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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest Chaplain today, Dr. Neal T. Jones, pastor of Columbia Baptist Church, Falls Church, VA. I had the pleasure of attending that church a number of years when my family was up here years ago. He is a wonderful pastor. We are honored to have him.

PRAYER

The guest Chaplain, the Reverend Dr. Neal T. Jones, pastor, Columbia Baptist Church, Falls Church, VA, offered the following prayer:

Let us pray:

Heavenly Father, we pray for our families. The higher we climb the rungs of national prominence, the more we lower our resistance to the diseases of family. The more our name appears in the paper, the more pressure and embarrassment follows for our children and spouse. The more time we spend helping our Nation, the less time we have to enjoy pimento cheese sandwiches or a picnic with our children. We are weary because the more who think we are important, the more we become too important to spend time with family.

Help us, then, in our homes. Let our mates be our best friends. Let our children be our closest companions. Help us talk to them about trials, pray with them each day, and play with them regularly. Let us construct our nest with great care lest we build our castles in vain.

We commit ourselves to You, Heavenly Father, because You know how to make us family.

In Jesus' name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. CRAIG. Mr. President, today the time for the two leaders has been reserved, and there will be a period for the transaction of morning business until the hour of 2 p.m., with Senators permitted to speak for up to 10 minutes each. At 2 p.m. today, the Senate will begin consideration of S. 244, the Paperwork Reduction Act.

For the information of all of my colleagues, there will be no rollcall votes during today's session.

MEASURE PLACED ON CALENDAR—SENATE JOINT RESOLUTION 28

The PRESIDING OFFICER (Mr. BENNETT). The clerk will read Senate Joint Resolution 28 for the second time.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 28) to grant consent of Congress to the Northeast Interstate Dairy Compact.

Mr. CRAIG. Mr. President, I object to further proceedings at this time.

The PRESIDING OFFICER. Under rule XIV, the measure will be placed on the calendar.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

BALANCED BUDGET AMENDMENT

Mr. CRAIG. Mr. President, over the last several days, the Senate has been engaged in a debate over the balanced budget amendment. It was during that period of time that those opposed to it chose to use the argument of Social Security, as somehow the amendment would throw in jeopardy that system of funding supplemental retirement for the elderly and the old age of our country, and the other benefits that go along with the system. They argued loudly that changes should be made, but most assuredly that the amendment ought to take Social Security out of the current budget process.

There were several of us who at that time argued that the Social Security receipts were now a part of the unified Federal budget. They had been since 1969. They were part of what we budget today, and every Senator on this floor, at least more than once, had voted to include those by action of voting for the passage of a budget of our Federal Government.

While it was argued loudly—and loudly ignored by the opposition—that that was part of what we do today and it was clear that that is what we do, it was part of that effort to try to bring Members of the other side aboard in support of that amendment that an offer of good faith was made as a phasing out of the use of those funds as we moved toward a balanced budget beyond the year 2002. That offer was rejected.

What I thought was interesting over the weekend and why I bring this issue once again before the Senate is that as many of our leaders are on talk shows during the weekends, I thought one that is worth mentioning appeared in an article in the Washington Times this morning which came from the White House itself. Let me read from that article. It said:

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

Meanwhile, the White House conceded yesterday that Social Security trust fund surpluses currently mask the size of the deficit, undermining the argument Senate Democrats had used to defend their opposition to the balanced budget amendment. White House Chief of Staff Leon Panetta said the 1996 deficit is actually $50 billion higher than reported because the administration uses Social Security trust fund surpluses to reduce the deficit. Previous administrations used the same accounting technique.

And, of course, that is exactly what we referred to on the floor on the Senate time after time over the debate of the last several weeks when we talked about the unified budget and the need to correct that and the ability to correct that through the authorizing legislation and the implementing legislation that would occur following the passage of a balanced budget amendment.

The article went on to say:

Six Senate Democrats who voted for the amendment in 1994 reversed themselves last week saying they feared Republicans would use the trust fund to balance the budget.

Many of us argued at that time that that argument was false and that, of course, those Democrats knew that they were now using the trust funds, like every other person serving in the U.S. Congress, to deal with the current budget because it was part of the unified budget.

Mr. Panetta said on the ABC-TV show ''This Week'' that funds for the Social Security trust fund are indistinguishable from other revenues because funds flow into the same general Government account.

''When you look at the Federal budget, and even when you look at Social security, the reality is that those are funds that flow into a central trust for Social Security,'' Mr. Panetta said. ''Government basically operates that program, even though it flows into that trust. So it really ought to be considered part and parcel of the overall as we consider the budget.''

That is what Mr. Panetta said. That is what many of us have attempted to argue, and yet last week, for some reason, those who chose to be in opposition to the balanced budget amendment grabbed onto this very thin thread and, in my opinion, the thread broke when the White House agreed with us that current unified budgets use Social Security trust funds, and it was Republicans who had offered in good faith an alternative that would move us away from that process as we moved toward a balanced budget, and it was that offer that was rejected.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

TWO WRONGS DO NOT MAKE A RIGHT

Mr. REID. Mr. President, when I came to the floor this morning, the last thing I wanted to talk about was balanced budgets and Social Security. But my friend from Idaho, in effect, made the argument that I made 4 weeks ago when I offered the amendment on Social Security, and that argument is—I guess it could be summed up best as my mother told me on numerous occasions: Two wrongs do not make a right.

It is not right that we have, contrary to law, since 1990 raided the Social Security trust fund. It is against the law to do that. We have gone ahead and done it anyway and, as my friend from Idaho stated, we are still doing it. We should stop doing it, and that is the whole point of the debate on Social Security.

Social Security has not contributed 1 cent to the deficit, not a penny. What right do we then have to take 6.2 percent out of the check of any of the personnel around here, any of the people in the audience, 6.2 percent of their paycheck, of their money and then the employer matches it 6.2 percent. So 12.4 percent of every person's paycheck is put into a trust fund. For what? For retirement so that when they retire, they will have Social Security benefits. That is a program we have had for 60 years.

That money, contrary to what my friend from Idaho said, is not to be used for foreign aid. It is not a tax to pay for the peacekeeping mission in Haiti. It is not money to pay for farm subsidies. It is not taxes paying for B–2 bombers. It is money that is set aside not for a welfare program but a retirement program.

I hope this budget that will be reported out by the Budget Committee, by my friend from New Mexico and my friend from Nebraska, both renowned deficit hawks, people who believe in having a frugal, fiscally responsible budget, deletes Social Security, that no longer masks the deficit.

I think we should be honest about it. I hope they will do that. Otherwise, Mr. President, we are going to get into another debate on the budget resolution, because the time has come to start following the law. We do not need to phase it out. This is the first admission we had they wanted to use Social Security moneys. Remember, all the statements in the past from the House and Senate were that we are going to protect Social Security.

Some way to protect it, just take the money and spend it. We should not do that.

So, Mr. President, the debate on the balanced budget amendment was a good debate. It proved to me that we have a problem with the deficit; it proved to me that we must do something about that deficit; and, third, it proved to me we should do it without Social Security.

I am willing to stand up on this floor and walk down in the well, or from my chair, whatever we are directed to do, and cast votes to do just that.

Now, Mr. President, I came here today not to speak about this. I came to speak about another issue.

Mr. DORGAN. Mr. President, I wonder if the Senator from Nevada will yield for a question.

Mr. REID. I will be happy to yield.

MISUSE OF SOCIAL SECURITY TRUST FUNDS

Mr. DORGAN. Mr. President, I was listening to the discussion in the Chamber and heard once again an attempt to create a misimpression about the debate last week on the constitutional amendment to balance the budget. The argument has been made, ''Gee, the trust funds in the Social Security system are being misused now, so I do not know what anybody was concerned about, and the notion of the trust funds being in jeopardy was all a lot of nonsense.''

We heard a lot of that last week, but I also want to correct the record here, and the record is this. No matter how often someone stands and makes this argument, it is not true. If they say the balanced budget amendment has nothing to do with the Social Security trust funds, in my judgment, they are simply overlooking the facts.

The fact is that as the constitutional amendment to balance the budget was written, the Social Security trust funds would have been used to reduce the Federal budget deficit. The fact is while people were saying in public ''We have no intention of using the Social Security trust funds,'' in private they were in effect saying, ''Look, fellows, let us be honest. We cannot balance the budget without using the Social Security trust funds.'' They were saying one thing in public, another thing in private.

Now, I helped write the 1983 bill called the Social Security Reform Act. When we wrote it, we decided to impose payroll taxes in a way to raise more money than was necessary on a yearly basis to be put into the Social Security system to save for the future.

In 1983, in the markup, I raised the question about whether, in fact, the money would be saved and, of course, since that time it has been historically used by Republicans to offset the budget deficit balance in this country.

The proposal last week would have made that misuse of the trust funds constitutional. It would have redefined receipts and expenditures in the constitutional amendment in a manner that guarantees you will use all of those so-called forced savings in the Social Security system to offset the Federal budget deficit, the operating budget deficit of the United States.

Frankly, that is not an honest thing to do. Either we are not going to balance the Federal budget or we are going to save Social Security trust funds and balance the Federal budget. But last week, the proposal was to let us use the Social Security trust funds to balance the Federal budget.

That is bad public policy no matter how you slice it or how you describe it. It does not matter what is said in the coming days; it does not alter the facts. The facts are we are talking about $1.3 trillion in the next 12 years of dedicated taxes to be paid into a trust fund that will not be there under

the circumstances of that constitutional amendment to balance the budget. Some things are worth standing and fighting for—$1.3 trillion and the future of the Social Security system, it seems to me, is worth standing and fighting for.

Mr. REID. If I could direct—the Senator from North Dakota now has the floor—a question to the Senator from North Dakota.

Mr. DORGAN. The Senator from Nevada has the floor.

Mr. REID. I would say, one of the misunderstandings also has been that we, those of us who supported the exemption of Social Security from the balanced budget amendment, there is a misapprehension that we did not want Social Security ever touched again. I ask my friend from North Dakota, was it not our intention clearly—we made statements in the Chamber and to the press—that Social Security should rise or fall on its own merits; if we had to tinker with it on the edges to make sure that it was actuarially sound, we could do this, did we not?

Mr. DORGAN. Absolutely. And the fact is there will be adjustments made in the Social Security system. To the extent they are made, they ought to be made to make that system actuarially sound.

Mr. REID. As it has been in the past.

Mr. DORGAN. I do not support misusing the trust funds to balance the Federal operating budget. That is a dishonest way of budgeting, in my judgment.

Mr. REID. We should not be using those moneys, I say to my friend, those tax moneys, 12.4 percent of a person's check, for foreign aid, is that not true?

Mr. DORGAN. Absolutely.

Mr. REID. For the military or highway construction? It should be used for retirement, is that not right?

Mr. DORGAN. Exactly. They are dedicated taxes to be put only in a trust fund to be used only for that purpose.

Mr. CONRAD. Will the Senator yield?

Mr. REID. I will be happy to yield.

Mr. CONRAD. I thank the Senator from Nevada.

RAIDING OF THE SOCIAL SECURITY TRUST FUNDS

Mr. CONRAD. I heard, as I was having lunch downstairs, the distinguished Senator from Idaho attempt to, what I can only say is rewrite history with respect to the debate last week.

Let me say, as one who was involved in those negotiations, I think the record is abundantly clear. Those who were proponents of the amendment clearly intended to raid Social Security trust funds in order to pay for other Government expenses to reduce the budget deficit. That is precisely what was going on last week. Any attempt to say that is not the case is to rewrite history.

Now, as one who was involved in that negotiation, let us review what occurred. Some have said we are raiding the trust funds now. Well, that is absolutely correct. We are raiding the trust funds now. It does not make it right. And to suggest we ought to enshrine that principle and that policy in the Constitution of the United States is dead wrong. To constitutionalize a raiding of trust funds to pay for other Government expenses I believe is a wrong principle.

Let me just say that when I was tax commissioner of the State of North Dakota, I opposed raiding trust funds to pay for Government expenses. I think it is a wrong principle. We should not be doing it at this level either.

Mr. President, the hard reality is the trust fund surpluses that we are running now are about to explode. They are about to become much bigger surpluses, and the reason for that is to get ready for the day the baby boom generation retires, when the number of people eligible is going to double in this country. But what they are going to find is the cupboard is bare. There is no money in the trust funds. There is not a nickel in the trust funds. All the money has been spent.

Mr. President, I want to go back to what occurred last week. I laid out on the 28th, on the morning of the 28th the criteria that were necessary to secure my vote. I was thought then to be a key swing vote. I laid out very clearly in the CONGRESSIONAL RECORD what the criteria were that I would apply in order to get my vote.

During those negotiations, Republican leaders came to me, and they said we understand your concern about taking Social Security trust fund money and using it for Government expenses. We will agree to stop using Social Security trust fund surpluses by the year 2012.

Let me repeat that. After saying for weeks that they had no intention of taking Social Security trust fund money, last week on Tuesday, the 28th, Republican leaders told me they would agree to stop using the trust fund surpluses by the year 2012. That is about $2 trillion of Social Security trust fund surpluses that they were saying they were going to use.

When I said, no, that certainly was not something I could agree to, they came back to me and said we will stop using Social Security trust fund surpluses by the year 2008. Again, this is after saying for weeks they had no intention of using any of those moneys. But they came to me and said we will stop using the Social Security trust fund surpluses by the year 2008.

What could be more clear as to what their intention was? What could be more clear? They said to me they intended to be using the money, first until 2012 and then until 2008. It was only then, after I had objected to that, that they talked about a phasing out and we discussed a formula for phasing out of the Social Security trust fund money. But even that proposal, even that suggestion was flawed because when they put in writing what they had in mind, it was a statute. I told them on that night: I am not a lawyer. I am not a constitutional expert. But if you tell me that this will protect the funds over time, I will go to legal experts and ask them for their opinions.

The next day, they sent to me a draft of a formula that we had discussed the night before. But again it was in statute form, which had never been my idea. That was their idea.

Mr. REID. Will my friend from North Dakota yield?

Mr. CONRAD. If I can just complete the thought?

Then I got the document the next morning. I got the document the next morning. It was their draft of how they said they could protect Social Security funds. I met with legal experts from the Budget Committee, from the Congressional Research Service, and they said this is not going to protect anything because a constitutional amendment supersedes any statute.

So when we hear the other side here today say they had a plan to phase out using Social Security trust funds, it was not an effective plan. It was not a plan that had legal force and effect —at least according to the constitutional experts that I talked to. They told me very clearly that what they were offering was eyewash. It made it look like they were going to do something or were willing to do something, but it would not have legal force and effect.

That is, I believe, the review of what happened last week. For the other side to now say they had no intention of using Social Security funds—please, that is just not the case. It is clearly not the case. They had every intention of using $1.3 trillion of Social Security trust fund surpluses by the year 2008. It would have been about $2 trillion if we had taken their first offer to stop using the funds by 2012. And to say their final offer was to phase out the use of the funds overlooks the point that they were suggesting that a statute would provide that protection when the legal experts I consulted said in fact that would have no legal force and effect.

I want to thank my colleague. I just felt the need to set the record straight here, at least with respect to my belief of what happened last week.

THE BALANCED BUDGET AMENDMENT

Mr. REID. Mr. President, I wanted to say to my friend, he was present, is it not true, one day last week prior to the vote when we were in an office in the Dirksen Building and we called in a constitutional law expert to go over once again the fact that section 7 of the underlying constitutional amendment said that all revenues must be included? The report language and everything else pointed to the fact that that includes Social Security revenues. Then we asked him, going over the argument again, would a speech, a letter, or a statute in effect do away with section 7 of the constitutional amendment?

It is true, is it not, that the scholar said it would not? Once a constitutional amendment passed, Social Security would be there, it would be used

for balancing the budget, unless you again amended the Constitution? Is that not true?

Mr. CONRAD. The Senator is exactly right. We met with a legal expert, a constitutional law expert from the Congressional Research Service, who told us that the statute that had been proposed by the other side to protect Social Security over time, phasing out the using of Social Security surplus funds by the year 2012, would not work.

I had been advised earlier in the day by a budget expert from the Budget Committee itself, a constitutional law expert from the Budget Committee itself, that it would not work. We were advised later on that day that, in fact, that was the case.

THE BALANCED BUDGET AMENDMENT

Mr. HOLLINGS. Mr. President, if the Senator will yield for a couple of minutes, I thank the Senator from Nevada for his leadership and particularly both Senators from North Dakota for their leadership on this issue.

We are talking about truth in budgeting. I know the distinguished Presiding Officer believes in the truth. And the truth is, that when Republicans point fingers and talk in terms of a flip-flop, they should examine their own records and realize that many on there side who previously voted to protect Social Security have now flip-flopped to voting against it.

The Record will show that the Senator from South Carolina voted for practically the same language in voting for the constitutional amendment in 1993. As I stated long before the vote, at that particular time I had not carefully focused on the details of the Simon amendment. I was told: FRITZ, this is the same balanced budget amendment to the Constitution. It is not going anywhere. They talked about protecting Social Security, and I thought, frankly, it did.

When I saw the House of Representatives pass this legislation for the first time this year, I began to study in detail whether or not the language complied with the 1990 Hollings-Heinz law, section 13301 of the Budget Enforcement Act, that we struggled to put on the books.

Why the struggle? Because I have been down this road before. I remember Arthur Burns, who was then Director of the Federal Reserve back in the 1970's, talked the need for a unified budget. I went along with the unified budget in 1983 because there were not any surpluses. That was the problem, the dilemma that the distinguished Senator from North Dakota is pointing out. We were trying to make up, with a tax on payrolls, not only the short-term deficit in Social Security, but also to protect the fiscal soundness of Social Security into the middle of the next century.

But then, during the late 1980's, a funny thing happened on the way to the forum—the Federal deficit exploded. The Social Security surpluses were growing as a result of the increased payroll tax. But to hide our fiscal profligacy Congress, Republican and Democrat, used those funds to mask the true size of the problem. Rather than changing course and taking steps to reduce our spending habits, we were content to move the deficit from the Federal Government over to the Social Security trust.

That bothered Senator Heinz, the late Senator from Pennsylvania, and this Senator. Senator Heinz was not on the Budget Committee, but I was. So I brought it up and on July 10, 1990, we had, by a vote of 20 to 1—where the distinguished Senator from Texas [Mr. GRAMM] was the lone vote against. Thereafter, by a vote of 98 to 2 on the floor of this body, we passed my amendment and saw it signed into law by President Bush on November 5, 1990.

