 full-time equivalent positions from local funds, \$98,479,000 and 1,009 full-time equivalent positions from Federal funds, and \$27,957,000 and 222 full-time equivalent positions from other funds), to be allocated as follows: \$573,430,000 and 9,935 full-time equivalent positions (including \$479,679,000 and 9,063 full-time equivalent positions from local funds, \$85,823,000 and 840 full-time equivalent positions from Federal funds, and \$7,928,000 and 32 full-time equivalent positions from other funds), for the public schools of the District of Columbia; \$2,835,000 from local funds for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to one or more public charter schools by May 1, 1997, and remains unallocated, the funds will revert to the general fund of the District of Columbia in accordance with section 2403(a)(2)(D) of the District of Columbia School Reform Act of 1995 (Public Law 104-134); \$88,100,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$69,801,000 and 917 full-time equivalent positions (including \$38,479,000 and 572 full-time equivalent positions from local funds, \$11,747,000 and 156 full-time equivalent positions from Federal funds, and \$19,575,000 and 189 full-time equivalent positions from other funds) for the University of the District of Columbia; \$22,429,000 and 415 full-time equivalent positions (including \$21,529,000 and 408 full-time equivalent positions from local funds, \$446,000 and 6 full-time equivalent positions from Federal funds, and \$454,000 and 1 full-time equivalent position from other funds) for the Public Library; \$2,220,000 and 9 full-time equivalent positions (including \$1,757,000 and 2 full-time equivalent positions from local funds and \$463,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That not less than \$9,200,000 shall be available from this appropriation for school repairs in a restricted line item: *Provided further*, That not less than \$1,200,000 shall be available for local school allotments in a restricted line item: *Provided further*, That not less than \$4,500,000 shall be available to support kindergarten aides in a restricted line item: *Provided further*, That not less than \$2,800,000 shall be available to support substitute teachers in a restricted line item: *Provided further*, That not less than \$1,788,000 shall be available in a restricted line item for school counselors: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1997, a tuition rate schedule that will establish the tuition rate for nonresident stu-

dents at a level no lower than the non-resident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, \$1,685,707,000 and 6,344 full-time equivalent positions (including \$961,399,000 and 3,814 full-time equivalent positions from local funds, \$676,665,000 and 2,444 full-time equivalent positions from Federal funds, and \$47,643,000 and 86 full-time equivalent positions from other funds): *Provided*, That \$24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, \$247,967,000 and 1,252 full-time equivalent positions (including \$234,391,000 and 1,149 full-time equivalent positions from local funds, \$3,047,000 and 32 full-time equivalent positions from Federal funds, and \$10,529,000 and 71 full-time equivalent positions from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, \$5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$333,710,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY

DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit

as of September 30, 1990, \$38,314,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$34,461,000 from local funds.

PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), \$5,702,000, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,926,000.

HUMAN RESOURCES DEVELOPMENT

For human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, \$12,257,000.

COST REDUCTION INITIATIVES

The Chief Financial Officer of the District of Columbia shall, on behalf of the Mayor and under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority, make reductions of \$47,411,000 and 2,411 full-time equivalent positions as follows: \$4,488,000 in real estate initiatives, \$6,317,000 in management information systems, \$2,271,000 in energy cost initiatives, \$12,960,000 in purchasing and procurement initiatives, and workforce reductions of 2,411 full-time positions and \$21,375,000.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of \$46,923,000 [75,923,000] (including an increase of \$34,000,000 for the highway trust fund, reallocations and rescissions for a net rescission of \$120,496,000 from local funds appropriated under this heading in prior fiscal years and an additional \$133,419,000 in Federal funds), as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations es-

tablished under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1998, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1998: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, \$221,362,000 from other funds of which \$41,833,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), \$247,900,000 and 100 full-time equivalent positions (including \$7,850,000 and 100 full-time equivalent positions for administrative expenses and \$240,050,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,511,000 and 8 full-time equivalent positions (including \$2,179,000 and 8 full-time equivalent positions from local funds and \$332,000 from other funds).

STARPLEX FUND

For the Starplex Fund, \$8,717,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by an Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, \$112,419,000 of which \$59,735,000 shall be derived by transfer from the general fund and \$52,684,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$16,667,000 and 13 full-time equivalent positions from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$3,052,000 and 50 full-time equivalent positions from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$47,996,000 of which \$5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), \$3,400,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor,

for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representatives.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legisla-

tion pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.): *Provided*, That for the fiscal year ending September 30, 1997 the above shall apply except as modified by Public Law 104-8.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1996 shall be deemed to be the rate of pay payable for that position for September 30, 1996.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of

Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1997, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1997 revenue estimates as of the end of the first quarter of fiscal year 1997. These estimates shall be used in the budget request for the fiscal year ending September 30, 1998. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That

the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 126. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, secs. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1996, of the required reorganization plans.

SEC. 127. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1997 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 128. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

[SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.]

SEC. 129. None of the Federal funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

[SEC. 130. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to

registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.]

SEC. 130. No Federal funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any Federal funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION OF MEMBERS OF JUDICIAL NOMINATION COMMISSION

SEC. 131. (a) IN GENERAL.—Effective as if included in the enactment of the District of Columbia Appropriations Act, 1996, section 434(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission."