So comes this particular amendment. I checked closely, and I read and reread it. As I said, we went to better constitutional experts than myself, but everybody knows that you cannot amend the Constitution by statute. As President Washington said in his Farewell Address:

> If, in the opinion of the people, the distribution or modification under the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the constitution designates—But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

So I knew it. I had been into this court before. I said, ''Wait a minute. When it says that all receipts and all outlays will be included in this deficit, that means that all Social Security receipts and all Social Security outlays will be included in calculating the deficit, thereby repealing section 13301.''

Now that got my attention. If I am flipping and flopping, at least, as Adlai Stevenson said years ago, it is not a question of whether I am conservative or I am liberal. The question is whether I am headed in the right direction. I am headed in the direction of complying with the law. I will yield, because I did not intend to speak until I had my lunch, but I was disturbed by this nonsense that I heard a little while ago.

I will ask our distinguished friends, at least in The Washington Post, to report that five Democratic Senators are ready, willing, and able to vote for a constitutional amendment to balance the budget if they protect Social Security. The majority leader said they are going to protect it. I heard him yesterday on ''Face the Nation''. He said, ''We are going to protect Social Security.'' All I am saying is that they need to put it in black and white. They need to put it in writing for the American people.

We wrote a formal letter so there would be no misunderstanding. We said that you can pass a constitutional amendment with 70 votes if you only protect Social Security.

I honor the representations made by the distinguished Senator from Nevada and the distinguished Senator from North Dakota today on the floor about the need for truth in budgeting. The five votes were there that could have easily passed the amendment. They acted like the offer was never made. It was formally made.

I am still prepared, and make the same offer, as one of the particular five. You could get one vote and pass it right now. It is 1:30 now. You could do it at 1:35 p.m., in the next 5 minutes; anytime. But that is not the position they take. The Record is clear. If they wanted to pass it, they could have passed it in a flash.

I thank the distinguished Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. REID. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DORGAN. Yes.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that during the morning business of the Senate, Larry Ferderfer, a congressional fellow, be allowed privileges of the floor.

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

Mr. REID. If I may further ask unanimous consent, Mr. President. I can see the time is running. I know Senator BRYAN is here to give a statement and Senator BINGAMAN is here to give a statement. I wanted to give a statement on something other than Social Security and the balanced budget.

I am wondering if we could have the permission of the Chair, and I ask unanimous consent to extend morning business also for Senator BRYAN, Senator BINGAMAN, myself, and Senator DORGAN until 2:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Regular order will be enforced with Senators allowed to speak for up to 10 minutes of morning business. Under the order, morning business is allowed for up to 10 minutes.

Mr. DORGAN. Mr. President, let me add a final comment about this, and to say that in the coming days, if and when Senators come to the floor to try to revise history or describe what happened in a manner that does not comport with what I think happened last week, others of us will come to the floor to correct it. We will not let stand assertions by some who say ''Gee, the only reason we lost this vote on the constitutional amendment to balance the budget was because some people did not understand what we were trying to do. We had no intention of using the Social Security trust funds.''

Well, in private conversations, we were told, ''Look, fellows; in this language, we all understand you cannot balance the budget without using the Social Security trust funds.''

I wish we had heard that in public, as well, and maybe the American people would understand more clearly what was behind the political circumstances last week.

In fact, a lot of this was just politics, as all of us know. Twenty-four hours after the vote, the Republican National Committee already had their advertisements on the air, paid for and running. They knew what they were doing. The slash and burn attack of politics is fine. They can do that. They have the money. But it is all about politics. The fact is, we have a serious budget deficit problem in this country. We ought to fix it. We ought not raid the Social Security trust fund to do it.

When Abraham Lincoln was debating Stephen Douglas, he was apparently exasperated. He could not get Douglas to understand a point he was trying to make. Finally, he stopped and looked at him. ''Tell me, sir. How many legs does a cow have?'' Douglas said, ''Four.'' ''Well, sir. Now, if you called the tail a leg, how many legs would the cow have?'' Douglas said, ''Five.'' Lincoln said, ''That is where you are wrong. Just because you call a tail a leg does not at all make it a leg.''

The folks come here and say they want a balanced budget at the end of 7 years, and at the end of the 7 years, they have taken the trust fund to balance the budget. They do not have a balanced budget. They might call it that. But they have raided the Social Security trust funds to do it. I do not know what arithmetic books they studied to give them this sort of advice on how to achieve these things.

The people who spoke the loudest about changing the American Constitution on the deficit are the same ones who, through polling, have devised this Contract With America that would also have us enact a very big tax cut right now. They would cut three-quarters of a trillion dollars from revenue with a big tax cut because that is popular. So they say, ''Let us have a big tax cut. Let us have a defense increase, one of the biggest areas of public spending. Let us increase defense spending. Let us cut taxes. And let us change the Constitution to require a balanced budget.'' And while they change the Constitution, they would define revenues and expenditures in a way that would raid the Social Security trust funds to balance the budget.

Some of us say, ''No. It does not make any sense.'' They say: ''It does not make sense to you? Then we attack you back home with paid ads.'' That is fine. They have a right to do that in this country. But the American people deserve to know the truth, as well.

There is an old virtue in this country about saving. One of the sobering things we did in the 1980's was to decide in 1983 that we would save for the future in the Social Security trust funds. I was part of that. I helped write it. Unfortunately, in these circumstances, in recent years, and also, if we passed a constitutional amendment enshrining in that language forever in the future, we would have misspent the Social Security trust funds. At least, I am not willing to be a part of that. Others can describe it the way they see it, or the way they want to. But I would simply leave it at this: We were told in private, by the same people who said in public, ''We have no intention of using the Social Security trust funds,'' we were told in private, ''Look, fellows. The only way we can balance the budget is by using the Social Security trust funds.''

If I told the folks in my hometown that the only way you can balance the budget is by raiding the Social Security trust funds, they would then say you need to take a new course in budget balancing. Of course, you need to balance the Federal budget. You can, and you should. But at the same time, you can, should, and must save the money you promised the workers in this country and the retired people in this country that you would have in the Social Security trust funds.

You promised them you would do that. You owe it to them to do that. It is not a case where you do one or the other. You do both—balance the Federal budget and be honest with the trust funds. And, if someone tries to do it differently, tries to shortcut by saying let us use the trust funds to balance the budget, I think a lot of people would appreciate somebody who says, ''No, it does not make any sense.''

This is not about politics. It is about principle. If you are not willing to stand for principle from time to time, then you should not be here. I am not complaining about the political pressure. They can attack forever. But when they come to the floor to revise the story of what happened last week, then I intend to be on the floor, and I hope the Senator from Nevada and others will be prepared to correct the RECORD every single day they do it. The American people need to understand what happened. And we have an obligation to tell them the truth about what went on in the Senate last week.

We did not start this. I heard this discussion and felt the need to come over and respond to it. I prefer that we not have these discussions. I prefer instead that we decide that what happened last week happened last week. Let us try to work this week on what benefits this country.

But to forever, today, every day, and every way, bring this up is just politics. It is just: ''How do we win and how do we force the others to lose?'' I know I am representing myself in an assertive way because of what I just heard. I say that the Presiding Officer at this point is someone who I know believes the less politics the better. We are all elected through the political system, and I am proud of the system. I support the system.

John F. Kennedy used to say, ''Every mother hopes their child can grow up to be President as long as they do not get involved in politics.'' But we must make public decisions and it is a necessary system. Party politics, it seems to me, ought to play a lesser role than public principle on important public issues.

I hope we can put all that aside and decide to march in unison toward the goals of the people. They want a better economy and more opportunity in the future. Both political parties have an obligation to join hands and see if we can find ways to try to bring that about and give to the American people an economy that is growing and provides more opportunity.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN] is recognized.

NUCLEAR WASTE DEBATE AT LOS ALAMOS

Mr. BRYAN. Mr. President, I want to focus my colleagues' attention on a subject that has consumed a good bit of my energy now for more than a decade. It is the subject of a high-level nuclear waste repository and an ill-conceived proposal by the nuclear power industry that Yucca Mountain in Nevada is the ideal place to do that.

I want to further call to my colleagues' attention the front page article in the New York Times yesterday which, in my judgment, says it all. I have had it blown up here. ''Scientists Fear Atomic Explosion of Buried Waste, Debate by Researchers, Argument Strikes New Blow Against a Proposal for a Repository in Nevada.''

That does pretty well sum it up, because for the past 13 years, there has been an unremitting, relentless effort to locate a high-level nuclear waste dump at Yucca Mountain, assuring us in Nevada that it is perfectly safe, nothing to worry about. This article reveals that, since last summer, Department of Energy scientists at Los Alamos National Laboratory, one of the most distinguished laboratories in America, have been studying a premise advanced by one of their colleagues that nuclear waste stored in a geologic repository in volcanic tuff risks ''going critical.'' That is nuclear jargon—''going critical.'' To those of us who are laymen, it means an explosion, a detonation, in which radioactive material would be scattered for miles and miles.

Needless to say, the consequences of a spontaneous nuclear explosion 90 miles from the city of Las Vegas would have a devastating impact. I must say, Mr. President, I continue to be shocked and outraged that the Department of Energy and the nuclear power industry continue to force the acceptance of a dump on Nevada when it appears that their own scientists cannot reach consensus on the most fundamental safety questions related to nuclear waste.

As the New York Times article points out, ''even if scientists can debunk the new argument that buried

waste at Yucca Mountain might eventually explode, the existence of so serious a dispute so late in the planning process might cripple the plan or even kill it.''

Nevadans are no strangers to the uncertainties of science when it comes to nuclear matters. I must say, the distinguished occupant of the chair and the great State that he represents are no strangers to this issue either. It has been 41 years since the first atmospheric detonation occurred at the Nevada test site outside of Las Vegas. Nevadans, Utahans, and Americans alike were assured there was absolutely no risk, no safety hazard, nothing to be concerned about. Let us in the scientific community reassure you that you have nothing to be concerned about.

Mr. President, I have used this opportunity on the floor to share my own reaction. I was initially in the eighth grade at that time. Our science teachers had us go out and, using a scientific calculation after seeing that flash that was embellished in the early morning dawn and feeling the seismic impact, you could actually ascertain the distance from ground zero to where that flash was being received. We were pretty excited about it. I was 13 at the time. By the time we were in high school, it had become such a part of the southern Nevada culture that businesses, wishing to demonstrate their own patriotism, were renaming business establishments atomic this and atomic that. Some may recall there was a fashion in America, an atomic hair-do. We who were students of Las Vegas High School were so enthralled by the experience that the cover of our annual, the Wildcat Echo, had the nuclear mushroom cloud on it. We thought we were part of something that was very exciting and important to the country and that it contained no risk for us.

The constituents of the distinguished occupant of the chair were told this as well. We know, decades later, that the people who were downwind—most of them, fortunately for us in Nevada, were not in Nevada; unfortunately for our sister State to the east, they were in Utah. They suffered the genetic effects, the cancer and the other serious illnesses because we were all told, and as good Americans we believed, there is absolutely no risk to health or safety.

Well, fast forward, Mr. President. We are now told that burying high-level nuclear waste is absolutely safe. As I have indicated, there is a relentless drumbeat of pressure and publicity, coordinated, if you will, between the Department of Energy, which on this issue simply serves as a surrogate of a nuclear power industry.

But why are the public officials in Nevada opposed to this, because is it really safe? Is it just a matter of science and nothing to be concerned about?

Mr. President, if I am appearing a bit cynical, it is because that has, sadly, been my experience. My senior colleague and I, Senator REID, have lived in southern Nevada. This has been part of our experience from the time of our youth until the time we entered public life, and now as we have service together in the U.S. Senate.

Last Thursday, before this story broke, the Senate Energy Committee held a hearing. May I say to the new chairman, the distinguished chairman from Alaska, it was a very fair hearing. We in Nevada had a chance to express our view, and the Secretary of Energy and the civilian radioactive waste manager, Mr. Dreyfus, was there, and those in the nuclear power industry were there. This was last Thursday.

Let me put this in context. In this debate in the scientific community in which there are three teams comprised of 10 scientists—that is 30 scientists—they have been unable to rebut the assertion that there is genuine fear that an explosion can occur in a geologic repository. This discussion has been going on for months and months and months.

I knew nothing about this discussion. Like Senator REID, I have meetings at least monthly, probably more frequently, asking, ''What is the latest?'' ''What is happening?'' ''What are you going to do?'' My point is that as recently as this past Thursday, the nuclear power industry and its advocates repeatedly assert that there is no scientific or engineering basis holding back progress at Yucca Mountain, that all of the opposition to Yucca Mountain is purely political.

Bunk. These people that have formulated this premise, which has been unable to be rebutted, are not people that have been hired by Senator REID, myself, the Governor of Nevada, or antinuclear activists. These are people within the Department of Energy's own distinguished laboratory at Los Alamos. Not a word of this was shared with us. We learned it, as did millions of Americans, by becoming aware of the story yesterday in the New York Times and in subsequent news accounts that have followed.

For 13 years, blindly they have proceeded on the premise that it has to be a deep geological burial and Yucca Mountain is the only place it has to be. I must say that some public officials from my own State came to the hearing last Thursday to say, look, maybe we ought to cop out, sell out for a few bucks and see what we can get—the so-called benefits argument.

That is to their disgrace, Mr. President. There can be no compromise with the health and safety of the citizens of our State. And I must say that the nuclear power industry, in its cynicism, continues to advocate ''just negotiate for benefits; just negotiate for benefits.''

Well, the newest proposal now is that we have to have an interim storage facility; not a permanent, but an interim is what we need. And, you guessed it, the interim storage proposal, well, that should go to Nevada, too. And the premise for that is because Yucca Mountain is going to be a permanent repository, let us just have them all next door. That will require a statutory legislative change to the Nuclear Waste Policy Act. And, I must say, in light of this concern here, I do not know how any fair-minded Member of the U.S. Senate cannot take a look and say, ''Maybe we ought to take a little time out and take a pulse on this.''

Even before this revelation, the testimony before the committee on Thursday was that there is about a 50–50 chance of the permanent repository at Yucca Mountain ever being licensed. As I say, this most recent revelation should put that into further context.

Senator REID and I for some time, joined by our government and district political officeholders, Democrat and Republican alike, in our State, have called for an independent review, an independent review. We have been joined by the GAO, the Nuclear Waste Technical Review Board and many, many others in the community.

Secretary O'Leary has simply refused our request. We waste billions on the program—proponents of the dump and opponents of the dump agree on that—more than $4 billion. And now, Mr. President, it is time to insist upon this independent review.

I do not expect Secretary O'Leary will change her position, but it will be my purpose to introduce an independent review process by legislation later this week.

I thank my distinguished colleague, the senior Senator from Nevada.

Mr. President, I ask unanimous consent that the text of the Sunday New York Times article be printed in the RECORD.

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

[From the New York Times, Mar. 5, 1995]

SCIENTISTS FEAR ATOMIC EXPLOSION OF BURIED WASTE; DEBATE BY RESEARCHERS

(By William J. Broad)

Debate has broken out among Federal scientists over whether the planned underground dump for the nation's high-level atomic wastes in Nevada might erupt in a nuclear explosion, scattering radioactivity to the winds or into ground water or both.

The debate, set off by scientists at the Los Alamos National Laboratory in New Mexico, is the latest blow to the planned repository deep below Yucca Mountain in the desert about 100 miles northwest of Las Vegas. Opponents of nuclear power and Nevada officials have long assailed the project as ill-conceived and ill-managed, and it has encountered numerous delays.

Even if scientists can debunk the new argument that buried waste at Yucca Mountain might eventually explode, the existence of so serious a dispute so late in the planning process might cripple the plan or even kill it. Planning for the repository began eight years ago and studies of its feasibility have so far cost more than $1.7 billion. The Federal Government wants to open the repository in 2010 as a permanent solution to the problem of disposing of wastes from nuclear power plants and from the production of nuclear warheads.

The possibility that buried wastes might detonate in a nuclear explosion was raised privately last year by Dr. Charles D. Bowman and Dr. Francesco Venneri, both physicists at Los Alamos, the birthplace of the atomic bomb. In response, lab managers formed three teams with a total of 30 scientsts to investigate the idea and, if possible, disprove it.

While uncovering many problems with the thesis, the teams were unable to lay it to rest, laboratory officials say. So the lab is now making the dispute public in scientific papers and is considering having it aired at large scientific meetings as well.

''If we knew how to put the stake through it's heart, we'd do it,'' Dr. John C. Browne, head of energy research at the lab, said in an interview. Going further, some panel members said they felt that the new thesis had been refuted.

Dr. Bowman, the idea's chief advocate, said the internal debate had changed some elements of the thesis but over all had left it honed and strenghened.

''We think there's a generic problem with putting fissile materials underground,'' he said in an interview, referring to substances that fission, or split part, in a nuclear chain reaction.

The few scientists outside the laboratory who have become aware of the debate say the explosion thesis is provocative and probably wrong. Nonetheless, they say, the stakes are too high to sweep the idea under the rug.

''It is important to see whether it has anything to do with the situation that might arise in an actual repository,'' said Dr. Richard L. Garwin, a prominent physicist at the International Business Machines Corporation who has long advised the Federal Government on nuclear arms and their dismantlement.

Highly radioactive wastes are the main orphan of the nuclear era, having found no permanent home over the decades. In theory, if the Yucca plan wins approval after a careful study of the area's geology, a labyrinth of bunkers carved beneath the mountain would hold thousands of steel canisters for 10,000 years, until radioactive decay rendered the wastes less hazardous.

The spent fuel from nuclear reactors is permeated with plutonium, which is a main ingredient used in making nuclear bombs.

Since plutonium 239 has a half-life of 24,360 years, significant amounts of it would remain active for more than 50,000 years, long after the steel canisters that once held the radioactive material had dissolved. (A radioactive substance's half-life is the period required for the disintegration of half of its atoms.)

With the end of the cold war, the Nevada site has increasingly been studied for a possible added role as a repository for the plutonium from scrapped nuclear arms. In January 1994, the National Academy of Sciences, which advises the Federal Government, suggested that the plutonium be mixed with highly radioactive wastes and buried, or burned in reactors and then buried. In either case, some plutonium would end up going underground.

On Wednesday, President Clinton, trying to win a permanent global ban on the spread of nuclear arms, ordered substantial cuts in American stockpiles of weapons plutonium but did not say what would become of the deadly substance. Officials said it would remain in temporary storage above ground until a decision was made on its ultimate disposition.

The scientist leading the charge against the burial of fissile materials, Dr. Bowman, has an alternative plan in which particle accelerators would, by a kind of nuclear alchemy, transmute radioactive wastes, as well as plutonium, into more benign elements before they were buried. Dr. Bowman is the head of the planning effort for the proposed project.

Although that gives him a personal stake in the explosion argument, experts say that such situations are common in science and that ideas must be judged on their merits.