(b) CONFORMING AMENDMENT.—Section 133(b) of the District of Columbia Appropriations Act, 1996 is hereby repealed, and the provision of law amended by such section is hereby restored as if such section had not been enacted into law.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 132. The Board of Education shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENTS

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 133. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 134. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1996, fiscal year 1997, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions

that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) **SUBMISSION.**—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 135. (a) No later than October 1, 1996, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1997, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

EDUCATIONAL BUDGET APPROVAL

SEC. 136. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 137. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 138. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, D.C. Code, sec. 1-601.1 et seq., is amended—

(1) in section 301 (D.C. Code, sec. 1-603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

“(13A) The term ‘nonschool-based personnel’ means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students.”; and

(B) by inserting after paragraph (15), the following new paragraph:

“(15A) The term ‘school administrators’ means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.”;

(2) in section 801A(b)(2) (D.C. Code, sec. 1-609.1(b)(2)(L))—

(A) by striking “(L) reduction-in-force” and inserting “(L)(i) reduction-in-force”; and

(B) by inserting after subparagraph (L)(i), the following new clause:

“(i) notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”; and

(3) in section 2402 (D.C. Code, sec. 1-625.2), by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.”.

SEC. 139. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 140. (a) Section 2401 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-625.1 et seq.) is amended by amending the third sentence to read as follows: “A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.”.

(b) The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), as amended by section 149 of the District of Columbia Appropriations Act, 1996 (Public Law 104-134), is amended by adding at the end the following new section:

“SEC. 2407. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1997.

“(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1997, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

“(b) Prior to February 1, 1997, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

“(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encounters a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

“(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

“(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the United States Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

“(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

“(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

“(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2543); and

“(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

“(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

“(1) four years for an employee who qualified for veterans preference under this Act, and

“(2) three years for an employee who qualified for residency preference under this Act.

“(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

“(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1997, or upon the delivery of termination notices to individual employees.

“(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

“(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1997, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section”.

【CEILING ON EXPENSES AND DEFICIT

【SEC. 141. (a) CEILING ON TOTAL OPERATING EXPENSES AND DEFICIT.—

【(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1997 under the caption “DIVISION OF EXPENSES” shall not exceed the lesser of—

[(A) the sum of the total revenues of the District of Columbia for such fiscal year and \$40,000,000; or

[(B) \$5,108,913,000 (of which \$134,528,000 shall be from intra-District funds).

[(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1997.

[(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

[(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

[(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

[(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104-8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

[(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

[(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

[(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.]

ACCEPTANCE AND USE OF GRANTS

SEC. 141. (a) ACCEPTANCE AND USE OF GRANTS.—

(1) IN GENERAL.—The Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104-8 (109

Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104-8, the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

CHIEF FINANCIAL OFFICER POWERS DURING CONTROL PERIODS

[SEC. 142. Notwithstanding any other provision of law, during any control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 the following shall apply:

[(a) the heads and all personnel of the following offices, together with all other District of Columbia executive branch accounting, budget, and financial management personnel, shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

[(The Office of the Treasurer.

[(The Controller of the District of Columbia.

[(The Office of the Budget.

[(The Office of Financial Information Services.

[(The Department of Finance and Revenue. The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

[(b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for each fiscal year occurring during a control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reorgani-

zation Act, Public Law 93-198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.]

CHIEF FINANCIAL OFFICER POWERS DURING CONTROL PERIODS

SEC. 142. Notwithstanding any other provision of law, during any control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 the following shall apply:

(a) the heads and all personnel of the following offices, together with all other District of Columbia accounting, budget, and financial management personnel, (except legislative and judicial personnel) shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.

The Controller of the District of Columbia.

The Office of the Budget.

The Office of Financial Information Services.

The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104-8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

(b) The Chief Financial Officer shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia under part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; Public Law 93-198), as amended, for each fiscal year occurring during a control period in effect under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, annual estimates of the expenditures and appropriations necessary for the operation of the Office of the Chief Financial Officer for the year. All such estimates shall be forwarded by the Mayor to the Council of the District of Columbia for its action pursuant to sections 446 and 603(c) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, without revision but subject to recommendations. Notwithstanding any other provisions of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973, the Council may comment or make recommendations concerning such estimates, but shall have no authority to revise such estimates.

POLICE AND FIRE FIGHTER DISABILITY RETIREMENTS

SEC. 143. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members with less than 20 years of departmental service who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1997 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section

142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) This section shall not go into effect until 15 days after the Mayor transmits the actuarial report required by section 142(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979) to the District of Columbia Retirement Board, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

SEC. 144. (a) Section 451(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 803; D.C. Code, sec. 1-1130(c)(3)), is amended by striking the word "section" and inserting the word "subsection" in its place.

DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 145. Section 2204(c)(2) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

"(2) TUITION, FEES, AND PAYMENTS.—

"(A) PROHIBITION.—A public charter school may not, with respect to any student other than a nonresident student, charge tuition, impose fees, or otherwise require payment for participation in any program, educational offering, or activity that—

"(i) enrolls students in any grade from kindergarten through grade 12; or

"(ii) is funded in whole or part through an annual local appropriation.

"(B) EXCEPTION.—A public charter school may impose fees or otherwise require payment, at rates established by the Board of Trustees of the school, for any program, educational offering, or activity not described in clause (i) or (ii) of subparagraph (A), including adult education programs, or for field trips or similar activities."