Last summer and fall, Dr. Bowman began talking of the dangers of underground storage and was urged to set them down in an internal Los Alamos report, which he did by November. The crux of his argument was that serious dangers would arise thousands of years from now after the steel canisters dissolved and plutonium slowly began to disperse into surrounding rock.

The rocky material, he said, could aid the start of a chain reaction by slowing down speeding subatomic particles known as neutrons that fly out of plutonium atoms undergoing spontaneous decay. Neutrons of a certain speed can act like bullets to split atoms in two in a burst of nuclear energy.

Under some circumstances, Dr. Bowman theorized, the slowing of the neutrons could make an individual pile of plutonium explode in a nuclear blast equal in force to about a thousand tons of high explosive, setting off other blasts throughout the vast repository.

The team assembled to review the thesis concluded that it held serious flaws, said Dr. Browne of Los Alamos. First, dispersal of plutonium, if it happened at all, would take much longer than envisioned—so long that the plutonium would have mostly decayed.

Second, the review team felt that if a plutonium pile did begin to heat up, the reaction would automatically slow down and stop as the heat made the pile expand.

Third, the team felt that any reaction would be too slow to cause an explosion and that, at worst, a pile would simply heat up like a reactor.

''The burden of proof rests on Charlie,'' said Dr. Browne, referring to Dr. Bowman. ''He's hypothesized some scenarios that, if correct, are clearly very important. In spite of the fact that there is a sizable amount of opposition to Charlie's paper, our feeling is that the subject is so important that it deserves additional peer review outside the laboratory, since we could not resolve the disagreement internally.''

Dr. Bowman says the explosion thesis is alive and well. On Friday he finished an 11-page draft paper thick with graphs and equations that lays it out in new detail.

The team criticisms, he said in an interview, repeatedly fall flat. For instance, dispersal could happen relatively quickly, especially if water percolated through the dump. Even if slow, plutonium 239 decays into uranium 235, which harbors the same explosive risks but requires millions of years to decay into less dangerous elements.

So too with the other criticisms, he says. Water could aid the slowing of neutrons and make sure the reaction went forward rather than automatically slowing down. And a pile could explode, he insists, while conceding that the blast from a single one might have a force of a few hundred tons of high explosive rather than the thousand or more originally envisioned.

On the other hand, his new paper says plutonium in amounts as small as one kilogram, or 2.2 pounds, could be dangerous.

''We got some helpful criticism and that, combined with additional work, has made our thesis even stronger,'' he said.

The most basic solution, Dr. Bowman said, would be removing all fissionable material from nuclear waste in a process known as reprocessing or by transmuting it in his proposed accelerator. Other possible steps would include making steel canisters smaller and spreading them out over larger areas in underground galleries—expensive steps in a project already expected to cost $15 billion or more.

A different precaution, Dr. Bowman said, would be to abandon the Yucca site, where the volcanic ground is relatively soluble. Instead, the deep repository might be dug in granite, where migration of materials would be slower and more difficult.

Cathy Roche, vice president for communications of the Nuclear Energy Institute, a nuclear industry trade group based in Washington, said the debate suggested the need for more study of the Yucca site, not less.

''We're concerned that this not be used as an excuse by the opponents of waste solutions to stop the scientific analysis of the mountain,'' she said.

Dr. Daniel A. Dreyfus, the head of civilian radioactive waste management at the Energy Department in Washington, which runs Los Alamos and the Yucca Mountain studies, said he was keeping an open mind on whether Dr. Bowman's thesis might trigger an overhaul of the project.

''The characterization work has any number of uncertainties,'' he said in an interview. ''Criticality is clearly a major consideration when you put a whole bunch of high-level waste anywhere. Whether Yucca Mountain is the right site, I don't know.

''Maybe there's no good solution,'' he added. ''But walking away from the problem is no solution either. We better keep trying, because we already made the decision to have the wastes in the first place.''

Mr. BRYAN. Mr. President, I yield back any time I may have remaining.

(Mr. GORTON assumed the chair.)

Mr. REID. Mr. President, I extend my appreciation publicly, as I have done privately on a number of occasions, for the leadership of RICHARD BRYAN on this issue. And I say RICHARD BRYAN, because his leadership on this issue started long before he became a Member of the U.S. Senate. During his tenure as Governor of the State of Nevada, he was a leader in recognizing the fallacy of attempting to geologically bury nuclear waste next to the No. 1 destination resort of the world—Las Vegas.

Mr. President, I, like my friend, the junior Senator from Nevada, as a little boy used to watch the flashes in the morning sky. I lived about 60 miles from Las Vegas, 60 miles farther away from the explosion than did Senator BRYAN. We would get up—it would be dark—a bunch of little kids, and we would see that flash in the sky. Sometimes in Searchlight, where I was born and raised, we would hear the explosion, because by the time it got to Searchlight, a lot of times the sound would bounce clear over Searchlight.

But, as I told many people, we were the lucky ones, because the winds did not blow toward Searchlight. The winds blew toward St. George, they blew toward Enterprise in Utah, and those young men and women who watched the night sky explode got diseases and some died. I have talked to parents, I have talked to children, sons and daughters. And, of course, there are the stories that have been written about sheep, people herding sheep. Herders would get up in the morning and the wool would just come off their

animals, even though they were still alive.

So, Mr. President, this is a serious matter, and I know everyone recognizes it is a serious matter.

But for those of us who have lived with this since 1982, to see this headline in the New York Times yesterday says it all. ''Scientists Fear Atomic Explosion of Buried Waste''; just like on Senator BRYAN's chart, his visual aid, on the front page of the New York Times.

And what troubles me so much is this has been going on for months and months. It is easy for the people in charge of the program, when somebody says, ''Oh, don't worry about it.'' They come and testify. They write papers. But when there is evidence by a scientific community that says an explosion could occur, we do not hear about it.

How many congressional hearings have we had since this took place? Several. How many public gatherings have we had where Department of Energy officials have come forward? Numerous.

The Secretary of Energy, I say to my friend from Nevada, has recently said that this is a priority with her to get nuclear waste in Nevada. I wonder if there would be a sting of conscience that would say, ''I wonder if we should be worried about this atomic explosion.''

And, Mr. President, it is not as if it has not happened before. In the former Soviet Union, they had an explosion from nuclear waste.

The article is frightening, to say the least. ''Debate has broken out''—I am reading directly from this article—''among Federal scientists whether the planned underground dump for the Nation's high-level atomic wastes in Nevada might erupt in a nuclear explosion, scattering radioactivity to the winds or ground water or both.''

This is not sensationalism that the Senators from Nevada has created. This is a newspaper article and it comes from the scientific community.

We have been called everything—''unpatriotic'' was one of the better terms we have been called—because we have stood in the road to try to stop this thing from happening.

''The debate, set off by scientists at the Los Alamos National Laboratory in New Mexico''— one of the finest scientific institutions in the world—''is the latest blow to the planned repository.''

I wish I believed that.

It says, ''Even if scientists can debunk the new argument that buried waste at Yucca Mountain might eventually explode, the existence of so serious a dispute so late in the planning process might cripple the plan or even kill it.''

I hope so, because, as I say, Mr. President, rather than do as they do with all the so-called good news that comes in relation to the repository, they hid this. This has been hidden. And they did it by saying, ''We do not believe it is possible.'' And here we are going to have 30 scientists prove this wrong. They have tried to prove that it is wrong for almost 10 months. They cannot. They admit this. The scientists, the three teams, were not told to go prove how it could happen, I say to my friend from Nevada, they were asked to prove how it could not happen, and they could not do it.

The possibility that buried wastes might detonate in a nuclear explosion was raised privately last year by Dr. Charles D. Bowman and Dr. Francesco Venneri, both physicists at Los Alamos * * * the teams were unable to lay it to rest * * *.

Dr. Bowman, among other things, said, ''We think there's a generic problem with putting fissile materials underground.'' That is an understatement, reading the rest of this stuff.

Highly radioactive wastes are the main orphan of the nuclear era, having found no permanent home over the decades.

The spent fuel from nuclear reactors is permeated with plutonium, which is a main ingredient used in making nuclear bombs.

''Since plutonium 239,'' listen to this, ''has a half-life of 24,360 years, significant amounts of it would remain active,'' to say the least.

Should we not stop and just relax a little bit and not be driven by the nuclear power industry? Sure, they have invested a lot of money in nuclear waste disposal in Nevada. That is the only place they have cast their lot.

Should we not stop and let common sense dictate proper policy? We are not talking here about storing wheat. We are not talking about storing tires that may burn for a little while. We are talking about storing nuclear waste that will explode like an atomic bomb that occurred at Nagasaki and Hiroshima. And hundreds of times they have been exploded in the deserts of Nevada.

I have heard many times people say, ''Well, what is the alternative?'' There are a lot of alternatives. The No. 1 alternative has been created, again, by scientists. During this period of 13 years they have been trying to figure out a way we can transport nuclear waste, and scientists came up with an idea that might work pretty well. That is a dry cast storage container.

But why transport it? If it is safe to haul in a truck, why do we not leave it where it is, and then it is really safe. Now, this is not something that HARRY REID, who has a very inadequate scientific background, came up with. Scientists came up with this. And they have said leave it where it is.

It is really time to step back, think, and study this issue. It is time to do some scientific investigation, to look at other technologies, to look at other sites. It is time to drop the efforts to amend the Nuclear Waste Policy Act, to drop efforts to speed the process up. It is premature to change our strategy, to accelerate our strategy, to think about moving nuclear waste anywhere else.

In this newspaper article one of the scientists said, I think you better give up on Nevada and start looking someplace else. Mr. President, I do not want to create this problem for somebody else. We have to know what we are going to do before we start talking about burying geological waste. One scientist here said we better look to granite formation because the water will not come through and water could help accelerate the process that could lead to an explosion.

There are some who say that there is another crisis that exists. Our cooling ponds are filled. I say, leave them filled. Move the spent fuel rods out and put them into dry cast storage containers at the reactor sites. We have time. It is perfectly safe to store the waste where it is.

Why the rush? The rush is because the nuclear waste power industry is fixated on this. It is like an obsession. They do not want to be proven that they may have been wrong and spent billions of dollars of the ratepayers money wrongly. That is what it amounts to.

Mr. President, I am happy this came out, even if it was through the newspaper. I think it would have been more appropriate had people from the Department of Energy at the hearing that was held the other day testified that we have another problem that has come up: Scientists fear atomic explosion of buried waste.

I do not know how the newspaper got this information. There is nothing in the article to indicate how or where they got it. I do not know if they got it from the Department of Energy. However they got it, this is not an appropriate way to do business when we are dealing with the most poisonous substance known to man, namely, plutonium.

It gives me pause about the Department of Energy. I have called publicly for doing away with the Department of Energy. This certainly does not distract from my initial goal. I think it adds to it. I think the functions of the Department of Energy should be spread out among other agencies, some to the Department of Defense, some to Interior, some to the EPA.

I am very disappointed in my Government, especially the Department of Energy. I yield the floor.

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.

Mrs. HUTCHISON. 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 Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 498 are located in today's RECORD under

''Statements on Introduced Bills and Joint Resolutions.'')

DR. MIKE CAUDLE FINDS FOREIGN SOIL, COMMON GROUND

Mr. HELMS. Mr. President, all of us think and talk a lot about priorities these days, and that it is good. And ever so often we read or hear about a special person with special priorities and principles. When we do, a sense of admiration wells up within us—and, in my own case, a sense of regret that I haven't done more than I have in terms of what my father used to call the Lord's work.

I have reached the age, Mr. President, when far younger men and women than I are doing wonderful and remarkable things. Many of them I have met; some are like members of the family. One in particular came to mind the other night when I was reading the 1994 annual report of the Knoxville Medical Center, of the University of Tennessee.

But I am moving ahead of my story. Many years ago I met a young man named Bob Caudle whom I found impressive. I was then one of the senior officers of Capitol Broadcasting Co. in Raleigh which owned and operated a television station, a radio station, two statewide radio networks and an assortment of other related enterprises.

I persuaded Bob Caudle to join Capitol Broadcasting's team. He served well until he retired and then agreed to become a part of the Helms Senate family. We don't have a staff, Mr. President—not in Washington nor in Raleigh nor in Hickory. We're a family that is praised by even my strongest critics for the splendid constituent service they render—not only to North Carolinians but to citizens all over the country who contact us seeking assistance.

Bob and Jackie Caudle had two little boys when Bob began work at the television station. Later a precious little baby girl, Lisa, rounded out the Caudle family.

Lisa Caudle is today a beautiful young woman with one of the most beautiful voices I've ever heard. Both of the Caudle boys long ago became men, both became highly respected physicians. Dr. Bob Caudle, Jr., is in practice in Raleigh. Dr. Michael Caudle, hereinafter referred to as Mike, is now chairman of the University of Tennessee's Medical Center's department of obstetrics and gynecology.

I mentioned the 1994 annual report of the University of Tennessee's Medical Center of Knoxville. The entire issue is devoted to the subject of compassion. The foreword discloses to all of us the definition of compassion. Note these eloquent words, Mr. President:

Deep inside ourselves, there is a place where compassion knows no limits; where love and concern for our fellow human beings become omnipotent. But for many, limited courage and determination leave this wellspring untapped. For others, this wellspring is where they find their life's purpose.

Such is the case for the physicians, staff and volunteers features in these pages. The Medical Center was their starting point, but their compassion has led them beyond the institution's walls. They have gone where others are weak, vulnerable, lonely and broken. Their journeys have changed them forever.

Mr. President, there follows immediately in that annual report a full-page color picture of Dr. Mike Caudle, striding along a walkway at the medical center, stethoscope in the right pocket of his white physician's jacket. And then, on the next page, begins an in-depth tribute to that distinguished physician who, it seems, was a polite little boy visiting his dad at the Raleigh television station—surely it could be no longer than a few weeks ago.

No, Mr. President, it was awhile ago, and I want Senators, and others who peruse the CONGRESSIONAL RECORD, to have this tribute, headed ''Foreign Soil, Common Ground'' available for reading.

Therefore, Mr. President, I ask unanimous consent that the aforementioned article be printed in the RECORD.

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

In August of 1961, 10-year-old Michael Caudle sat mesmerized by the family television set on which he saw the raising of the Berlin Wall. He wondered what life would be like for those people who were literally being sealed off from the rest of the world. He later learned that ''the wall'' was only part of something called the Iron Curtain, a symbol of Soviet domination throughout Eastern Europe. Thirty-two years later in 1993, Caudle's childhood wonderings were realized when he visited Romania on a medical mission trip. Now a physician serving as chairman of University Medical Center's Department of Obstetrics and Gynecology, Dr. Caudle was persuaded to make the journey after listening to a speech given at his church by a Romanian Parliament member. Touched by this description of the many needs in Romania, he decided to serve as a link to the country, spending a week teaching at the medical school in Timisoara and performing obstetrical and gynecological procedures at rural clinics.

Although Dr. Caudle had always wanted to visit Eastern Europe, he found his first few minutes there a bit unsettling. ''When I got off the airplane, they bodily searched me. They have these military people with AK–47s and they X-ray your luggage,'' he explained. ''They asked what I was doing there, and I told them I was working for the Romanian doctors who were waiting for me outside. They looked outside and slammed my luggage down and left. When I asked my Romanian colleagues why the guards suddenly left me alone, they said, 'Every gun in that airport needs an OB/GYN doctor for his wife. They aren't going to mess with you,'''.

As Dr. Caudle began his work, he soon discovered that many women were desperate for sterilization, a procedure that was previously illegal in Romania. ''I told the doctors 'I don't think it's a good idea for women to be pregnant all the time. What you should be doing is a sterilization procedure called tubal ligation,''' Dr. Caudle recalled. ''I explained it to some patients with the help of one of their doctors, and several volunteered to have it done. The word spread quickly once the women realized what this could mean for them. This was a big step toward getting at least a few people out of a cycle that has kept women constantly pregnant, anemic and sick.''

This cycle was only part of a ''reign of terror'' begun under Romania's ruthless dictator, Nicolae Ceausescu, who ruled Romania from 1965 until 1989. Wanting to limit individuality and thoughts of freedom, Ceausescu banned education of the humanities and sciences. His rules grew even more despotic when he banned contraceptives and demanded that women bear at least five children.

Ceausescu's restrictions and demands bankrupted the country and alienated its people. Romania's discontent led to a revolution in December 1989 when a revolt occurred in the city of Timisoara over the deportation of an ethnic Hungarian pastor. The uprising resulted in the deaths of hundreds when Ceausescu ordered his army to fire on the crowd. Protests began in many cities the day after the massacre, and on December 22, the dictator was forced to leave the country. He was soon captured, however, and executed after a brief trial.

In the aftermath of the revolution, Romania is still in a state of social and economic despair. Every aspect of life is reduced to a minimal level, particularly health care. In this setting, Dr. Caudle found himself playing the multiple roles of physician, technician, engineer and teacher.

''You can see the value of people like me spending time there and providing technical instruction. They are finally getting some equipment, but it has just been collecting dust because they don't know how to use it. The key is education. I could go over there and see patients for the rest of my life, but teaching through the university multiplies the effort,'' Dr. Caudle said.

With the aid of a translator, Dr. Caudle gave several lectures to the medical students. ''They are very bright. It is quite difficult to get into medical school there,'' he explained. ''They came to class with lists of questions they had spent hours preparing. 'How do you do this in America?' or 'How do you do that?' They were very well read, but they have old textbooks.''

This teaching experience, however, was a two-way street, particularly in the rural settings. Dr. Caudle had to learn to function without the technology he has grown used to in the States. He also learned that maturity and a proven track record are advantageous for medical missions like this one.

''They challenge your authority on everything because they are so well read. They have their own reasons for doing things, and they argue with you,'' Dr. Caudle remembered. ''What I have learned is that there are some things we do in the States that I'm not sure are right anymore. We do them as a habit and they do it differently. Now I can't decide which way is right.''

The questions went beyond obstetrical and gynecological issues as Dr. Caudle's first visit came to a close. He realized that the time spent in Romania had influenced him in a profound way. ''Dr. Dragulescu, the rector of the medical school in Timisoara, was thanking me for making sacrifices to come to his country and I said, 'Your people died in the streets, your children died. What is it for me to come here for a week compared to what you've been through?' I went over there to help, but what happened was that I found out what was really important to me. It reorients your priorities and how you spend your time,'' he explained.

Although he could justifiably feel overwhelmed at the enormity of the problems which exist there, Dr. Caudle feels that he and others can make a difference. ''Romania

is like much of the rest of the world. Life there is filled with chronic misery. It's the slow drip of the economy that drags Romanians down, and that's why Americans need to go over there to help,'' he urged. ''Beyond what Americans can accomplish, it's such a privilege to meet so many of these people who are to Romanians what our revolutionary patriots are to us.''

This emotional experience was translated into action as Dr. Caudle returned home and began a search to legitimize these types of visits. That search led him to discover an organization on The University of Tennessee's Knoxville campus called the Alliance of Universities for Democracy. Founded in 1990, the group is an alliance of American universities and more than 100 Eastern European members. The Alliance promotes democracy and encourages Eastern European Universities to develop closer relationships with their communities.

Beyond legitimizing medical missions, the Alliance also serves as a way for equipment to be shared. ''There are companies in the States that dispose of medical equipment in landfills. Some of that equipment is 20 years ahead of what they have in Romania. These companies are willing to send it over there, and the Alliance gives these kinds of efforts a name—a way to do this sort of thing,'' Dr. Caudle explained.

Dr. Caudle completed his second mission trip in June 1994. He also arranged this past October for Rector Dragulescu's first visit to the United States. Dragulescu, a cardiologist, spent time comparing medical technologies with University Medical Center's faculty, as well as formulating an overall picture of health care in this country.

Although the rector's visit lasted only two weeks, one of the graduates of a Romanian medical school will be doing a five-year OB/GYN residency at University Medical Center. Totally unrelated to Dr. Caudle's visit, medical student Cristian Andronic applied for the residency program here. Because Dr. Caudle was impressed by and familiar with the medical schools in Romania, he granted Andronic an interview.

''I told him that if he wanted to find a way to get here, we would take a look at him. I'll be darned if he didn't scrape up the money to come, which was close to a year's salary for someone over there. He flew to Chicago and caught a bus to Knoxville,'' Dr. Caudle said. ''He'll be here for several years. My hope is that he will then return to Romania to practice and teach.''

These types of exchanges, both short and long term, provide a more realistic view of the United States than the idealistic ones held by many Romanians. ''They love Americans, particularly in western Romania. You see little American flags in the backs of their cars. It's an ideal we can't possibly live up to, but it's also a great opportunity for us,'' Dr. Caudle commented.

''It's a huge obligation to be an American in Romania,'' he added. ''They have read all about George Washington and the founding of our country on principles of freedom and 'one nation under God' and they take it all very seriously.''

It seems to have all come full circle. He was a post-war boy interested in and bothered by events more than half a world away. He grew up and pursued a career seemingly unrelated to these interests. But his career is precisely what led him to discover this other world. The ideals upon which his country was founded are now held sacred by these faraway people who are no longer strangers.

''My relationship with my friends in Romania has brought all these things about the Iron Curtain, my faith and the reality of these people into one form. You know, they are more like us than they are different. They have the same basic hopes, needs and desires,'' Dr. Caudle concluded.

''Their courage is tremendous and they have taught me a lot. I feel like I'm helping to fight for their freedom because they still don't have it yet—not in the sense of a workable economy, which is necessary to stay free. It would be easy to slowly drift right back into some kind of communistic or totalitarian regime. They have to continue to fight for freedom—it's an elusive thing.''

WAS CONGRESS IRRESPONSIBILE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, up to now the incredibly enormous Federal debt has been like the weather—everybody has talked about it but hardly anybody has undertaken the responsibility of doing anything about it. The balanced budget amendment failed to pass the Senate—by one vote! There'll be another vote later this or next year.

A lot of politicians talk a good game—when they are back home—about bringing Federal deficits and the Federal debt under control. But many of them regularly vote in support of bloated spending bills that roll through the Senate, and the American people took note of that on November 8.

As of Friday, March 3, at the close of business, the Federal debt stood—down to the penny—at exactly $4,840,472,285,419.16. This debt, remember, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government must never be able to spend even a dime unless and until authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every schoolboy is supposed to know.

Do not be misled by politicians who declare that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush.

These buck-passing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,808 of this billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 840 billion, 472 million, 285 thousand, 419 dollars, and 16 cents. It will be even greater at closing time today.

DEATH OF HOWARD W. HUNTER, PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. CRAIG. Mr. President, I join with the family, friends and over 9 million members of the Church of Jesus Christ of Latter-Day Saints in grieving the death of Howard W. Hunter, president of the Church of Jesus Christ of Latter-Day Saints.

President Hunter was born November 14, 1907, in Boise, ID, the son of John William and Nellie Marie Rasmussen Hunter. He had been President of the Latter-Day Saints church since June 5, 1994, when he succeeded another Idahoan, the late Ezra Taft Benson. He was known as a gentle, kind, and humble man. He will be remembered for his compassionate nature, which blended well with his thoughtful, orderly leadership style. Howard W. Hunter was a soft-spoken man who stressed love, forgiveness, and attendance at the temples of the church.

During his long life, Howard W. Hunter was noted for his hard work and strength of character.

President Hunter began working early in life in Boise, selling newspapers on street corners, delivering telegrams, and later working in a newspaper office. He excelled scholastically and was active in the Scouting Program, becoming the second Boy Scout in Idaho to attain the rank of Eagle Scout. He became interested in music as a young boy, won a marimba in a high school contest and became proficient with the saxophone, clarinet, violin, and drums. As a young man he organized a dance band and in 1927 the band, called Hunter's Croonaders, went on a 5-month Asian cruise abroad the S.S. *President Jackson*. He gave up a promising musical profession in favor of marriage, family life, church service, and his law career.

Howard W. Hunter enjoyed a successful career as a corporate attorney and served as a director of a number corporations, including Beneficial Life Insurance Co., First Security Corp., and New World Archaeological Foundation.

President Howard H. Hunter spent a life of service to others and will be missed by all those who came to know him and were the recipient of his many years of dedicated service.

I would ask all Senators to join with me in a heartfelt thank you to Howard W. Hunter and an expression of comfort to his surviving wife, Inis Bernice Egan, his sons John J. Hunter and Richard A. Hunter, and his 18 grandchildren, and 23 great-grandchildren.

MATT URBAN

Mr. LEVIN. Mr. President, a friend of mine named Matt Urban passed away over the weekend, leaving a legacy of superlative achievement in a military career that will enlighten generations to come about what it means to be a soldier, a patriot and a hero.

I would like to share my memory of Matt Urban and a few of the things that impressed us in Michigan about this citizen and civic leader, this family man who was I believe the most decorated soldier in the history of the U.S. military.

He will be remembered in our hearts and in our history books for his staggering courage and fearless valor in the face of the grave danger that comes with war. Duty to country and loyalty to the men with whom he fought side-by-side drove him on the battlefields of victorious campaigns across North Africa, Sicily, Normandy, and Belgium in World War II.

Matt's military career was legendary. Indeed, his exploits on the battlefield are larger than life. He earned 29 combat medals, including seven Purple Hearts, the Medal of Honor, the American Campaign Medal, and French Croix de Guerre with a Silver gilt Star. Each and every medal tells a story of a man who seemed to show no fear, a man determined to carry on the fight for freedom for his countrymen.

His final Medal of Honor, awarded in a White House ceremony in 1980, marked an act of heroism that had come to characterize his feats in combat. He rescued his men, who were caught in a hail of German gunfire, by climbing aboard an empty tank and training its cannon on the enemy.

We all pray the battles Matt Urban survived are the likes of which no soldier will ever see again.

These battles were waged at a great cost, but they also gained great and lasting rewards for our Nation and our allies. Matt Urban was a disciple for democracy, fighting hard battles in the trenches of Europe so that we and our grandchildren may live free from tyranny and prosper.

Matt Urban's greatness was not just on the battlefield. In Monroe and later in Holland, MI he served as a valued employee in their recreation departments working to make the lives of children from those towns brighter and happier. He capped his career as a city employee in Holland managing the civic center, an ideal vocation for one of our State's leading citizens.

While Matt Urban's body is laid to rest, his memory and impact on our lives lingers on. As a member of a screening committee I assembled to nominate Michigan's finest young men and women for appointments at our military academies, he served as the vibrant link connecting yesterday's soldier to tomorrow's generation of new leadership. The tradition of duty, honor, and country and the motivation to do right that he inspired in the lives he touched continues today in the spirits of the young men and women he helped usher into new military careers.

THE BALANCED BUDGET AMENDMENT—A HISTORICAL PERSPECTIVE

Mr. BYRD. Mr. President, on Tuesday last, February 28, 1995, the Senate was supposed to vote on the final disposition of the constitutional amendment to balance the budget. It may be of interest to my colleagues to know that exactly 200 hundred years ago, on February 28, 1795, the Senate was meeting at Congress Hall in Philadelphia, then the nation's capital. Our information is incomplete about the details of that day's session because, as was its practice at that time, the Senate met behind closed doors and kept only the briefest of minutes as required by the Constitution. What we do know, based on news accounts derived from members who were willing to talk to local journalists, is that Senators were most concerned that day about paying the government's debts and raising further income to meet growing expenses.

The Senate debated and approved, by a vote of 21–1, ''An act making further provision for the support of Public Credit, and for the Redemption of the Public Debt.'' The Senate rejected four proposed amendments, including an amendment offered by Senator Aaron Burr to require repayment, during a 12–20-year period, of the principal on a subscription loan to fund the foreign debt. As ultimately enacted, the bill required that ''the principal of the said loan may be reimbursed at any time, at the pleasure of the United States.'' This suggested the Senate's majority recognized that the government might not be in a position to repay its loans within Burr's 12–20-year period. Lenders to the government would have to be satisfied with repayment at some indefinite time in the future.

Related to this concern about managing for government expenditures, the Senate also approved committee amendments to a bill to require the Comptroller of the Treasury to order the submission of accounts and vouchers by all individuals who had received public funds, and to file suit against individuals who had failed to comply, and ordered that the bill pass to a third reading.

Concerned with revenue sources, the Senate also received from the House and referred to a committee a bill that would impose duties on snuff and refined sugar.

Mr. President, I ask unanimous consent that the proceedings of February 28, 1795, as shown in the ''Annals of Congress,'' along with the ''Act for the Support of Public Credit and for the Redemption of the Public Debt,'' which was passed on March 3, 1795, be printed in the RECORD.

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

[From the ''Annals of Congress''—Senate Proceedings, February 28, 1795]

SATURDAY, FEBRUARY 28.

* * * * *

On motion, to insert the following section after the 5th, to wit:

''*Be it further enacted,* That a Loan be opened at the Treasury to the full amount of the outstanding and unbarred new emission bills of credit, the sums which shall be subscribed to be payable in the principal and interest of such bills, computing the interest thereon to the first day of January next, and that the subscriber or subscribers shall be entitled to receive therefor a certificate for the amount of the principal sum so subscribed and paid, bearing an interest of five per centum per annum from the first day of January next, payable quarter yearly at the Treasury, and redeemable at the pleasure of the United States, by the payment of the sum specified therein, and containing a stipulation that the United States will redeem the same before the expiration of thirty years from the passing of this act, and also to another certificate for the amount of the interest on the sum so subscribed, computing the same to the first of January next, bearing an interest of three per centum per annum from the first day of January next, payable quarter yearly at the Treasury, and redeemable at the pleasure of the United States, by the payment of the sum specified therein:''

It passed in the negative.

On motion, by Mr. Burr, to add the following proviso to the 11th section, to wit:

''*Provided, nevertheless,* That, whenever the six per cent. stock shall be under par, it shall be the duty of the Commissioners of the Sinking Fund to lay out, in the purchase of the said stock, the money applicable to the payment of the said two per cent. of principal, or so much thereof as can be laid out in the purchase thereof, at a rate under par:''

It passed in the negative.

On motion, by Mr. Burr, to expunge the last section of the bill, to wit:

''SEC. 20. *And be it further enacted,* That so much of the act laying duties upon carriages for the conveyance of persons, and of the act laying duties on licenses for selling wines and foreign distilled spirituous liquors by retail, and of the act laying certain duties upon snuff and refined sugar, and of the act laying duties on property sold at auction, as limits the duration of the said several acts, be, and the same are hereby, repealed; and that all the said several acts be, and the same are hereby, continued in force until the first day of March, one thousand eight hundred and one:''

It passed in the negative.

On the question, Shall this bill pass as amended? it was determined in the affirmative—Yeas 21, nays 1, as follows:

YEAS.—Messrs. Bradford, Bradley, Brown, Burr, Cabot, Ellsworth, Foster, Frelinghuysen, Gunn, Hawkins, Izard, King, Langdon, Livermore, Martin, Mitchell, Robinson, Ross, Rutherfurd, Strong, and Vining.

Mr. Jackson voted in the negative,

Resolved, That this bill pass with the amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled ''An act to alter and amend the act entitled 'An act laying certain duties upon snuff and refined sugar;'' in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill, send from the House of Representatives for concurrence, entitled, ''An act for the more effectual recovery of debts due from individuals to the United States;'' and having agreed to sundry amendments reported by the committee,

Ordered, That this bill pass to the third reading, as amended.

Mr. FRELINGHUYSEN, from the committee to whom was recommitted the bill, sent from

the House of Representatives for concurrence, entitled ''An act for continuing and regulating the Military Establishment of the United States, and for repealing sundry acts heretofore passed on that subject,'' reported further amendments, which were considered and agreed to, and the bill amended accordingly.

Ordered, That this bill pass to the third reading.

The bill, sent from the House of Representatives for concurrence, entitled ''An act to alter and amend the act entitled 'An act laying certain duties upon snuff and refined sugar,'' was read the first time, and, by unanimous consent, the rule was dispensed with, and the bill was read the second time, and referred to Messrs. CABOT, ELLSWORTH, and IZARD, to consider and report thereon to the Senate.

AN ACT FOR THE SUPPORT OF PUBLIC CREDIT, AND FOR THE REDEMPTION OF THE PUBLIC DEBT, MARCH 3, 1795

Be it enacted, &c., That it shall be lawful for the Commissioners of the Sinking Fund, and they are hereby empowered, with the approbation of the President of the United States, to borrow, or cause to be borrowed, from time to time, such sums, in anticipation of the revenue appropriated, not exceeding, in one year, one million of dollars, to be reimbursed within a year from the time of each loan, as may be necessary for the payment of the interest which shall annually accrue on the public debt; and for the payment of the interest on any such temporary loan, which shall not exceed six per centum per annum, so much of the proceeds of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled within the United States, and stills, as may be necessary, shall be, and are hereby, appropriated.

SEC. 2. *And be it further enacted,* That a loan be opened at the Treasury to the full amount of the present foreign debt, to continue open until the last day of December, in the year one thousand seven hundred and ninety-six, and that the sums which may be subscribed to the said loan shall be payable and receivable, by way of exchange, in equal sums of the principal of the said foreign debt; and that any sum so subscribed and paid shall bear an interest equal to the rate of interest, which is now payable on the principal of such part of the foreign debt as shall be paid or exchanged therefor, together with an addition of one-half per centum per annum; the said interest to commence on the first day of January next succeeding the time of each subscription, and to be paid quarterly, at the same periods at which interest is now payable and paid upon the domestic funded debt: *Provided,* That the principal of the said loan may be reimbursed at any time, at the pleasure of the United States.

SEC. 3. *And be it further enacted,* That credits to the respective subscribers for the sums by them respectively subscribed to the said loan, shall be entered and given on the books of the Treasury in like manner as for the present domestic funded debt; and that certificates therefor, of a tenor conformable with the provisions of this act, signed by the Register of the Treasury, shall issue to the several subscribers, and that the said credits, or stock standing in the names of the said subscribers, respectively, shall be transferable, in like manner, and by the like ways and means, as are provided by the seventh section of the act aforesaid, entitled ''An act making provision for the debt of the United States,'' touching the credits or stock therein mentioned; and that the interest to be paid upon the stock which shall be constituted by virtue of the said loan shall be paid at the offices or places where the credits for the same shall from time to time stand or be, subject to the like conditions and restrictions as are prescribed in and by the eighth section of the act last aforesaid.

SEC. 4. *And be it further enacted,* That the interest and principal of all loans authorized by this act shall be made payable at the Treasury of the United States only, so far as relates to the payment of the principal and interest of the domestic debt.

SEC. 5. *And be it further enacted,* That so much of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled within the United States, and stills, heretofore appropriated for the interest of the foreign debt, as may be liberated or set free, by subscriptions to the said loan, together with such further sums of the proceeds of the said duties as may be necessary, shall be, and they are hereby, pledged and appropriated, for the payment of the interest which shall be payable upon the sums subscribed to the said loan, and shall continue so pledged and appropriated until the principal of the said loan shall be fully reimbursed and redeemed: *Provided, always,* That nothing herein contained shall be construed to alter, change, or in any manner affect the provisions heretofore made concerning the said foreign debt, according to contract, either during the pendency of the said loan or after the closing thereof; but every thing shall proceed, touching the said debt, and every part thereof, in the same manner as if this act had never been passed, except as to such holders thereof as may subscribe to the said loan, and from the time of the commencement thereof in each case, that is, when interest on any sum subscribed shall begin to accrue.

SEC. 6. *And be it further enacted,* That the several and respective duties laid and contained in and by the act, entitled ''An act laying additional duties on goods, wares, and merchandise imported into the United States,'' passed the seventh day of June, one thousand seven hundred and ninety-four, shall, together with the other duties heretofore charged with the payment of interest on the public debt, continue to be levied, collected, and paid, until the whole of the capital or principal of the present debt of the United States, and future loans which may be made pursuant to law, for the exchange, reimbursement, or redemption thereof, or of any part thereof, shall be reimbursed or redeemed, and shall be, and hereby are, pledged and appropriated for the payment of interest upon the said debt and loans, until the same shall be so reimbursed or redeemed.

SEC. 7. *And be it further enacted,* That the reservation made by the fourth section of the aforesaid act, entitled ''An act making provision for the reduction of the public debt,'' be annulled, and, in lieu thereof, that so much of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled within the United States, and stills, as may be necessary, be, and the same hereby are, substituted, pledged, and appropriated for satisfying the purpose of the said reservation.