SEC. 146. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 147. Notwithstanding any other law, the District of Columbia Housing Finance Agency, established by section 210 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111) shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

SEC. 148. Section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104-134) is amended to read as follows:

"(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 267a-276a-7 and Executive Order 11246."

SEC. 149. ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES.—

(a) REDUCTION IN FACILITY ENERGY COSTS AND WATER CONSUMPTION.—

IN GENERAL.—The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104-8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water and conservation.

This Act may be cited as the District of Columbia Appropriations Act, 1997.

Mr. JEFFORDS. Mr. President, I am pleased to present the fiscal year 1997 District of Columbia appropriations bill to the Senate. This budget is, I hope, one more step in the District's path to fiscal stability and financial health.

Our goal, in this bill and every one to follow, must be a city worthy in every respect to be the symbol of our Nation—from its streets, to its schools, to its safety. The District of Columbia is at a critical juncture. If we do not exercise great care over the next few years, we will be left with a Potemkin Village on the Potomac—one with gleaming monuments and grinding poverty.

The bill presented is within the subcommittee's allocation and contains a Federal payment of \$660 million. This is the authorized level and the same amount as was appropriated for 1995 and 1996.

The bill also contains \$52 million in Federal contributions to the pension funds for police officers, firefighters, judges, and teachers. The Federal Government accepted this commitment when it transferred these pension funds to the District over a decade ago. Finally, the bill contains some \$5.7 million for reimbursement for expenses resulting from next January's Presidential inauguration.

As my colleagues will recall, the District's financial situation had so deter-

iorated that last year we established a control board for the city. A little over a year ago the President appointed the five members of the District of Columbia Financial Responsibility and Management Assistance Authority and its work began.

The budget before us is the first to fully benefit from the work of the Financial Authority and the process established by its authorizing legislation. The Mayor, the city council, the chief financial officer and the Financial Authority have worked together and produced a budget which each supports.

The committee's bill adopts the consensus budget without change. I think we should respect the process we established in the control board legislation and defer to the budget presented us.

I think this budget is a sound one. It restrains spending, which is up from about \$5 billion this year to some \$5.1 billion next year, and relies on much more conservative assumptions than some past budget submissions.

The budget reduces spending in some areas, and increases it in others, such as public safety. As we trim spending, I think it is vital that we support spending in such core functions as public safety and education.

To further insure fiscal integrity, this bill removes any ambiguity in the authority of the CFO. The committee intends that he shall oversee all financial personnel in the executive branch, including the independent agencies.

Section 148 of the bill contains an important provision authorizing the director of the District of Columbia Energy Office to negotiate energy performance contracts, the terms of which can extend up to 25 years. Under current law, the District is limited to entering 1 year or short term contracts which acts to discourage companies from entering such contracts.

The Department of Energy's [DOE] Federal Energy Management Program is an ambitious program to reduce energy consumption in all Federal buildings and installations. Agencies and Departments invite energy service companies to install energy efficient lighting, heating, and cooling systems. The companies provide the investment capital and their payback comes from a portion of the money saved when the Agency's energy bills are lowered. A good example of the program's success is the DOE's headquarters building recently relamped without any Federal appropriation. It lowered the cost of operating the Forestall Building, reduced energy costs and saved taxpayer money.

The District's public buildings and particularly its public schools are in desperate need of repair and rehabilitation. With energy performance contracting authority, the city can attract capital improvement investments from energy service companies prepared to install energy efficient equipment.

Under this program, we can reduce the District's \$50 million annual energy bill without the need to appropriate funds. Many school districts across America have come to rely upon this contracting mechanism and it is time the District of Columbia has this authority. While this would provide the District with greater flexibility, these contracts would be subject to the same review by the Financial Authority for all other contracts.

Mr. President, I want to thank my colleagues on the subcommittee, Senator KOHL and Senator CAMPBELL. I also want to thank the chairman of the Committee on Appropriations, Senator HATFIELD, and our distinguished ranking member, Senator BYRD, for their leadership and assistance on this bill.

Finally, I would like to briefly thank a former Senate staff member, Mr. B. Timothy Leeth, for all of his work on this bill and so many appropriations bills before it.

As my colleagues on the Appropriations Committee know, Tim joined the committee staff in 1977 and has served during most of his tenure as the clerk of the District Subcommittee, Congress after Congress he would inherit new chairmen and committee members who probably, like me, know very little about the details of the District's operations.

With extraordinary patience, intelligence, and good humor, he would suffer the same questions from each one of us year after year. He worked hard and well for members on both sides of the aisle, of all different political philosophies, in a thorough and professional manner. He was, and remains, an outstanding public servant.

We will miss his efforts on behalf of the committee and the Senate, but the District of Columbia is fortunate that it will continue to benefit from his work.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I commend the distinguished majority [Mr. JEFFORDS] and minority [Mr. KOHL] managers of the Fiscal Year 1997 District of Columbia Appropriations Bill. I know, from 7 years of personal experience as Chairman of the District of Columbia Appropriations Subcommittee, how much effort is required, and how much frustration is involved, in dealing with the problems encountered in formulating this legislation. It is a thankless job.

The bill before the Senate recommends the \$5.1 billion Fiscal Year 1997 District of Columbia budget that was forwarded to Congress. That budget represents a consensus agreed to by the District of Columbia City Council, the Mayor, and the Control Board. The Administration supports the consensus budget.

Mr. President, last year the Congress enacted the District of Columbia Financial Responsibility and Manage-

ment Assistance Act, which was designed to restore fiscal integrity of the District of Columbia. Section 201(c) of that legislation requires that progress for equalizing expenditures and revenues of the District Government must be made with the balance being achieved in 1999. The Subcommittee Chairman and Ranking Member are keenly aware of this requirement and are working with the Control Board, the City Council, and the Mayor, to achieve the desired result.

I want to commend the staff of the Subcommittee. Tim Leeth, on the majority, and Terry Sauvain, on the minority, are two experienced committee staffers. Mr. Leeth has worked for both the majority and minority and represents a proud tradition of non-partisanship on the Senate Appropriations Committee staff. Mr. Leeth is leaving the Committee and will serve on the staff of the Control Board. He has done a fine job as a member of the Committee staff and made many important contributions. I thank him for his excellent service and wish him well in his new assignment. Mr. Sauvain continues to serve as my Deputy Staff Director of the Appropriations Committee, in addition to his work for the Subcommittee.

Mr. KOHL. Mr. President, I commend the distinguished Subcommittee Chairman [Mr. JEFFORDS], in connection with the Fiscal Year 1997 District of Columbia Appropriations Bill. He has done a good job and I support him in his efforts.

The bill before the Senate recommends the \$5.1 billion Fiscal Year 1997 District of Columbia budget that was forwarded to Congress. That budget represents a consensus agreed to by the District of Columbia City Council, the Mayor, and the Control Board. The Administration supports the consensus budget.

Mr. President, last year the Congress enacted the District of Columbia Financial Responsibility and Management Assistance Act, which was designed to restore fiscal integrity of the District of Columbia. Section 201(c) of that legislation requires that progress for equalizing expenditures and revenues of the District Government must be made with the balance being achieved in 1999. The Subcommittee is keenly aware of this requirement and is working with the Control Board, the City Council, and the Mayor, to achieve the desired result.

I want to commend the staff of the Subcommittee. Tim Leeth, on the majority, and Terry Sauvain, on the minority, are two able and experienced staffers. After many years on the Committee staff, Mr. Leeth is leaving the Committee and will continue to be associated with the District of Columbia as a senior staff member of the Control Board. Tim is an excellent person and professional staff member. I have ap-

preciated his wise counsel in matters relating to the District of Columbia. My colleagues and I will miss him here in the Senate. I am pleased that his expertise in District matters and good humor will be available to the members of the Control Board.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee amendments be deemed agreed to, the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 3845), as amended, was deemed read a third time, and passed.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate insist on its amendments and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. BENNETT) appointed Mr. CAMPBELL, Mr. HATFIELD, Mr. KOHL, and Mr. INOUE conferees on the part of the Senate.

Mr. GORTON. Mr. President, I would like to go on record as being against this bill, which ignores the very grave problems of the District of Columbia and only throws money at what can only be called a complete mess.

In the D.C. control board we have an organization that seems incapable of dealing decisively with the D.C. government, a government that cannot provide such basic services as law enforcement, fire fighting, water, sewer and road maintenance, education, and the like. Compare this with, say, the State of North Dakota, which, with approximately the same population but with 70,636 more square miles to manage, can fulfill all its basic governing duties.

For the State of North Dakota, total government spending—State and local—for 1995 was approximately \$2.7 billion. Washington, DC, by contrast, spent a total of \$5.2 billion for 1995. In other words, the D.C. government spends twice as much as North Dakota and still comes up short. Let's look at it another way: Per capita government spending in North Dakota is \$3,857; in D.C., it's nearly \$9,000.

Comparing Washington, DC, to the rest of the Nation, the picture looks equally bleak. Looking at numbers from sworn testimony before the D.C. Appropriations Subcommittee, published studies and the Washington Post:

"D.C. employs over 37,000 people to service a population of 550,000 people. The city of Los Angeles has the same number of employees but a population of three million people—six times that of D.C." Even though Washington, D.C.—unlike Los Angeles—has responsibilities of a state government, these numbers are still striking.

"Despite a 25 percent drop in the number of school-aged children in the 1980s, D.C. public education expenditures have grown to

over \$9,400 per student, the highest in the nation.

"The District spent so little on maintenance that a court had to step in to correct fire code violations."

What is the District's problem? Quite simply, there is no accountability in the D.C. control board. There is certainly no accountability in the city government. By simply continuing to write checks, and not demanding a change in behavior, we perpetuate the problem.

If it is going to improve—financially, service-wise, and in terms of just plain carrying out its day-to-day duties—if that is to happen, Mr. President, then we are going to have to stop doing the things we've been doing. A change of course is in order. No more bailing out the District; no more saving the District from itself. The city of Washington, DC, must take the initiative and make the changes necessary to bring itself out of its present miserable condition and begin to function more efficiently and affectively. Congress cannot continue to hold the District's hand, always standing by, ready to get the city out of a tight spot. Accountability and responsibility are in order.

On a related subject, I see no justification for supporting the proposal to cut taxes in the District. The city's current woes are due not to tax rates but to an outrageously inefficient government. Attempting to cure those woes with tax incentives that are not available to my hard-working constituents or to any other taxpayers across the land, only serves to reward D.C. for its outlandish mismanagement. Again, the District must face the source of its problems—a government virtually incapable of governing—and tackle them head-on.