SEC. 8. *And be it further enacted,* That the following appropriations, in addition to those heretofore made be made, to the fund constituted by the seventh section of the act, entitled ''An act supplementary to the act making provision for the debt of the United States,'' passed the eighth day of May, one thousand seven hundred and ninety-two, to be hereafter denominated ''The Sinking Fund,'' to wit: First. So much of the proceeds of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, as, together with the moneys which now constitute the said fund, and shall accrue to it, by virtue of the provisions hereinbefore made, and by the interest upon each installment, or part of principal which shall be reimbursed, will be sufficient, yearly and every year, commencing the first day of January next, to reimburse and pay so much as may rightfully be reimbursed and paid, of the principal of that part of the debt or stock which, on the said first day of January next, shall bear an interest of six per centum per annum, redeemable by payments on account both of principal and interest, not exceeding, in one year, eight per centum, excluding that which shall stand to the credit of the Commissioners of the Sinking Fund, and that which shall stand to the credit of certain States, in consequence of the balances reported in their favor by the Commissioners for settling accounts between the United States and individual States: Secondly. The dividends which shall be from time to time declared on so much of the stock of the Bank of the United States as belongs to the United States, (deducting thereout such sums as will be requisite to pay interest on any part remaining unpaid of the loan of two million of dollars had of the Bank of the United States, pursuant to the eleventh section of the act by which the said Bank is incorporated:) Thirdly. So much of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and on spirits distilled within the United States, and stills, as, with the said dividends, after such deduction, will be sufficient, yearly and every year, to pay the remaining instalments of the principal of the said loan as they shall become due, and as, together with any moneys which, by virtue of provisions in former acts, and herein-before made, shall, on the first day of January, in the year one thousand eight hundred and two, belong to the said Sinking Fund, not otherwise specially appropriated; and with the interest on each instalment, or part of principal, which shall from time to time be reimbursed or paid of that part of the debt or stock, which, on the first day of January, in the year one thousand eight hundred and one, shall begin to bear an interest of six per centum per annum, will be sufficient, yearly and every year, commencing on the first day of January, in the year one thousand eight hundred and two, to reimburse and pay so much as may rightfully be reimbursed and paid of the said principal of the said debt or stock which shall so begin to bear an interest of six per centum per annum, on the said first day of January, in the year one thousand eight hundred and one, excluding that which shall stand to the credit of the Commissioners of the Sinking Fund and that which shall stand to the credit of certain States, as aforesaid: Fourthly. The net proceeds of the sales of lands belonging, or which shall hereafter belong to the United States, in the Western Territory thereof: Fifthly. All moneys which shall be received into the Treasury on account of debts due to the United States by reason of any matter prior to their present Constitution: And, lastly, All surplusses of the revenues of the United States which shall remain, at the end of any calendar year, beyond the amount of the appropriations charged upon the said revenues, and which, during the session of Congress next thereafter, shall not be otherwise specially appropriated or reserved by law.

SEC. 9. *And be it further enacted,* That as well the moneys which shall accrue to the said Sinking Fund, by virtue of the provisions of this act, as those which shall have accrued to the same by virtue of the provisions of any former act or acts, shall be

under the direction and management of the Commissioners of the Sinking Fund, or the officers designated in and by the second section of the act, entitled ''An act making provision for the reduction of the Public Debt,'' passed the twelfth day of August, one thousand seven hundred and ninety, and their successors in office; and shall be and continue appropriated to the said fund until the whole of the present debt of the United States, foreign and domestic, funded and unfunded, including future loans, which may be made for reimbursing or redeeming any instalments or parts of principal of the said debt, shall be reimbursed and redeemed; and shall be, and are hereby declared to be, vested in the said Commissioners, in trust, to be applied according to the provisions of the aforesaid act of the eighth day of May, in the year one thousand seven hundred and ninety-two, and of this act, to the reimbursement and redemption of the said debt, including the loans aforesaid, until the same shall be fully reimbursed and redeemed. And the faith of the United States is hereby pledged that the moneys or funds aforesaid shall inviolably remain and be appropriated and vested, as aforesaid, to be applied to the said reimbursement and redemption, in manner aforesaid, until the same shall be fully and completely effected.

SEC. 10. *And be it further enacted,* That all reimbursements of the capital or principal of the Public Debt, foreign and domestic, shall be made under the superintendence of the Commissioners of the Sinking Fund, who are hereby empowered and required, if necessary, with the approbation of the President of the United States, as any instalments or parts of the said capital or principal become due, to borrow, on the credit of the United States, the sums requisite for the payment of the said instalments or parts of principle: *Provided,* That any loan which may be made to the said Commissioners shall be liable to reimbursement at the pleasure of the United States; and that the rate of interest thereupon shall not exceed six per centum per annum; and, for greater caution, it is hereby declared that it shall be deemed a good execution of the said power to borrow, for the said Commissioners, with the approbation of the President, to cause to be constituted certificates of stock, signed by the Register of the Treasury, for the sums to be respectively borrowed, bearing an interest of six per centum per annum, and redeemable at the pleasure of the United States; and to cause the said certificates of stock to be sold in the market of the United States, or elsewhere: *Provided,* That no such stock be sold under par. And for the payment of interest on any sum or sums which may be so borrowed, either by direct loans or by the sale of certificates of stock, the interest on the sum or sums which shall be reimbursed by the proceeds thereof, (except that upon the funded stock, bearing and to bear an interest of six per centum, redeemable by payments, not exceeding in one year eight per centum on account both of principal and interest,) and so much of the duties on goods, wares, and merchandise imported, on the tonnage of ships or vessels, and upon spirits distilled within the United States, and upon stills, as may be necessary, shall be, and hereby are, pledged and appropriated.

SEC. 11. *And be it further enacted,* That it shall be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid, out of the said fund, yearly and every year, at the Treasury of the United States, the several and respective sums following, to wit: First—Such sum and sums as, according to the right for that purpose reserved, may rightfully be paid for, and towards the reimbursement or redemption of such Debt or stock of the United States, as, on the first day of January next, shall bear an interest of six per centum per annum, redeemable by payments, not exceeding in one year eight per centum, on account both of principal and interest, excluding that standing to the credit of the Commissioners of the Sinking Fund, and that standing to the credit of certain States, as aforesaid, commencing the said reimbursement or redemption on the said first day of January next. Secondly—Such sum and sums as, according to the conditions of the aforesaid Loan, had of the Bank of the United States, shall be henceforth payable towards the reimbursement thereof, as the same shall respectively accrue. Thirdly—Such sum and sums, as according to the right for that purpose reserved, may rightfully be paid for and towards the reimbursement or redemption of such Debt or stock of the United States as, on the first day of January, in the year one thousand eight hundred and one, shall begin to bear an interest of six per centum per annum, redeemable by payments, not exceeding in one year eight per centum, on account both of principal and interest, excluding that standing to the credit of the Commissioners of the Sinking Fund, and that standing to the credit of certain States, as aforesaid, commencing the said reimbursement or redemption, on the first day of January, in the year one thousand eight hundred and two; and also to cause to be applied all such surplus of the said fund as may at any time exist, after satisfying the purposes aforesaid, towards the further and final redemption of the present Debt of the United States, foreign and domestic, funded and unfunded, including loans for the reimbursement thereof, by payment or purchase, until the said Debt shall be completely reimbursed or redeemed.

SEC. 12. *Provided always, and be it further enacted,* That nothing in this act shall be construed to vest in the Commissioners of the Sinking Fund a right to pay, in the purchase or discharge of the unfunded Domestic Debt of the United States, a higher rate than the market price or value of the Funded Debt of the United States: *And, provided also,* That if, after all the debts and loans aforesaid, now due, and that shall arise under this act, excepting the said Debt or stock bearing an interest of three per cent., shall be fully paid and discharged, any part of the principal of the said Debt or stock bearing an interest of three per cent., as aforesaid, shall be unredeemed, the Government shall have liberty, if they think proper, to make other and different appropriations of the said funds.

SEC. 13. *And be it further enacted,* That all priorities heretofore established in the appropriations by law, for the interest on the Debt of the United States, as between the different parts of the said Debt, shall, after the year one thousand seven hundred and ninety-six, cease, with regard to all creditors of the United States who do not, before the expiration of the said period, signify, in writing, to the Comptroller of the Treasury, their dissent therefrom; and that thenceforth, with the exception only of the debts of such creditors who shall so signify their dissent, the funds or revenues charged with the said appropriations shall, together, constitute a common or consolidated fund, chargeable indiscriminately, and without priority, with the payment of the said interest.

SEC. 14. *And be it further enacted,* That all certificates, commonly called Loan Office certificates, final settlements, and indents of interest, which, at the time of passing this act, shall be outstanding, shall on or before the first day of January, in the year one thousand seven hundred and ninety-seven, be presented at the office of the Auditor of the Treasury of the United States, for the purpose of being exchanged for other certificates of equivalent value and tenor, or, at the option of the holders thereof, respectively, to be registered at the said office, and returned; in which case it shall be the duty of the said Auditor to cause some durable mark or marks to be set on each certificate, which shall ascertain and fix its identity, and whether genuine, or counterfeit, or forged; and every of the said certificates which shall not be presented at the said office within the said time, shall be forever after barred or precluded from settlement of allowance.

SEC. 15. *And be it further enacted,* That if any transfer of stock standing to the credit of a State shall be made pursuant to the act, entitled ''An act authorizing the transfer of the stock standing to the credit of certain States,'' passed the second day of January, in this present year, after the last day of December next, the same shall be upon condition, that it shall be lawful to reimburse, at a subsequent period of reimbursement, so much of the principal of the stock so transferred as will make the reimbursement thereof equal in proportion and degree to that of the same stock transferred previous to the said day.

SEC. 16. *And be it further enacted,* That, in regard to any sum which shall have remained unexpended upon any appropriation other than for the payment of interest on the Funded Debt; for the payment of interest upon, and reimbursement, according to contract, of any loan or loans made on account of the United States, for the purposes of the Sinking Fund, or for a purpose in respect to which a longer duration is specially assigned by law, for more than two years after the expiration of the calendar year in which the act of appropriation shall have been passed, such appropriation shall be deemed to have ceased and been determined; and the sum so unexpended shall be carried to an account on the books of the Treasury, to be denominated ''The Surplus Fund.'' But no appropriation shall be deemed to have so ceased and been determined until after the year one thousand seven hundred and ninety-five, unless it shall appear to the Secretary of the Treasury, that the object thereof hath been fully satisfied; in which case it shall be lawful for him to cause to be carried the unexpended residue thereof to the said account of ''the Surplus Fund.''

SEC. 17. *And be it further enacted,* That the Department of the Treasury, according to the respective duties of the several officers thereof, shall establish such forms and rules of proceeding for and touching the execution of this act as shall be conformable with the provisions thereof.

SEC. 18. *And be it further enacted*, That all the restrictions and regulations heretofore established by law for regulating the execution of the duties enjoined upon the Commissioners of the Sinking Fund shall apply to and be in as full force for the execution of the analogous duties enjoined by this act as if they were herein particularly repeated and re-enacted: and a particular account of all sales of stock, or of loans by them made, shall be laid before Congress within fourteen days after their meeting next after the making of any such loan or sale of stock.

SEC. 19. *And be it further enacted*, That in every case in which power is given by this act to make a loan, it shall be lawful for such loan to be made of the Bank of the United States, although the same may exceed the sum of fifty thousand dollars.

SEC. 20. *And be it further enacted*, That so much of the act laying duties upon carriages for the conveyance of persons, and of the act laying duties on licenses for selling wines and foreign distilled spirituous liquors by retail, and of the act laying certain duties

upon snuff and refined sugar, and of the act laying duties on property sold at auction, as limits the duration of the said several acts, be, and the same is hereby repealed; and that all the said several acts be, and the same are hereby, continued in force until the first day of March, one thousand eight hundred and one.

Approved, March 3, 1795.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

PAPERWORK REDUCTION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 244, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, 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.)

S. 244

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 ''Paperwork Reduction Act of 1995''.

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

''CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

''§ 3501. Purposes

''The purposes of this chapter are to—

''(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

''(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

''(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

''(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

''(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

''(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

''(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

''(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

''(A) privacy and confidentiality, including section 552a of title 5;

''(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

''(C) access to information, including section 552 of title 5;

''(9) ensure the integrity, quality, and utility of the Federal statistical system;

''(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

''(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

''§ 3502. Definitions

''As used in this chapter—

''(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

''(A) the General Accounting Office;

''(B) Federal Election Commission;

''(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

''(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

''(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

''(A) reviewing instructions;

''(B) acquiring, installing, and utilizing technology and systems;

''(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

''(D) searching data sources;

''(E) completing and reviewing the collection of information; and

''(F) transmitting, or otherwise disclosing the information;

''(3) the term 'collection of information'—

''(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

''(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

''(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

''(B) shall not include a collection of information described under section 3518(c)(1);

''(4) the term 'Director' means the Director of the Office of Management and Budget;

''(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

''(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

''(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

''(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

''(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

''(10) the term 'person' means an individual, partnership, association, corporation,

business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

''(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

''(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

''(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

''§ 3503. Office of Information and Regulatory Affairs

''(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

''(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

''§ 3504. Authority and functions of Director

''(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

''(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

''(B) provide direction and oversee—

''(i) the review of the collection of information and the reduction of the information collection burden;

''(ii) agency dissemination of and public access to information;

''(iii) statistical activities;

''(iv) records management activities;

''(v) privacy, confidentiality, security, disclosure, and sharing of information; and

''(vi) the acquisition and use of information technology.

''(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

''(b) With respect to general information resources management policy, the Director shall—

''(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

''(2) foster greater sharing, dissemination, and access to public information, including through—

''(A) the use of the Government Information Locator Service; and

''(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

''(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

''(4) oversee the development and implementation of best practices in information resources management, including training; and

''(5) oversee agency integration of program and management functions with information resources management functions.

''(c) With respect to the collection of information and the control of paperwork, the Director shall—

''(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

''(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

''(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

''(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

''(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

''(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

''(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

''(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

''(e) With respect to statistical policy and coordination, the Director shall—

''(1) coordinate the activities of the Federal statistical system to ensure—

''(A) the efficiency and effectiveness of the system; and

''(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

''(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

''(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

''(A) statistical collection procedures and methods;

''(B) statistical data classification;

''(C) statistical information presentation and dissemination;

''(D) timely release of statistical data; and

''(E) such statistical data sources as may be required for the administration of Federal programs;

''(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

''(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

''(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

''(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

''(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

''(A) be headed by the chief statistician; and

''(B) consist of—

''(i) the heads of the major statistical programs; and

''(ii) representatives of other statistical agencies under rotating membership; and

''(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

''(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

''(B) all costs of the training shall be paid by the agency requesting training.

''(f) With respect to records management, the Director shall—

''(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

''(2) review compliance by agencies with—

''(A) the requirements of chapters 29, 31, and 33 of this title; and

''(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

''(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

''(g) With respect to privacy and security, the Director shall—

''(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

''(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, the Director shall—

''(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

''(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

''(B) oversee the development and implementation of standards under section 111(d)

of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

''(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) [and review proposed determinations under section 111(e) of such Act];

''(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

''(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

''(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

''(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

''(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

''§ 3505. Assignment of tasks and deadlines

''In carrying out the functions under this chapter, the Director shall—

''(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

''(A) reduce information collection burdens imposed on the public that—

''(i) represent the maximum practicable opportunity in each agency; and

''(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

''(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

''(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden; *and*

''(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

''(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

''(B) plans for—

''(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

''(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

''(iii) meeting the information technology needs of the Federal Government in accordance with [the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and] the purposes of this chapter; and

''(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.[; and

[''(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.]

''§ 3506. Federal agency responsibilities

''(a)(1) The head of each agency shall be responsible for—

''(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

''(B) complying with the requirements of this chapter and related policies established by the Director.

''(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

''(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

''(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

''(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

[''(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

[''(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

[''(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

[''(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

[''(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.]

''(b) With respect to general information resources management, each agency shall—

''(1) [develop information systems, processes, and procedures to] *manage information resources to*—

''(A) reduce information collection burdens on the public;

''(B) increase program efficiency and effectiveness; and

''(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

''(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

''(3) develop and maintain an ongoing process to—

''(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

[''(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

''[(C)] *(B)* in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

''[(D)] *(C)* establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

''(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

''(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

''(c) With respect to the collection of information and the control of paperwork, each agency shall—

''(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

''(A) review each collection of information before submission to the Director for review under this chapter, including—

''(i) an evaluation of the need for the collection of information;

''(ii) a functional description of the information to be collected;

''(iii) a plan for the collection of the information;

''(iv) a specific, objectively supported estimate of burden;

''(v) a test of the collection of information through a pilot program, if appropriate; and

''(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

''(B) ensure that each information collection—

''(i) is inventoried, displays a control number and, if appropriate, an expiration date;

''(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

''(iii) contains a statement to inform the person receiving the collection of information—

''(I) the reasons the information is being collected;

''(II) the way such information is to be used;

''(III) an estimate, to the extent practicable, of the burden of the collection; and

''(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

''(C) assess the information collection burden of proposed legislation affecting the agency;

''(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

''(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

''(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

''(iii) enhance the quality, utility, and clarity of the information to be collected; and

''(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

''(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

''(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

''(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

''(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

''(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

''(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

''(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

''(iii) an exemption from coverage of the collection of information, or any part thereof;

''(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

''(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

''(F) contains the statement required under paragraph (1)(B)(iii);

''(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

''(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

''(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

''(d) With respect to information dissemination, each agency shall—

''(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

''(A) encouraging a diversity of public and private sources for information based on government public information, and

''(B) agency dissemination of public information in an efficient, effective, and economical manner;

''(2) regularly solicit and consider public input on the agency's information dissemination activities; and

''(3) not, except where specifically authorized by statute—

''(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

''(B) restrict or regulate the use, resale, or redissemination of public information by the public;

''(C) charge fees or royalties for resale or redissemination of public information; or

''(D) establish user fees for public information that exceed the cost of dissemination.

''(e) With respect to statistical policy and coordination, each agency shall—

''(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

''(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

''(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

''(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

''(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

''(6) make data available to statistical agencies and readily accessible to the public.

''(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

''(g) With respect to privacy and security, each agency shall—

''(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

''(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, each agency shall—

''(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

''(2) assume responsibility and accountability [for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);] *for information technology investments;*

''(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

''(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

[''(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

[''(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

[''(B) the use by the committee of specified evaluative techniques and criteria to—

[''(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

[''(ii) estimate and verify life-cycle system initiative costs; and

[''(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

[''(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

[''(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.]

''(5) ensure responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is—

''(A) integrated with budget, financial, and program management decisions; and

''(B) used to select, control, and evaluate the results of major information systems initiatives.

''§ 3507. Public information collection activities; submission to Director; approval and delegation

''(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

''(1) the agency has—

''(A) conducted the review established under section 3506(c)(1);

''(B) evaluated the public comments received under section 3506(c)(2);

''(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations,

and other related materials as the Director may specify; and

''(D) published a notice in the Federal Register—

''(i) stating that the agency has made such submission; and

''(ii) setting forth—

''(I) a title for the collection of information;

''(II) a summary of the collection of information;

''(III) a brief description of the need for the information and the proposed use of the information;

''(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

''(V) an estimate of the burden that shall result from the collection of information; and

''(VI) notice that comments may be submitted to the agency and Director;

''(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

''(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

''(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

''(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

''(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

''(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

''(A) the approval may be inferred;

''(B) a control number shall be assigned without further delay; and

''(C) the agency may collect the information for not more than 2 years.