Mr. President, I would offer the strongest possible suggestion to my colleagues on the D.C. Appropriations Subcommittee that they take a new look at how they determine funding for the District of Columbia. Only by adapting a course of radical change can Washington, DC, hope to be a normal, functioning city.

INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 421, H.R. 2980.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: A bill (H.R. 2980) to amend title 18, United States Code, with respect to stalking.

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. LOTT. I ask unanimous consent that an amendment which is at the

desk be immediately agreed to, the bill be advanced to third reading and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The amendment (No. 5083) was agreed to, 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 law 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."

The bill (H.R. 2980) was ordered to be engrossed for a third reading, read the third time and passed.

Mr. LOTT. Mr. President, I do want to note that this is to amend title 18 of

the U.S. Code with regard to stalking, with an amendment by Senator LAUTENBERG. I want to recognize the great work and the determined effort by Senator HUTCHISON in getting this legislation through. It is something certainly we should support, and we obviously do, and also there has been cooperation by Senator HUTCHISON and Senator CRAIG and Senator LAUTENBERG to get this language worked out.

Mr. DASCHLE. Mr. President, let me just briefly commend the distinguished Senator from New Jersey for his hard work on this issue and for his patience and his cooperation in bringing it to this point.

I also wish to thank Senator CRAIG for working with us all day long in an effort to find a way to resolve the outstanding language differences, and I am very grateful to them as well.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would be glad to defer to Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

I rise to express my appreciation for the hard work that has gone into resolving the problem that we had. There was an attempt, a serious attempt to work it out, and at times it looked like we just could not come together. But through the persistence of the leaders, the help of Senator CRAIG and the agreement with Senator HUTCHISON, we were able to do this.

It is an important piece of legislation. I will take time later on to talk about it, but I want to express my thanks to all of those who enabled this piece of legislation to go through. It is going to be very meaningful to women and families across this country. Two million cases of violence are reported within households each and every year, and this will take the murder away from substantial numbers of them.

Again, I express my appreciation for the opportunity to get this bill passed.

Mr. LOTT. I would be happy to yield to the distinguished Senator from Texas, who moved this legislation, the idea of getting some Federal ability to deal with stalkers across State lines. It is an issue that obviously affects women and children to the greatest degree in this country. She has shown real compassion and a determination to get it done, and I commend her for her efforts. I am pleased we have been able to get it worked out tonight.

I would be glad to yield for her comments on it.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

I thank the distinguished majority leader and the minority leader for helping us work this out. This is a bill that

has been pending since Memorial Day to try to get all of the equipment and the resources of the FBI to go against the vicious people in this country who would harass and threaten women and children and would cross State lines to do it.

In the old days, we did not even have stalking bills because people did not know what the crime was, so people would be threatened and harassed and there was no way to prosecute these vicious actors. But now we do have stalking bills in almost every State, and this will allow us to look them up, and if someone crosses State lines breaking a State law, we will be able to apprehend them. I hope we will be able to prevent the harm and even murders of women and children in this country.

Senator LAUTENBERG is to be commended for working with us to make his amendment a good amendment, and it is a good amendment, and I applaud him for it. I think it adds to the bill. He was willing to work with us, and I think we now have a very strong bill. Because of Senator LAUTENBERG's amendment, we are also going to be able to keep people who batter their wives or people with whom they live from having handguns. So I think it is going to be a great bill that will give the women and children of this country some protection that they do not now have, and I am very pleased to be supportive of this compromise.

I thank the Chair.

HYDROELECTRIC PROJECT EXTENSION

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 234, H.R. 1051.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1051) to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

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. LOTT. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER (Mr. BROWN). Is there objection? The Chair hears none, and it is so ordered.

The bill (H.R. 1051) was deemed to have been read three times and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. I ask unanimous consent that the Senate immediately proceed

to executive session to consider the following nominations on the Executive Calendar: No. 579, No. 676, and No. 680. I further ask unanimous consent that the nominations be confirmed en bloc and the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Glenn Dale Cunningham, of New Jersey, to be United States Marshal for the District of New Jersey for the term of four years.

THE JUDICIARY

Joan B. Gottschall, of Illinois, to be United States District Judge for the Northern District of Illinois.

Robert L. Hinkle, of Florida, to be United States District Judge for the Northern District of Florida.

NOMINATION OF GLENN CUNNINGHAM

Mr. LAUTENBERG. Mr. President, it is my pleasure to offer congratulations to Glenn Cunningham, President Clinton's nominee for United States Marshal for New Jersey, upon his confirmation by the U.S. Senate. I also extend my congratulations to Mr. Cunningham's proud family and friends.

I had the honor and privilege of recommending Mr. Cunningham to the President, and I want to take a few moments of the Senate's time to explain why I am convinced that he will do an outstanding job in this important position.

Mr. President, Glenn Cunningham has a long and distinguished record of public service. For over 25 years he has been a widely respected law enforcement officer in command-level positions.

Currently, Mr. Cunningham serves as Director of Public Safety for Hudson County, N.J. In that capacity, he oversees a department with a \$42 million budget and over 700 employees. By any measure, he has been outstanding in the performance of his duties.

Previously, Mr. President, Glenn spent 14 years in the Jersey City Police Department, where he rose from the rank of Detective to Captain. He has also served as an instructor at Jersey City State College in criminal justice, as a Commissioner of the New Jersey Alcohol and Beverage Control Commission, and as Security and Housing Manager of the Jersey City Housing Authority.

Mr. President, in all of these endeavors, Glenn Cunningham has demonstrated that he is a man of real integrity, as well as a man of real talent. He has also shown himself to be dedicated to serving the public through law enforcement.

That is not just my judgment. It is the judgment of those who have known

him for many years, and who have worked closely with him.

Mr. President, I am proud to have recommended Mr. Cunningham to the President, and I am very proud and pleased to offer my congratulations to him today. I wish him all the best in his new position, and I hope that he will serve our State and country for many years. I know that he will serve with integrity, dedication and distinction.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. LOTT. I yield the floor, Mr. President.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PRO- GRAMS 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 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—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 de-

velopment 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 devel-

opment 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 monthly 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. Ineffective 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 char-

acter, 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 on-going 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's 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	Coats	Gorton
Ashcroft	Cochran	Graham
Baucus	Coverdell	Gramm
Bennett	Craig	Grams
Biden	D'Amato	Grassley
Bond	DeWine	Gregg
Boxer	Domenici	Hatch
Brown	Faircloth	Helms
Bryan	Frahm	Hutchison
Burns	Frist	Inhofe
Campbell		
Chafee		

Kempthorne	Nickles
Kyl	Pressler
Lott	Roth
Mack	Santorum
McCain	Shelby
McConnell	Simpson
Murkowski	Smith

Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

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

Specter	Thompson	Warner
Stevens	Thurmond	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 re-

forms 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 pursu-

ant 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 op-

portunity 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, Zhirinovskiy, 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 anti-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 his 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 Zhirinovskiy, 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 Zhirinovskiy 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 it in 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 anti-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 Zhirinovskiy 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 WISNER,
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. INOUE, 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 Koreans 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 es-

sential 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.

In summary, 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 missiles, 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 Director 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 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 agree-

ment; 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. INOUE. 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 be-

tween 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 non-governmental 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 NGOs 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 civil-

ians, 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 tragedy. 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 Azerbaijan 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 from 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 com-

plicate 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 PVO 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, INOUE, 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 non-governmental 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

outsoken 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 eco-

nomie 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 internships 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 re-

cent 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 Vladivostok.

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 ex-

emplify 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

FOREIGN OPERATIONS SUBCOMMITTEE SPENDING
TOTALS—SENATE-REPORTED BILL—Continued
(Fiscal year 1997, in millions of dollars)

	Budget authority	Outlays
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 petro-

leum 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 its 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. MCCREERY, 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. MCHALE 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 compactors 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 1996.

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:

1) 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.

**INOUE (AND BENNETT)
AMENDMENT NO. 5022**

Mr. MCCONNELL (for Mr. INOUE, 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 "MORTORIUM" and everything that follows through the period on page 185, line 3.

**LEAHY (AND INOUE)
AMENDMENT NO. 5024**

Mr. MCCONNELL (for Mr. LEAHY, for himself and Mr. INOUE) 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 in 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. INOUE, 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 sec-

tion 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 Wassenaar 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.

"(1) 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 1/2 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 require-

ments 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) ACQUISITIONS.—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 nu-

clear 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.

"(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 by-

product 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) **ACQUISITIONS.**—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 Memorandum 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.

“(1) **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

BENEFITS SCHEDULE—Continued

[Amounts in millions]

Event	Payment
(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 later 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 en-

sure 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 (1), 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 1969.—

"(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.)

"(d) 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 spent 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 millirem 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 devel-

opment 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: Pahump 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 spent 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 high-level 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 nec-

essary 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).

"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 TRANSHIPMENTS.

"(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 2,000 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 be 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 subsistence, 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 3 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 meet 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.

"(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 by-product 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) ACQUISITIONS.—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 Memorandum 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.

"(1) **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	3
(C) Payment upon closure of the intermodal transfer facility	3

"(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 1/2 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 prop-

erty, 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 to 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 later 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) EMBLEMMENT OF FUEL AND WASTE.—Subject to paragraph (1), 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 1969.—

"(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 spent 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 pre-

vised 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 spent 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 high-level 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 spent 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 TRANSHIPMENTS.

"(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, regula-

tion, 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 2,000 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 begun 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.

“(i) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

“(ii) 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 activi-

ties 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 be 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 subsistence, 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 Radio-

active 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 meet 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 ensuing 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.

"(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 by-product 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. 1703(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) **ACQUISITIONS.**—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 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.

"(e) **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 Sec-

retary 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 Memorandum 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 later 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 submission 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 (1), 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 1969.—

"(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 spent 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 com-

plete 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 incor-

porate 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-Fed-

eral 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 Pahump Industrial Park Site

Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site

Map 3: Pahump 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 spent 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 rev-

enues 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 high-level 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 spent 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 TRANSHIPMENTS.

"(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 2,000 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 begun 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.**—

"(1) 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.