''(d)(1) For any proposed collection of information contained in a proposed rule—

''(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

''(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

''(2) When a final rule is published in the Federal Register, the agency shall explain—

''(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

''(B) the reasons such comments were rejected.

''(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

''(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

''(A) from disapproving any collection of information which was not specifically required by an agency rule;

''(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

''(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

''(D) from disapproving any collection of information contained in a final rule, if—

''(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

''(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

''(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

''(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

''(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

''(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

''(3) This subsection shall not require the disclosure of—

''(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

''(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

''(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

''(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of that agency; or

''(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

''(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

''(g) The Director may not approve a collection of information for a period in excess of 3 years.

''(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

''(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

''(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

''(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

''(A) publish an explanation thereof in the Federal Register; and

''(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

''(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

''(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

''(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

''(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

''(A) a collection of information—

''(i) is needed prior to the expiration of such time periods; and

''(ii) is essential to the mission of the agency; and

''(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

''(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

''(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

''(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any

collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing

''Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§ 3509. Designation of central collection agency

''The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§ 3510. Cooperation of agencies in making information available

''(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

''(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

''(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§ 3511. Establishment and operation of Government Information Locator Service

''In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

''(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

''(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

''(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

''(4) consider public access and other user needs in the establishment and operation of the Service;

''(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

''(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§ 3512. Public protection

''Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the collection of information subject to this chapter—

''(1) does not display a valid control number assigned by the Director; or

''(2) fails to state that the person who is to respond to the collection of information is not required to comply unless such collection displays a valid control number.

"§ 3513. Director review of agency activities; reporting; agency response

''(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

''(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

''(1) be taken to address information resources management problems identified in the report; and

''(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

''(a)(1) The Director shall—

''(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

''(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

''(2) The Director shall include in any such report a description of the extent to which agencies have—

''(A) reduced information collection burdens on the public, including—

''(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

''(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

''(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

''(B) improved the quality and utility of statistical information;

''(C) improved public access to Government information; and

''(D) improved program performance and the accomplishment of agency missions through information resources management.

''(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

''Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

''The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

''(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

''(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, a person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

''(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

''(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

''(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

''(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

''(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

''(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

''(B) during the conduct of—

''(i) a civil action to which the United States or any official or agency thereof is a party; or

''(ii) an administrative action or investigation involving an agency against specific individuals or entities;

''(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

''(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

''(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

''(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

''(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

''§ 3519. Access to information

''Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

''§ 3520. Authorization of appropriations

''(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

''(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

''(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.''.

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on June 30, 1995.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. DOLE. Mr. President, let me just take a moment to indicate that we have not yet given up on this side of the Capitol on the balanced budget amendment to the Constitution.

I view the one-vote loss as a temporary setback. I am very optimistic about passing the balanced budget amendment with the necessary two-thirds vote in this Congress. It means either this year or next year. We will be making every effort, not only on this side of the aisle, but along with Senator SIMON on the other side of the aisle, to secure one additional vote. That is all it takes, one additional vote. We can call it up, reconsider it, no debate, and then vote on the balanced budget amendment; no debate, 67 votes, and it will then go to the States for ratification.

I hope that any of my colleagues who may have voted the other way have had time to think about this seriously. It is an item supported by 80 percent of the American people. It is a discipline we need in the Congress of the United States. My view is its time has come and, in my view, it will happen this Congress. And I hope that we will have even more than the 67 votes required.

All those who have been frightening and trying to scare senior citizens, I suggest that has not been effective. We have indicated from the start that we are not touching Social Security, and we will proceed on that basis in the budget discussions. I guess we will determine before many weeks who really is serious about reducing the deficit and about getting to a balanced budget. For all those who indicated in their statements that we do not need a balanced budget amendment to do that, we will have an opportunity to determine which one of those Senators meant what they said, or which others were just saying it because it might be something people like to hear in their States.

But, again, I ask those who voted with us last year on the balanced budget amendment to search their conscience, dig out their old speeches and their old press releases and their old campaign spots, and take another look at the amendment that lost by one vote. It was identical, with the exception of a change of date from 2001 to 2002 and with the so-called Nunn language, which we think improved the amendment.

This is something that should not be given up easily. We intend to pursue it.

Again, I thank my colleagues on both sides of the aisle for their bipartisan efforts to reach the magic number of 67.

I yield the floor.

PAPERWORK REDUCTION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in support of S. 244, the Paperwork Reduction Act of 1995. This legislation was, this year as last year, reported out unanimously from the Committee on Governmental Affairs, reflecting the bipartisan efforts of Senators NUNN, GLENN, and myself.

The legislation reaffirms the fundamental purpose of the Paperwork Reduction Act of 1980—to reduce the paperwork burden imposed on the public by the Federal Government. But it does much more. It increases the scope of the act by 50 percent in overturning the Supreme Court's decision in Dole v. United Steelworkers of America. In that case the Supreme Court surprised many of us who had worked on fashioning this legislation by limiting OMB's authority to review Government collections of information only to those instances where the paperwork flowed from a private party to the Government and thus excluded instances where the Government requires information to be provided to another party.

By overturning the Dole case, all paperwork falls under the act and is thereby subject to review by the Office of Information and Regulatory Affairs.

Under the act, each agency—and the act covers all agencies, even independent agencies—must analyze each information collection for its need and its practical utility. All such information collections, even those of independent agencies, must be approved by OIRA before they become effective.

The legislation also authorizes appropriations for OIRA for 5 more years at $8 million each year. OIRA is not only the hub of the wheel in enforcing this act but has come to play a significant role in executing executive orders on the subject of regulatory review. As we work in committee to draft comprehensive regulatory reform legislation, it is clear that OIRA will have even a greater role. This authorization of greater appropriations is a very important provision.

The paperwork burden produced by Government's enormous appetite for information is an ever increasing problem. The fact that the problem is growing does not mean that the efforts under the Paperwork Reduction Act of 1980 have not been worthwhile. The problem would have been even worse without such efforts. The mechanism for reducing burdens cannot be faulted because Congress passes more laws that generate more paperwork.

Now, the legislation before us recognizes that an information collection may be problematic not only because the collection has no public utility but also because the collector may already have access to the information and need not bother our citizenry with a request for the same information. I applaud the efforts of GAO to underscore this simple truth by highlighting the

benefits of information resources management. This legislation effectuates the principle that information resources management and reduction of paperwork burden are two sides of the same coin. While some may view the two aspects as competing for scarce OIRA resources, that view is mistaken. The two aspects are inextricably linked.

This legislation enjoys widespread support among the business community, both big and small, as well as among State and local governments and the people, all who bear the burden of Federal Government paperwork collections. They all will be pleased to see that this legislation strengthens the paperwork reduction aspects of the act and that, in particular, it retains the direction of OIRA that it manage the paperwork burden on the public to achieve a 5-percent annual reduction.

Paperwork burdens, like other regulatory burdens, are a hidden tax on the American people—a tax without measure, a tax unrestricted by budgetary or constitutional limitations, but a tax no less real.

Government paperwork collections are a burden on the public. The legislation indicates an increased sensitivity to that fact by requiring each agency to develop a paperwork clearance process to review and solicit public comment on proposed information collections before submitting them to OMB for review. Public accountability is also strengthened through requirements for public disclosure of communications with OMB regarding information collections—with protections for whistleblowers complaining of unauthorized collections—and for OMB to review the status of any information collection upon public request. In combination with more general requirements, such as encouraging data sharing between the Federal Government and State and local and tribal governments, this legislation strives to further the goals of the act of minimizing government information collection burdens while maximizing the utility of government information.

With regard to the act's over-arching information resources management—IRM—policies, the legislation charges agency heads with the responsibility to carry out agency IRM activities to improve agency productivity, efficiency, and effectiveness. It makes program officials responsible and accountable for those information resources supporting their programs. The IRM mandate is strengthened by focusing on managing information resources in order to improve program performance, including the delivery of services to the public and the reduction of information collection burdens on the public.

With the Federal Government spending approximately $25 billion a year on information technology, the stakes are too high not to press for the most efficient and effective management of information resources. With such improvements in information resources management, the reduction of information collection burdens on the public and maximizing the utility of government information will not otherwise occur.

This legislation is not the final word on the very important subject of information technology. The committee will be fashioning legislation later this session to restructure and redesign the Federal Government for the 21st century. One essential aspect of a modern Federal Government is the effective use of information technology to better accomplish public missions at lower costs. We will be back.

Finally, I want to underscore a point to which Senators GLENN, NUNN, and I gave considerable attention. This legislation is a rewrite of the 1980 act. Its form is necessitated by the number of technical and other changes made. This form is in no way intended to start a new legislative history with the 1995 act. Rather, this legislation is only a pro tanto modification intended to carry on the legislative history of the 1980 act. The report, at page 3, makes this very same point. This is an important point. It should be noted by anyone interested in the legislative history that guides the interpretation of the Paperwork Reduction Act.

In closing, I wish to commend my colleagues, Senator GLENN and Senator NUNN, for their cooperation and patience in fashioning legislation on a very, very complex subject. This legislation, in my opinion, merits the full support of every Member.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, today, the Senate turns to consideration of S. 244, the Paperwork Reduction Act of 1995. As the Senator from Delaware, my good friend, Senator ROTH, has already explained, this bill reauthorizes appropriations for the Office of Information and Regulatory Affairs [OIRA] and it strengthens the Paperwork Reduction Act of 1980. This represents years of hard work which began in the 100th Congress.

S. 244 is substantially identical to S. 560, the Paperwork Reduction Act of 1994, which was approved by the Senate, not once but twice in the closing days of the last Congress. It passed the Senate by unanimous voice vote on October 6, 1994. the following day, the text of S. 560 was attached to a House-passed measure, H.R. 2561, and returned to the House. Unfortunately, it was not cleared for action before the adjournment of the 103d Congress. The House of Representatives did not act on it.

Like S. 560 in the last Congress, S. 244 enjoys strong bipartisan support. Chairman ROTH and Senator GLENN are both original cosponsors. Both have worked long and hard on this needed legislation to strengthen the Paperwork Reduction Act of 1980 and to reauthorize appropriations for OIRA. The crafting of a consensus bill in the last Congress was made possible by the skill and leadership of my friend from Ohio, Mr. GLENN, and my friend from Delaware, Mr. ROTH.

Leading cosponsors of S. 244 also include the new chairman of the Committee on Small Business, Senator KIT BOND, and the committee's ranking Democratic member, Senator BUMPERS. Former Chairman BUMPERS and successive ranking Republican members of the Committee on Small Business, including Senators Boschwitz, Kasten, and Pressler, have been original cosponsors of the predecessor legislation in the 101st and 102d Congress. The Committee on Small Business, of which I am a member as well as the Governmental Affairs Committee, has played a crucial supporting role in sustaining the effort to enact legislation to strengthen the 1980 act. Such support is not surprising since relief from paperwork and regulatory burdens is vital to the small business community. It has become a focus of activity for the Committee on Small Business, the Committee on Governmental Affairs, and several other committees in the Senate as well as their counterparts in the House of Representatives.

This year we are being joined by colleagues from both sides of the aisle, many of whom are present or former members of the Committee on Small Business as well as the Committee on Governmental Affairs. When introduced, S. 244 had 21 bipartisan cosponsors. My friend from Mississippi, Mr. LOTT, as inadvertently omitted from the list. He should have been on the list when it was originally introduced.

Mr. President, I ask unanimous consent that Senator LOTT be added to list of original cosponsors to the bill.

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

Mr. NUNN. Further, Mr. President, I ask unanimous consent that the following Senators be added as additional cosponsors—Senator STEVENS, Senator AKAKA, Senator GRASSLEY, Senator THOMAS, Senator COHEN, Senator THOMPSON, Senator ROCKEFELLER, and Senator D'AMATO.

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

Mr. NUNN. In this Congress, the House of Representatives is decidedly more receptive to this legislation. A modified version of S. 560 was included in H.R. 9, the Job Creation and Wage Enhancement Act of 1995, which includes many of the regulatory and paperwork relief provisions of the Republican Contract With America. Representatives BILL CLINGER, the new chairman of the House Committee on Government Reform and Oversight, the new name for the Committee on Government Operations, was the principal Republican cosponsor to H.R. 2995, the House companion to S. 560 in the last Congress. So he has been working on this a long time. In this Congress, he introduced H.R. 830, the Paperwork Reduction Act of 1995, with Representatives NORM SISISKY as the principal Democratic cosponsor.

I might add Representative SISISKY has worked on this legislation for several years with me, including trying last year to get this legislation through the House in the last couple of weeks of the session. On February 22, the House passed H.R. 830 by a rollcall vote of 418–0.

Like the reported version of S. 560 in the last Congress, S. 244 has the support of the Clinton administration. During testimony before the House Small Business Committee on Friday, January 27, Sally Katzen, Administrator of the Office of Information and Regulatory Affairs, stated the administration's support for S. 244.

The Paperwork Reduction Act of 1995 enjoys strong support from the business community, especially the small business committee. It has the support of a broad Paperwork Reduction Act coalition, representing virtually every segment of the business community. Participating in the coalition are the major national small business associations—the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU], as well as the many specialized national small business association, like the American Subcontractors Association, that comprise the membership of SBLC or NSBU. Other participants represent manufacturers, aerospace and electronics firms, construction firms, providers of professional and technical services, retailers of various products and services, and the wholesalers and distributors who support them.

Leadership for the coalition is being provided by the Council on Regulatory and Information Management, known as C–RIM and by the U.S Chamber of Commerce. C–RIM is the new name for the Business Council on the Reduction of Paperwork, which has dedicated itself to paperwork reduction and regulatory reform issues for more than a half century. While he was C–RIM's executive director, Bob Coakley worked tirelessly on advancing this legislation. Bob came to C–RIM after many years of service to the Committee on Governmental Affairs, especially for our former colleague, Lawton Chiles, the father of the Paperwork Reduction Act of 1980, when he was in the Senate. Of course he is now Governor of Florida.

The coalition also includes a number of professional associations and public interest groups that support strengthening the Paperwork Reduction Act of 1980. These include the Association of Records Managers and Administrators [ARMA] and Citizens for a Sound Economy [CSE], to name but two very active coalition members.

Given the regulatory and paperwork burdens faced by State and local governments, legislation to strengthen the Paperwork Reduction Act is high on the agenda of the associations representing elected officials. As Governor of Florida, Lawton Chiles, has worked hard on this issue within the National Governors Association. During its 1994 annual meeting, the National Governors Association adopted a resolution in support of legislation to strengthen the Paperwork Reduction Act of 1980.

The principal purpose of the Paperwork Reduction Act of 1995 is to reaffirm and provide additional tools by which to attain the fundamental objective of the Paperwork Reduction Act of 1980—to minimize the Federal paperwork burdens imposed on individuals, businesses, especially small businesses, educational and nonprofit institutions, and State and local governments.

The Paperwork Reduction Act of 1995 provides a 5-year reauthorization of appropriations for the Office of Information and Regulatory Affairs [OIRA]. Created by the 1980 act, OIRA serves as the focal point at OMB for the Act' implementation. OIRA is also the focal point for the regulatory review process, which is exercised under an Executive order. As the Congress undertakes its fundamental changes to the Government processes for the formulation of regulations, OIRA's role and its broad authorities under the Paperwork Reduction Act will be become even more obvious.

I would like to highlight just a few of the provisions of the bill. It reemphasizes the fundamental responsibilities of each Federal agency to minimize new paperwork burdens by thoroughly reviewing each proposed collection of information for need and practical utility, the act's fundamental standards—need and practical utility. The bill makes explicit the responsibility of each Federal agency to conduct this review itself, before submitting the proposed collection of information for public comment and clearance by OIRA in the Office of Management and Budget.

The bill before us reflects the provisions of S. 560 that further enhance public participation in the review of paperwork burdens, when they are first being proposed or when an agency is seeking to obtain approval to continue to use an existing paperwork requirement. Strengthening public participation is at the core of the 1980 act and is strengthened even further in this act.

The Paperwork Reduction Act of 1995 maintains the 1980 act's Government-wide 5-percent goal for the reduction of paperwork burdens on the public. Given past experience, some question the effectiveness of such goals in producing net reductions in Government-wide paperwork burdens. The Coalition believe that the bill should reflect individual agency goals as well. If seriously implemented, the proponents argue that such agency goals can become an effective restraint on the cumulative growth of Government-sponsored paperwork burdens. Although this provision is not in the bill before the committee today, I am hopeful that it will be strengthened in this manner before becoming law.

The bill includes amendments to the 1980 act which further empower members of the public to help police Federal agency compliance with the act. I would like to describe two of these provisions.

One provision would enable a member of the public to obtain a written determination from the OIRA Administrator regarding whether a federally sponsored paperwork requirement is in compliance with the act. If the agency paperwork requirement is found to be noncompliant, the Administrator is charged with taking appropriate remedial action. This provision is based upon a similar process added to the Office of Federal Procurement Policy Act in 1988.

The second provision encourages members of the public to identify paperwork requirements that have not been submitted for review and approval pursuant to the act's requirements. Although the act's public protection provisions explicitly shield the public from the imposition of any formal agency penalty for failing to comply with such an unapproved, or bootleg, paperwork requirement, individuals often feel compelled to comply. This is especially true when the individual has an ongoing relationship with the agency and that relationship accords the agency substantial discretion that could be used to redefine their future dealings. In other words, leverage. Under S. 244, a member of the public can blow the whistle on such a bootleg paperwork requirement and be accorded the protection of anonymity.

Next, I would like to emphasize that the Paperwork Reduction Act of 1995 clarifies the 1980 act to make explicit that it applies to Government-sponsored third-party paperwork burdens. These are recordkeeping, disclosure, or other paperwork burdens that one private party imposes on another private party at the direction of a Federal agency. In 1990, the U.S. Supreme Court decided that such Government-sponsored third-party paperwork burdens were not subject to the Paperwork Reduction Act.

That was contrary to the authors' original intent as has been often stated by the Governor of Florida, then-Senator Lawton Chiles.

The Court's decision in Dole versus United Steelworkers of America created a potentially vast loophole. The public could be denied the act's protections on the basis of the manner in which a Federal agency chose to impose a paperwork burden, indirectly rather than directly. It is worthy of note that Lawton Chiles went to the trouble and expense of filing an amicus brief to the Supreme Court arguing that no such exemption for third-party paperwork burdens was intended. Given the plain works of the statute, the Court decided otherwise. The bill makes explicit the act's coverage of all Government-sponsored paperwork burdens. Once this bill is enacted, we can feel confident that this major loophole

will be closed. But given more than a decade of experience under the act, it is prudent to remain vigilant to additional efforts to restrict the act's reach and public protections.