"(i) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

"(ii) 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 be 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 subsistence, 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 ad-

ministrative 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 meet 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. 5057

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 gov-

ernment' 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) EMBLACEMENT 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 by-product 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) ACQUISITIONS.—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 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

Memorandum 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 1/2 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 later 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 submission 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) EMLACEMENT OF FUEL AND WASTE.—Subject to paragraph (1), 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—

"(1) shall ensure that the scope of the Environmental Impact Statement is consistent with the scope of the licensing action; and

"(1) 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—

"(1) the need for the interim storage facility, including any individual component thereof;

"(1) the time of the initial availability of the interim storage facility;

"(1) any alternatives to the storage of spent nuclear fuel and high-level radioactive waste at the interim storage facility;

"(1) any alternatives to the site of the facility as designated by the Secretary in accordance with subsection (a);

"(1) any alternatives to the design criteria for such facility or any individual component thereof, as specified by the Secretary in the license application; or

"(1) 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 spent 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 consider-

ation 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—

“(1) any unobligated balance collected pursuant to this section during the previous fiscal year; and

“(2) 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 spent 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—

“(1) 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 ex-

empt 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 high-level 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 spent 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 TRANSHIPMENTS.

"(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-den-

sity 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 2,000 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 begun 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.—

“(1) 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.

“(1) The membership of the Board shall be representatives of the broad range of scientific and engineering disciplines related to activities under this title.

“(11) 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 be 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 subsistence, 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 meet 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. 108. 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. 109. 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. 110. 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. 111. 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. 112. 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. 113. 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. 114. (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 (Serbia 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 war 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 radioactive 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.

"(d) UNAVOIDABLE 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 radioactive 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.

"(e) 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.

"(f) 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.

"(g) 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 radioactive 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.

"(h) 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.

"(i) 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.

"(j) 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 radioactive 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.

"(k) 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. 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 radioactive 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 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 radioactive 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.

"(d) 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.

"(e) 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 radioactive 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.

"(f) 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.

"(g) 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.

"(h) 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 radioactive 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.

"(i) 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.

"(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 provi-

sion 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 de-

livery, 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 sub-

sections (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. INOUE, 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. 5082

Mr. MCCONNELL (for Mr. ABRAHAM, for himself, Mr. BENNETT, Mr. INOUE, 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. 5082

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 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."

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. INOUE, 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. 983, 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 Com-

mittee 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 desalination 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*		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*		20	42	61	52	57	43	40
Estimated Outlays		20	37	55	52	57	46	43

* 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 as 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 desalination 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 lack 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 mini-storms 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 pro-

gram, and I commend subcommittee Chairman COCHRAN and Senator BUMPERS for including funding for this program. Regrettably, 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 in 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 United 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 certainty 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 to 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 NONDISCRIMINARY 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 Adminis-

trator 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. 687(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. 687(b)(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. 687I) 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.";

(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 Administration'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 its 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, 1997.

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 SBIC'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 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 grandfather 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 portfolio 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 ex-

tent 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. 687(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.**—

"(1) **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 Administrator 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. 687f) 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 debt leverage to licensees having 50 percent or more in aggregate dollar amount of their financings invested in smaller enterprises.";

(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 Ad-

ministrator 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. INOUE, 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, INOUE, 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 au-

thority, 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 INOUE. 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 inter-branch 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 prohib-

ited 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 INOUE, 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 preceding 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:

"(1) 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 1930 (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.

ORDERS FOR FRIDAY, JULY 26, 1996

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m., Friday, July 26, further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later on in the day, and the Senate immediately resume the foreign operations appropriations bill and the previously scheduled votes.

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

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, tomorrow morning, beginning at 9:30, the Senate will begin a series of rollcall votes on or in relation to the remaining amendments to the foreign operations appropriations bill, to be followed by a vote on final passage of that bill.

UNANIMOUS-CONSENT AGREEMENT—S. 1959

Mr. MURKOWSKI. Mr. President, I now ask unanimous consent that following passage of the foreign operations appropriations bill, the Senate then begin consideration of Calendar No. 496, S. 1959, the energy and water appropriations bill.

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

Mr. MURKOWSKI. Mr. President, amendments are expected to be offered to the energy and water appropriations bill; therefore, Members can expect additional rollcall votes on Friday following the stacked sequence beginning at 9:30 a.m.

ORDER FOR ADJOURNMENT

Mr. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of my friend from New Jersey, Senator LAUTENBERG.

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

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. Mr. President, I thank the Senator from Alaska. I will take just a few minutes, with the apology to those who are committed to stay until the lights are shut off.

INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996

Mr. LAUTENBERG. Mr. President, as a result of having passed a piece of legislation, a bill tonight, that includes an antistalking measure and a domestic violence measure, I would like to take just a few minutes to comment on it.

Mr. President, my amendment, the domestic violence amendment, establishes a policy of zero tolerance when it comes to guns and domestic violence. The amendment would prohibit any person convicted of domestic violence from possessing a firearm. In simple words, the amendment says that wife beaters and child abusers should not have guns.

Mr. President, I want to explain for a moment why this amendment is needed. Under current Federal law it is illegal for persons convicted of felonies to possess firearms. Yet many people who engage in serious spousal or child abuse ultimately are not charged with or convicted with felonies. At the end of the day, due to outdated thinking, or perhaps after a plea bargain, they are—at most—convicted of a misdemeanor.

In fact, Mr. President, most of those who commit family violence are never even prosecuted. When they are, one-third of the cases that would be considered felonies if committed by strangers are, instead, filed as misdemeanors. The fact is, in many places today, domestic violence is not taken as seriously as other forms of criminal behavior. Often, acts of serious spouse abuse are not even considered felonies.

In just the past few years, some judges have demonstrated outrageous callousness and disregard for women's lives. Right up the road from here, Baltimore County, just 2 years ago, a State circuit court judge was hearing a case involving a man who shot his wife and killed her. As he handed down a sentence that was primarily served on weekends for a short period of time, the judge said that the worst part of his job is "sentencing noncriminals as criminals." Can you imagine, as if shooting one's wife in the head was not criminal behavior.

Or the case of a man who tracked down his wife and shot her five times, killing her. The judge in that case gave the man a minimal sentence, to be served on weekends. In explaining why he was being so lenient, the judge said that the victim had provoked her husband by not telling him that she was leaving their abusive marriage.

These, Mr. President, are just two examples of the way our criminal justice system often refuses to treat domestic violence as a serious crime. Yet the scope of the problem is enormous. Each year, using a very conservative estimate, 1,500 women die because of domestic abuse involving a gun. Many be-

lieve that the number is closer to several thousand. Neither of these numbers include children.

Mr. President, when women are killed in domestic disputes, the murderers are holding a gun about 65 percent of the time. It is not just beatings and other types of punishment. Put another way, two-thirds of domestic violence murders involve firearms. Many of these murders would never have happened but for the presence of a gun.

The New England Journal of Medicine reports that in households with a history of battering, a gun in the home increases the likelihood that a woman would be murdered by three times—threefold. In other words, when you combine wife beaters and guns, the result is death.

Mr. President, I focused thus far mainly on wifebeaters, but domestic violence also involves children. In at least one-half of wife-abusing families, the children are battered as well. Mr. President, 2,000 American children are killed each year from abuse inflicted by a parent or a caretaker. Yet, as I said before, many of these abusers and batterers are prosecuted only for misdemeanors, and under Federal law they are still free to possess firearms. This amendment closes this dangerous loophole and keeps guns away from violent individuals who threaten their own families, people who show they cannot control themselves and are prone to fits of violent rage, directed, unbelievably enough, against their own loved ones. The amendment says abuse your child and lose your gun. Beat your wife, and lose your gun. Assault your ex-wife, lose your gun, no ifs, ands or buts.

It is a tough policy, Mr. President. But when it comes to domestic violence, we have to get tough. There is no margin of error when it comes to domestic abuse and guns. A firearm in the hand of an abuser all too often means death.

If this bill had been law, maybe, just maybe, a person named Marilyn Garland of Barberton, OH, would be alive today. Her husband had previously been convicted of domestic violence offenses for physically abusing her. But even though he had shown himself to be violent and prone to wifebeating, no law prevented him from owning a gun. Eventually, as it often does, the cycle of violence spun out of control and Marilyn's husband used the gun to kill her. He then disposed of her body. It was a horrible, brutal act that was committed. It did not have to happen.

By their nature, acts of domestic violence are especially dangerous and require special attention. These crimes involve people who have a history together and perhaps share a home or a child. These are not violent acts between strangers, and they don't arise from a chance meeting. Even after a separation, the individuals involved,

often by necessity, have a continuing relationship of some sort, either custody of children or common property ownership.

This amendment is based on legislation that I introduced earlier this year which has been endorsed by over 30 prominent national organizations, including the National Coalition Against Domestic Violence, the National Network to End Domestic Violence, the Family Violence Prevention Fund, the American Academy of Pediatrics, and the YWCA of the U.S.A., just to name a few.

The people who commit these crimes often have a history of violent or threatening behavior. Yet, frequently, they are permitted to possess firearms with no legal restrictions. The statistics and the data are clear. Domestic violence, no matter how it is labeled, leads to more domestic violence. Guns in the hands of convicted wifebeaters leads to murder.

I made a change from the introduced version to respond to a suggestion from some of my colleagues. Like my original bill, which covered persons indicted for domestic violence offenses, this amendment applies only to those who have actually been convicted of domestic violence. This amendment would save the lives of many innocent Americans, but it would also send a message about our Nation's commitment to ending domestic violence and about our determination to protect millions of women and children who suffer from this abuse.

To put it directly, Mr. President, there are over 2 million cases of household violence reported each and every year, and 150,000 of those show a gun present, a firearm present, during a violent rage or an argument. We ought not to expose those people who are abused by a spouse or a father to further violence by enabling them to have a gun, with the permission of our country.

So the amendment, which passed earlier, simply stands for the proposition that wifebeaters and child abusers should not have guns. I think the overwhelming majority of Americans would agree. I look forward to a prompt passage by the House and the signature of the President making this law.

Mr. President, the following Members were original cosponsors of the bill I introduced, S. 1632: Senators FEINSTEIN, BRADLEY, MURRAY, KENNEDY, KERRY, KOHL, AKAKA, INOUE, and SIMON.

I thank the Chair and I thank the staff who worked so late this evening to accommodate me.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. In accordance with the previous order, the

Senate stands adjourned until 9:30 tomorrow.

Thereupon, the Senate, at 11:18 p.m., adjourned until Friday, July 26, 1996, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 25, 1996:

DEPARTMENT OF JUSTICE

GLENN DALE CUNNINGHAM, OF NEW JERSEY, TO BE U.S. MARSHAL FOR THE DISTRICT OF NEW JERSEY FOR THE TERM OF 4 YEARS.

THE JUDICIARY

JOAN B. GOTTSCHALL, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.
ROBERT L. HINKLE, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF FLORIDA.