The smart use of information by the Government, and its potential to minimize the burdens placed on the public, is a core concept of the 1980 act. The information resources management [IRM] provisions of the Paperwork Reduction Act of 1995 build upon the foundation laid more than a decade ago by our former colleague from Florida. These provisions of S. 244 are the major contribution of my friend from Ohio, who has emphasized the potential of improved IRM policies to make Government more effective in serving the Public.

Mr. President, I would like to recognize the contributions of several staff members. First, David Plocher, counsel for Senator GLENN, who along with Tony Coe, an associate counsel in the Office of Senate Legislative Counsel, did much of the drafting. Next, I would like to recognize Frank Polk, the committee's Republican staff director, who assisted Senator ROTH over the many years of effort that have gotten us to this point, and also on my staff Rocky Rief and Matthew Sikes, who have been diligent in working on this legislation; and, finally, certainly not least and probably more than any other individual person, Bill Montalto, who has provided assistance to me as well as Chairman BUMPERS and the ranking Republican members of the Small Business Committee. In this and many other efforts Bill has served well many Members of the Senate, the Committee on Small Business, and indeed the entire small business community. For 13 years, Bill Montalto has served the Small Business Committee. Six years prior to that he was in the service of the U.S. Army. He was there a lawyer and counsel and a logistics specialist.

I have had an opportunity to work with this remarkable public servant for all of those 13 years as he served the Small Business Committee. We have worked on a number of legislative initiatives, such as the mentor-protege program which is now functioning. On the Federal Acquisition Streamlining Act, Bill brought his expertise in the small business arena to bear in that legislation which was passed by the Armed Services Committee and the Governmental Affairs Committee, and helped initiate and further small business development centers that are operating all over the country. Bill was invaluable in his creation of the concept of developing that legislation. The SBA 504 program, no one knows more about that program than Bill, and the SBA Preferred Surety BOND Program and numerous others which have helped our small business community.

Bill will be leaving the Small Business Committee on the Senate side, and my understanding is that he will be going to a key position on the Small Business Committee on the House side. So we will continue, hopefully, to benefit from his advice and his expertise and his dedication in all of these areas.

So to Bill Montalto I owe a special debt of gratitude today, and I am sure Senator BUMPERS, who was chairman of the Small Business Committee, now ranking Democrat, and others who have worked with him would echo my sentiments expressed here today. I am sure Senator BOND and others who have worked on this legislation, also, would certainly know that Bill has done a wonderful job here.

Mr. President, with those comments, I urge my colleagues to pass this legislation. I hope we can pass it today or certainly tomorrow. And I hope that we will be able to have a meeting of the minds with the House and send this bill to the President. It is long overdue. I think it will help begin to alleviate some of the crushing burden of paperwork for so much of our business community.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, it is with great pleasure that I rise in support of the Paperwork Reduction Act of 1995, S. 244. As an original cosponsor, I see this legislation playing a critical role in the broader initiative to minimize Government regulatory and paperwork burdens imposed at the Federal level.

I want to say a very special thanks to Chairman ROTH for moving this bill through his committee. We have given his committee the great blessing of about two-thirds of the urgent legislation to be brought before the Senate. We thank him for moving this bill forward.

In addition, a very special thanks to the Senator from Georgia [Mr. NUNN] who has long been a champion of paperwork reduction who has worked long and hard. With his leadership we passed this several times in the Senate. As he indicated in his opening remarks, it now looks like we have a receptive majority in the House. I am hopeful that the good work that those two friends, as well as the distinguished Senator from Ohio, Senator GLENN, have put in, along with Senator BUMPERS, my predecessor, will bear fruit.

Small businesses are especially hard hit by excessive regulatory and paperwork burdens imposed by the Federal bureaucracy. Each time I return home to my State of Missouri, small business owners come up to me and say how the unnecessary burdens of Federal regulations are really crushing them. The Federal requirements too often force these hard-working men and women and small business owners to divert time, energy, and their resources away from productive activities, reducing the competitiveness of the business and impeding their growth.

As chairman of the Small Business Committee, I have had the opportunity to hear a lot from people around the country in the last few months. They are the ones who seem to be crying ''enough'' during last November's election. They have told us they are fed up with Government that is inefficient and wasteful. They want that to change. They are unhappy with the Government's failure to meet their expectations in carrying out its responsibility.

People want Government to work well. Basic governmental functions to insure we have clean water to drink, safe medicines to take, and safe food to eat are sought by all Americans. But they look at our Government today and see an institution that must be brought under control.

And it is not hard to understand their frustration. The paperwork burden imposed on Americans in 1993 totaled 6.6 billion hours. Small businesses alone spend 1 billion hours simply filling out Government paperwork at an annual cost of $100 billion. Furthermore, Government regulation costs individuals and businesses more than $500 billion annually or about $5,000 per family. Just imagine the potential benefit to our economy if some of this valuable time could have been spent on product development or sales.

First, let me assure my colleagues that the Paperwork Reduction Act of 1995 will not impose new regulatory burdens on individuals and businesses. Under the Paperwork Reduction Act, we expect more from the agencies, not from the public. Whenever an agency imposes a paperwork requirement, it must estimate the total amount of time needed to fulfill the requirement. The burden is not merely how long it takes to complete the Government form, report or survey. A greater burden is likely to be the time necessary to understand the requirement, identify the information needed to respond, compile the data, and then submit it in the required format. It is likely the Government format is vastly different from how the small business owner maintains the data.

The Council on Regulation and Information Management [C–RIM], a group which has sought since 1942 to rationalize and minimize the Federal regulatory and paperwork reduction processes, believes that Federal agencies underestimate the total time burden imposed by their paperwork by nearly one-third. C–RIM believes the actual burden is closer to 10 billion hours, not the 6.6 billion claimed by Federal agencies. If you estimate compliance cost at $50 per hour, the annual cost of federally imposed paperwork burdens totals $500 billion.

As a nation, we cannot afford to continue to heap new paperwork and regulatory burdens on individuals and businesses. While recognizing that the total Federal paperwork burden has continued to grow, the Paperwork Reduction Act of 1980 has brought some successes. First, the 1980 act assures that the public will have an opportunity to comment upon proposed Federal paperwork burdens and to suggest

ways to collect necessary information in a less burdensome way. The Paperwork Reduction Act of 1995 strengthens participation by the public. Small businesses will have an opportunity earlier in the process to shed light on the practical business reality on a proposed paperwork requirement. In this bill, we are giving them opportunities to point out when nearly identical information is being collected by another Federal agency. In addition, small businesses will be able to comment on the timing of the submission of the data as well as the format.

Recently, the House of Representatives passed its version of the Paperwork Reduction Act of 1995. It is very appropriate that we in the Senate act on this important legislation today. This act is part of a broad down payment on the regulatory relief program we must pass if we expect Americans to maintain trust and respect in their Government.

Another bill I hope we will consider soon is S. 350, the Regulatory Flexibility Amendments Act of 1995. Earlier this year, I introduced this bill to remove the prohibition against judicial review of agency compliance with the Regulatory Flexibility Act. The purpose of the Reg Flex Act is very simple. It rejects the notion that one size fits all under Government regulations. Under this act, Federal regulators must take into account the needs of small business in drafting new regulations.

The SBA Chief Counsel for Advocacy is charged with monitoring Federal agency compliance with the Reg Flex Act. Unfortunately, too often regulators in some Federal agencies give mere lipservice to the Reg Flex Act requirements, because the Reg Flex Act specifically prohibits judicial enforcement of the law's requirements. As a result, too many Federal regulators have ignored their responsibilities under the act, even when the Chief Counsel for Advocacy notifies the agencies of their failure to comply.

My bill is intended to encourage Federal agencies to comply with their reg flex obligations by permitting small businesses to go into Federal court to enforce compliance by an agency. The judge also will have the freedom to stay implementation of a regulation until the agency comes into compliance. On March 8, I will chair a hearing before the Senate Committee on Small Business to receive testimony from public and private witnesses on how to implement better the Reg Flex Act. It is my intention to review other administrative remedies to enforce the Reg Flex Act so new regulations are written correctly in the first place, so the need to challenge agencies in Federal court might be minimized.

Mr. President, when I first elected to the U.S. Senate, I did not realize so much of my time would be devoted to getting the Government off the backs of individuals and small businesses. As the co-chair of the Senate Regulatory Relief Task Force, we have targeted for reform the 10 worst regulatory burdens. This move will help small businesses, who are the hardest hit by many of these burdensome regulations. We need to reinforce the notion that our Government should be a friend of small business. Government should not be an enemy of growth and new jobs. Unfortunately, today we find a regulatory environment that creates too many roadblocks that impede the growth of small business.

The Paperwork Reduction Act of 1995 is an important step toward bringing our Government under control. For our Government to demand paperwork requiring 10 billion hours per year to fill out is a sign that much work needs to be done to reach this goal. This bill will help move us in the right direction, and I urge to support its passage.

Mr. DOLE. Mr. President, today we begin consideration of S. 244, the Paperwork Reduction Act of 1995. This is a badly needed piece of legislation, and enjoys broad bipartisan support. Americans are drowning in paperwork and need relief now.

This legislation is an important part of our package of reforms to downsize Government; to get the Government off the backs of the American people. Together with regulatory reform and unfunded mandates legislation, paperwork reduction is an important step forward toward improving the lives of ordinary Americans by injecting some common sense into the requirements of the Federal Government on our citizens.

The Paperwork Reduction Act of 1995 strengthens the Paperwork Reduction Act of 1980 by setting a goal of reducing the paperwork burdens imposed by the Federal Government by 5 percent; clarifying that the act will apply to all Government-sponsored collections of information; and strengthening and improving both information technology management and information dissemination. These are reforms and improvements that are long overdue.

Mr. President, I have had many people, particularly those with small businesses, tell me that they would be willing to forgo some aspects of a Federal program that might benefit them if only they could be protected from unnecessary paperwork as well. As it is, the burdens involved are nothing more than a tax: a tax on our productivity. This costs America jobs. It deters those who would otherwise open businesses from doing so; and it is often the difference between a successful and a failing business.

The American people spoke clearly in last November's elections: ''rein in big government.'' They want and deserve a smaller and more responsive Government. They also want and deserve a system of Government that respects the intentions of the Founding Fathers as reflected in the 10th amendment to the Constitution: Those powers not delegated to the Federal Government are reserved to the people and to the States.

The 10th amendment is not merely an abstract point of political philosophy—it reflects the voice of experience by those who understood that Government works best when it governs least and when decisions are made at the level closest to the people. Decisions about what to require in the way of forms, justifications, documentation and recordkeeping made in Washington, DC, often lack this sense of the practical limits on Government. Thus, what may seem perfectly reasonable to a bureaucrat in Washington, DC—who only deals with his or her specific program—is experienced by many Americans as an exercise in frustration, and often of harassment. When you multiply that one bureaucrat by the literally thousands of programs that seem reasonable in a vacuum, it does not take long to see that we have the recipe for disaster.

Mr. President, when everyone is in charge, no one is in charge. Thus, we cannot absolve ourselves of the burdens caused by the executive branch that is, after all, attempting to carry our what it believes to the dictates of Congress. Congress has an important role—indeed, an obligation—to exercise the kind of oversight that reins in the excesses of Government. S. 244 is an important step forward, and I urge my colleagues to support its passage.

Mr. GLENN. Mr. President, I am very happy that we are today one important step closer to reauthorization of the Paperwork Reduction Act. This law is essential to reducing the burdens of Government paperwork on the American people. The law is also key to improving the management of Federal Government information systems—this is essential because the Federal Government is now spending $25 billion a year on information technology.

The bill we bring to the floor today is the product of several years of bipartisan effort. In fact, this bill is virtually identical to the bill passed by unanimous consent in October 1994. This year, I hope we can quickly go all the way and get the bill signed into law.

Our bill makes important improvements to the 1980 Paperwork Reduction Act. It strengthens the paperwork clearance process and information resources management—both in OMB and the agencies:

We reauthorize the act for 5 years;

We overturn the Dole versus United Steelworkers Supreme Court decision, so that information disclosure requirements are covered by the OMB paperwork clearance process;

We require agencies to evaluate paperwork proposals and solicit public comment on them before the proposals go to OMB for review;

We create additional opportunities for the public to participate in paperwork clearance and other information management decisions;

We strengthen agency and OMB information resources management [IRM] requirements;

We establish information dissemination standards and require the development of a Government Information Locator Service [GILS] to ensure improved public access to Government information, especially that maintained in electronic format; and

We make other improvements in the areas of Government statistics, records management, computer security, and the management of information technology.

These are important reforms and improvements to the act. We should act on this legislation quickly.

Mr. NUNN. Mr. President, I ask unanimous consent that letters of support from the Paperwork Reduction Act Coalition and individual member organizations may be printed in the RECORD.

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

THE PAPERWORK REDUCTION ACT COALITION,
March 2, 1995.

Hon. SAM NUNN,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR NUNN: The organizations comprising the steering committee of the Paperwork Reduction Act Coalition wish to express our strong and enthusiastic support for S. 244, the ''Paperwork Reduction Act of 1995.''

As you know, we have been steadfastly working for enactment of this legislation since 1989. This commitment stems from our belief that S. 244 will significantly strengthen the ability of the federal government to reduce the regulatory paperwork burden upon the private sector and the American public. Time and again it has been demonstrated that unnecessary regulatory costs hinder economic growth and retard job creation and retention. With as much as nine percent of the gross domestic product involved in meeting the federal government's information needs, it is imperative that a strengthened Paperwork Reduction Act be aggressively used to improve productivity, eliminate waste, and reduce the burdens upon businesses and taxpayers.

To illustrate the breadth of support for this legislation, we have attached a partial list of the members of the Paperwork Reduction Act Coalition. Their commitment to this issue is every bit as sincere as ours.

We came so close last Congress with passage of S. 560. Now that the House has passed its companion legislation, we have the opportunity to successfully bring this debate to a close. We look forward to helping you achieve that goal.

Sincerely,

Chamber of Commerce of the United States; Citizens for a Sound Economy, Council on Regulatory and Information Management; National Association of Manufacturers; National Federation of Independent Business; National Small Business United; Small Business Legislative Council; Aerospace Industries Association of America; Air Transport Association of America; Alliance of American Insurers; American Consulting Engineers Council; American Institute of Merchant Shipping; American Iron and Steel Institute; American Petroleum Institute.

American Subcontractors Association; American Telephone and Telegraph; Associated Builders and Contractors; Associated Credit Bureaus; Associated General Contractors of America; Association of Manufacturing Technology; Association of Records Managers and Administrators; Automotive Parts and Accessories Association; Biscuit and Cracker Manufacturers' Association; Bristol Myers; Chamber of Commerce of the United States; Chemical Manufacturers Association; Chemical Specialties Manufacturers Association; Citizens Against Government Waste.

Citizens for a Sound Economy; Computer and Business Equipment Manufacturers Association; Contract Services Association of America; Copper and Brass Fabricators Council; Council on Regulatory and Information Management; Dairy and Food Industries Supply Association; Direct Selling Association; Eastman Kodak Company; Electronic Industries Association; Financial Executive Institute; Food Marketing Institute; Gadsby & Hannan; Gas Appliance Manufacturers Association; General Electric; Glaxo, Inc.; Greater Washington Board of Trade; Hardwood Plywood and Veneer Association.

Independent Bankers Association of America; International Business Machines; International Communication Industries Association; International Mass Retail Association; Kitchen Cabinet Manufacturers Association; Mail Advertising Service Association International; McDermott, Will & Emery; Motorola Government Electronics Group; National Association of Home Builders of the United States; National Association of Manufacturers; National Association of Plumbing-Heating-Cooling Contractors; National Association of the Remodeling Industry; National Association of Wholesalers-Distributors.

National Federation of Independent Business; National Food Brokers Association; National Food Processors Association; National Foundation for Consumer Credit; National Glass Association; National Restaurant Association; National Roofing Contractors Association; National Security Industrial Association; National Small Business United; National Society of Professional Engineers; National Society of Public Accountants; National Tooling and Machining Association; Northrop Corporation; Packaging Machinery Manufacturers Institute; Painting and Decorating Contractors of America.

Printing Industries of America; Professional Services Council; Shipbuilders Council of America; Small Business Legislative Council; Society for Marketing Professional Services; Sun Company, Inc.; Sunstrand Corporation; Texaco; United Technologies; Wholesale Florists and Florists Supplies of America.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL.

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT—The Association of Manufacturing Technology.
Apparel Retailers of America.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bakers Association.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Association of Catalog Showroom Merchandisers.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.

National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 1, 1995.

CUT GOVERNMENT REDTAPE AND EXCESSIVE PAPERWORK—SUPPORT S. 244

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the more than 600,000 small business owners of NFIB, I am writing to express our strong support for S. 244, legislation to strengthen the Paperwork Reduction Act (PRA).

Small business is struggling to swim against the rising tide of regulatory paperwork required by the federal government. This flood of paperwork is overwhelming to small business owners and threatens their ability to survive and prosper. In fact, a recent NFIB Education Foundation survey found that the burden of federal regulation and paperwork was the fastest rising problem facing small business owners. Strengthening the PRA is essential to the livelihood of small business in America.

If you want entrepreneurs in your state to spend less time filling out forms and more time creating jobs then vote YES on S. 244. Final passage of S. 244 will be a Key Small Business Vote for the 104th Congress.

Sincerely.

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, March 2, 1995.

To Members of the United States Senate:

The U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad identified the need for federal paperwork reduction as its number three issue of greatest significance for the 104th Congress. Accordingly, I urge your strong support for S. 244, the ''Paperwork Reduction Act of 1995.''

Consider this:

Paperwork burdens carry a $510 billion price tag annually for the American economy;

The American public spends 6.8 billion hours annually complying with federal paperwork mandates;

Businesses pay at least twice as much in paperwork costs than for corporate taxes;

Businesses (both small and large) carry more than 60 percent of the paperwork burden; and

The financial impact from paperwork burdens equals about nine percent of the Gross Domestic Product annually.

Clearly, this problem has reached gargantuan proportions and must be reversed. The ''Paperwork Reduction Act of 1995'' is essential to this goal. If enacted, S. 244 would provide for a stronger Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget to conduct centralized reviews of proposed and existing paperwork burdens. It also would provide for increased opportunities for the public to comment on proposed paperwork mandates and for realistic assessments of estimated reporting and recordkeeping. Significantly, S. 244 would reverse the 1990 Supreme Court decision in *Dole* vs. *United Steelworkers,* which had the effect of limiting OIRA's ability to oversee a substantial amount of the federally imposed paperwork burden, despite the intentions of the authors of the original Paperwork Reduction Act of 1980. Any information required to be disclosed to third parties (i.e., where the data is not provided directly to the government) would be subject to the paperwork review process. Finally, this legislation would prescribe specific goals for substantive reductions in the amount of federally required information.

Because information is the key to meeting many of the needs of society, we acknowledge the validity of appropriate reporting requirements. The business community—and particularly small businesses—do require, however, an information-collection process that is rational and reasonable, and that reflects the centrality of our role as job creators.

Again, please vote ''YES'' on S. 244, the ''Paperwork Reduction Act of 1995.''

Sincerely,

R. BRUCE JOSTEN.
Senior Vice President,
Membership Policy Group.

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. NUNN. 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. NUNN. Mr. President, while we are waiting and working out, hopefully, the managers' amendment, I would like to speak briefly on another subject, with the stipulation that if someone comes in, I will be glad to be interrupted.

THE 1996 PARALYMPIC GAMES

Mr. NUNN. Mr. President, last month I spoke on the floor detailing for my colleagues the exciting history of the Paralympic games. Many Americans are aware of, and excited about, the 16 days of Centennial Olympic games competition to be held in Atlanta during July and August, 1996. However, a number of people remain unaware of the 12 days of Paralympic competition that will be held less than 2 weeks after the conclusion of the Olympic Games. Atlanta is proud to host the Paralympics games along with the 4,000 athletes, 1,000 coaches, and team staff that it will bring to Georgia from more than 100 nations.

The Paralympic movement, dating back to 1946, has involved scores of outstanding men and women with a wide variety of disabilities. Last month, I spoke of the accomplishments of Al Mead, an above-the-knee amputee. Al lost his leg due to a fall he took as a nine year old that led to complications requiring amputation. He is a former world record-holder in the long jump and the 100 meters, and a long jump silver-medalist in the Barcelona Paralympics. His accomplishments are awe-inspiring, and I look forward to watching Al perform, along with thousands or other people, in Atlanta in 1996.

Today, I would like to call attention to another outstanding Paralympian, a young woman named Trischa Zorn. Trischa has been legally blind since birth with a condition called anaridia—the absence of an iris. Despite her condition, she has been a top performer in both the Paralympics and the Olympic swimming competitions. At age 7, she began swimming along with her sister's swim team in Tustin, CA. By the age of 10, her family moved to Mission Viejo where she began training in earnest.

Due to her 20/1000 vision, Trischa had difficulty knowing when it was time to make her turns at the end of each length of the pool. Over the years she trained herself to count each stroke across the length of the pool so that she would know when she was approaching turns. With incredible dedication and determination, Trischa, in 1980 at the age of 16, was named first alternate on the U.S. Olympic swimming team. As we all know, to be selected as first alternate for the U.S. Olympic team is a tremendous achievement for the most able-bodied among us. It means competing at levels most of us will never approach. However, to be named first alternate to the U.S. Olympic team and to be legally blind is truly an incredible achievement.

After a highly successful high school swimming career, Trischa was recruited by the University of Nebraska's women's swimming program. By her sophomore year at Nebraska, Trischa was named to the Big Eight all-academic team along with receiving All-American honors her junior and senior years.

After graduating from Nebraska in 1987, Trischa got her master's degree in school administration from Indiana University/Purdue University at Indianapolis. She obtained her certification to teach both in the pool and in the classroom, all the while maintaining her vigorous training schedule.

At the 1992 Paralympic games in Barcelona, Trischa was the top overall medalist. She won 12 medals—10 gold, 2 silver—and broke 6 world records. At the 1990 World Championships for the Disabled, she scored a ''Perfect 11,'' winning a gold medal in every swimming event. In the 1988 Seoul Paralympics, she won 12 gold medals,

earning the nickname ''The Golden Girl.'' Trischa has been awarded such titles as the first-ever Physically Challenged Athlete of the Year, Indianapolis Woman of the Year, and she was nominated for the 1988 Sports Illustrated Sportsman of the Year Award.

Obviously, Mr. President and my colleagues, this is a woman who has focused on her abilities and almost dismissed her disabilities. She is now focusing on the 1996 Paralympics. All of us in Atlanta, and all who will be coming from all over the world to those events, look forward to watching ''The Golden Girl'' add more medals and records to her already impressive list of accomplishments.

Mr. President, I yield the floor.

PAPERWORK REDUCTION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. ROTH. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that they be considered original text for purposes of further amendment, and that no points of order be waived.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

Mr. ROTH. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. 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. BROWN. Mr. President, I would like to ask the manager of the bill a few questions.

Mr. ROTH. I am available to answer the questions of the Senator from Colorado.

Mr. BROWN. I thank the chairman. Under section 3505 the Director of the Office of Management and Budget has a duty to, in consultation with agency heads, set annual agency goals to reduce information collection burdens. Would the chairman agree that the Secretary of Commerce may take this opportunity to reduce the paperwork burden on persons relating to the compilation and publication of censuses of agriculture and irrigation, of manufactures, of mineral industries, and other businesses, including the distributive trades, service establishments, and transportation?

Mr. ROTH. I believe it would be appropriate for the Secretary of Commerce to review the paperwork burden associated with this census collection.

Mr. BROWN. I thank the Senator for that clarification. Under section 3506, each agency shall reduce the information collection burdens on the public. These industry and economic censuses cause business owners and farmers to maintain a great deal of paperwork in order to complete the census. The 1992 Agriculture Census alone required farmers and ranchers to answer more than 200 questions. It is my understanding that if a hospital, for example, has a garden where they grow lettuce or fruits only for their patients, they may still be considered a farmer and be required to fill out the 200 questions in the agriculture census even though their crops never go to market. Would the chairman agree that this section would require the Secretary of Commerce to reduce burdens created by the compilation and publication of censuses of agriculture and irrigation, of manufactures, of mineral industries, and other businesses, including the distributive trades, service establishments, and transportation?

Mr. ROTH. Clearly this section requires agencies to review the information collection actions it carries out. To the extent that the Secretary is able to reduce the information collection burden on the affected public in this area, this section requires the Secretary to do so.

Mr. BROWN. I am particularly concerned about the unnecessary duplication in the collection of information in these censuses. Would the Senator agree that sections 3509 and 3510 are intended to encourage agencies to share information and avoid repetitive collections of the same information?

Mr. ROTH. This act not only encourages information sharing, section 3509 in particular authorizes the OMB Director to designate a central collection agency to obtain information for two or more agencies where it is not inconsistent with applicable law.

Mr. BROWN. I thank the chairman for his assistance and I yield the floor.

AMENDMENT NO. 317

(Purpose: To clarify certain definitions and intelligence related provisions, and for other purposes)

Mr. ROTH. 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 Delaware [Mr. ROTH], for himself and Mr. NUNN, proposes an amendment numbered 317.

Mr. ROTH. 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 8, lines 19 and 20, strike out ''and processes, automated or manual,''.

On page 8, line 25, beginning with ''section'' strike out all through line 2 on page 9 and insert in lieu thereof ''section 111(a)(2) and (3)(C)(i) through (v) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2) and (3)(C)(i) through (v));''.

On page 22, line 24, strike out ''a senior official'' and insert in lieu thereof ''senior officials''.

On page 23, line 2, strike out ''for the military departments''.

On page 46, lines 8 and 9, strike out ''collection of information prior to expiration of time periods established under this chapter'' and insert in lieu thereof ''a collection of information''.

On page 46, line 13, strike out ''such time periods'' and insert in lieu thereof ''time periods established under this chapter''.

On page 46, lines 17 and 18, strike out ''within such time periods because'' and insert in lieu thereof ''because''.

On page 46, line 21, strike out ''or''.

On page 46, beginning with line 22, strike out all through line 2 on page 47 and insert in lieu thereof the following:

''(ii) an unanticipated event has occurred; or

''(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.''

On page 49, line 14, insert ''(a)'' before ''In order''.

On page 50, insert between lines 22 and 23 the following new subsection:

''(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 U.S.C. 431 et seq.).''

On page 56, lines 4 and 5, strike out ''section 4–206 of Executive Order No. 12036, issued January 24, 1978,'' and insert in lieu thereof ''section 3.4(e) of Executive Order No. 12333, issued December 4, 1981,''.

On page 58, insert between lines 2 and 3 the following new section:

SEC. 3. PAPERWORK BURDEN REDUCTION INITIATIVE REGARDING THE QUARTERLY FINANCIAL REPORT PROGRAM AT THE BUREAU OF THE CENSUS.

(a) PAPERWORK BURDEN REDUCTION INITIATIVE REQUIRED.—As described in subsection (b), the Bureau of the Census within the Department of Commerce shall undertake a demonstration program to reduce the burden imposed on firms, especially small businesses, required to participate in the survey used to prepare the publication entitled ''Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations''.

(b) BURDEN REDUCTION INITIATIVES TO BE INCLUDED IN THE DEMONSTRATION PROGRAM.—The demonstration program required by subsection (a) shall include the following paperwork burden reduction initiatives:

(1) FURNISHING ASSISTANCE TO SMALL BUSINESS CONCERNS.—

(A) The Bureau of the Census shall furnish advice and similar assistance to ease the burden of a small business concern which is attempting to compile and furnish the business information required of firms participating in the survey.

(B) To facilitate the provision of the assistance described in subparagraph (A), a toll-free telephone number shall be established by the Bureau of the Census.

(2) VOLUNTARY PARTICIPATION BY CERTAIN BUSINESS CONCERNS.—

(A) A business concern may decline to participate in the survey, if the firm has—

(i) participated in the survey during the period of the demonstration program described under subsection (c) or has participated in the survey during any of the 24 calendar quarters previous to such period; and

(ii) assets of $50,000,000 or less at the time of being selected to participate in the survey for a subsequent time.

(B) A business concern may decline to participate in the survey, if the firm—

(i) has assets of greater than $50,000,000 but less than $100,000,000 at the time of selection; and

(ii) participated in the survey during the 8 calendar quarters immediately preceding the firm's selection to participate in the survey for an additional 8 calendar quarters.

(3) EXPANDED USE OF SAMPLING TECHNIQUES.—The Bureau of the Census shall use statistical sampling techniques to select firms having assets of $100,000,000 or less to participate in the survey.

(4) ADDITIONAL BURDEN REDUCTION TECHNIQUES.—The Director of the Bureau of the Budget may undertake such additional paperwork burden reduction initiatives with respect to the conduct of the survey as may be deemed appropriate by such officer.

(c) DURATION OF THE DEMONSTRATION PROGRAM.—The demonstration program required by subsection (a) shall commence on October 1, 1995, and terminate on the later of—

(1) September 30, 1998; or

(2) the date in the Act of Congress providing for authorization of appropriations for section 91 of title 13, United States Code, first enacted following the date of the enactment of this Act, that is September 30, of the last fiscal year providing such an authorization under such Act of Congress.

(d) DEFINITIONS.—For purposes of this section:

(1) The term ''burden'' shall have the meaning given that term by section 3502(2) of title 44, United States Code.

(2) The term ''collection of information'' shall have the meaning given that term by section 3502(3) of title 44, United States Code.

(3) The term ''small business concern'' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant thereto.

(4) The term ''survey'' means the collection of information by the Bureau of the Census at the Department of Commerce pursuant to section 91 of title 13, United States Code, for the purpose of preparing the publication entitled ''Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations''.

On page 58, insert between lines 2 and 3 the following new section:

SEC. 4. OREGON OPTION PROPOSAL.

(a) FINDINGS.—The Senate finds that—

(1) Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

(2) historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed requirements relating to the use of funds which are often delivered by State and local governments;

(3) although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

(4) it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's Federal, State and local governments to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national goals, and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

(5) the State and local governments of Oregon have begun a pilot project, called the Oregon Option, that will utilize strategic planning and performance-based management that may provide new models for intergovernmental social service delivery;

(6) the Oregon Option is a prototype of a new intergovernmental relations system, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a system of intergovernmental service delivery and funding that is based on measurable performance, customer satisfaction, prevention, flexibility, and service integration; and

(7) the Oregon Option has the potential to dramatically improve the quality of Federal, State and local services to Oregonians.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Oregon Option project has the potential to improve intergovernmental service delivery by shifting accountability from compliance to performance results and that the Federal Government should continue in its partnership with the State and local governments of Oregon to fully implement the Oregon Option.

On page 58, line 3, strike out **''SEC. 3.''** and insert in lieu thereof **''SEC. 5.''**.

Mr. ROTH. Mr. President, the managers' amendment I have sent to the desk contains four parts. The first part is a series of committee amendments. The second consists of a few technical amendments requested by the intelligence community. The third is an amendment authored by Senator COVERDELL which eases compliance with the Census Bureau's Quarterly Financial Reports requirements. The fourth is a provision authored by Senator HATFIELD relating to the Oregon option.

The first part, amendments reported by the committee, was developed by Senators COHEN, GLENN, NUNN, and myself. It modifies several provisions of the bill regarding procurement of information technology. In the time since the language of this legislation was drafted last year, the Congress passed the Federal Acquisition Streamlining Act and the President signed it into law. That act and other events have created the opportunity to revise portions of the Paperwork Reduction Act. In summary, the amendment will better focus the information technology provisions on achieving results.

This amendment was the result of a collaborative effort by Senators COHEN, GLENN, NUNN, and myself. Senators NUNN, GLENN, and I developed the bill now before the Senate. With Senator COHEN, we also had primary responsibility for the drafting and passage of last year's acquisition reform bill. So, there is broad agreement by the key sponsors of both efforts on the value of the Cohen-Roth-Glenn-Nunn amendment for the Paperwork Reduction Act.

More work is needed to fix the Government's problems in using information technology. We have had hearings at the Governmental Affairs Committee, and the General Accounting Office is doing a major audit of the situation. Beyond that, Senator COHEN and I are working on legislation to follow up on the committee's acquisition reform efforts. The language in the committee's version of the Paperwork Reduction Act also will remove potential areas of conflict between this bill and the acquisition reform efforts the committee is currently pursuing.

The second part consists of technical amendments intended to assure that the responsibilities given to OMB in the bill concerning the oversight of information technology activities within the Department of Defense and the intelligence community are the same as the authorities in the current Paperwork Reduction Act.

I understand that, during the development of these amendments, concern was expressed about computer security within the executive branch. In the previous Congress Senator GLENN and I asked the Office of Technology Assessment to study security and privacy in the electronic age. In its report, entitled ''Information Security and Privacy in Network Environments,'' OTA outlined important legal and policy issues involved in the security of such environments and recommended substantial congressional involvement in addressing those issues. The report also describes the organizational relationships concerning these matters and the delicacy with which they were crafted in enacting the Computer Security Act of 1987. These are complex issues which the committee intends to address in depth later this session. In the meantime, however, the bill we are considering today leaves existing authorities unchanged.

The third portion of the amendment is the Coverdell provision to establish a demonstration program within the Census Bureau to reduce the paperwork burden on small business resulting from the Quarterly Financial Report Program. The demonstration program expires on September 30, 1998, the date on which the Quarterly Financial Report Program itself expires, or if such program is itself further extended, then the demonstration expires in such later year.

During such time the Census Bureau is required to assist first-time respondents in fulfilling the information collection under the Quarterly Report Program, or if the program is reauthorized for a subsequent period, the demonstration would expire on that later date. Particularly, the Bureau is mandated to establish a toll-free telephone number for those seeking such assistance.

Perhaps more important than the assistance for first-time respondents is the Coverdell provision's protection against a firm's repeated requirement of participation. No firm with assets of $50 million or less may be required to participate twice if it has participated since October 1, 1989. And no firm of $100 million or less may be required to participate if it has participated within the last eight quarters.

I support the provision authored by Senator COVERDELL and commend him for his initiative.

The fourth provision is a sense of the Senate resolution expressing support for an innovative statewide effort to

improve intergovernmental assistance and service delivery. Authored by Senator HATFIELD, the resolution recognizes that the State and local governments of Oregon have begun a comprehensive project to coordinate their use of Federal funds to address social needs. Joined by the Federal Government in this effort, they are attempting to trade more flexibility in the use of those funds for more accountability for measurable performance. This provision expresses a recognition that this approach has the potential to improve intergovernmental service delivery and ought to be encouraged.

I support all four parts of the amendment and urge its adoption.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Delaware has explained the managers' amendment. I think there is nothing to add. I urge adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 317) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. ROTH. 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. BUMPERS. 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 Senator from Arkansas is recognized.

(The remarks of Mr. BUMPERS and Mr. BENNETT pertaining to the introduction of S. 504 are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

THE DOLLAR-YEN RELATIONSHIP

Mr. BENNETT. Mr. President, I have enjoyed this exchange. While I have the floor, I would like to talk briefly about the issue that I came to the floor to talk about before I became fascinated with the arguments by my friend from Arkansas.

Mr. President, I happen to be chairman of the Senate prayer breakfast group. In that role, I attended the National Prayer Breakfast addressed by President Clinton and the Reverend Andrew Young. While we were there, we had Scripture readings, one from the New Testament and one from the Old Testament. Ruth Bader Ginsburg from the Supreme Court read the Scripture from the Old Testament. And I would like to repeat that which she read here on the floor of the Senate today because it covers beautifully the issue I want to address briefly.

It is from Deuteronomy, chapter 25, and starts with verse 13.

> Do not have two differing weights in your bag, one heavy, one light. Do not have two differing measures in your house, one large, one small. You must have accurate and honest weights and measures so that you may live long in the land the Lord, your God, is giving you.

Honest weights and measures—do not have one large and one small.

The newspapers this morning are full of the story of the relationship between the dollar and the yen or the dollar and the deutsche mark. We recognize that the dollar for us is the unit of account that we use to measure the value of our work, measure the value of our products, and measure the value of our lands. All of these things are measured by the number of dollars that they can bring. In Japan the measure is the yen. Now, says the Bible, do not have two measures in your bag, one big and one small, one heavy and one light. Do not switch the measures.

Yet, when it comes to the unit of account between national economies, we seem to have gotten into the idea that we can switch the measures. We have gone through that with the Mexicans. When we debated NAFTA on this floor, the unit of account was 3.5 pesos equals $1. Oh, it varied a little. It was in a band between 3.1 and 3.5. But we adopted NAFTA. We supported NAFTA on the firm assumption that the relationship between the dollar and the peso would be as stable as the weights and measures described in the Bible, that there would not be a breaking of the trust between those two countries.

Then, in December there was, as our friends to the South said, ''Well, we are no longer going to hold the rigidity of that weight and measure between those two currencies. We are going to say the dollar buys you 4.5 pesos. We are going to have a lighter weight in our bag than we had before.''

I have spoken about the peso. I have perhaps spent too much time in the Senate talking about the peso. I tried to get the administration to work toward trying to get the weights and measures back to where they were. The administration does not seem to be interested in that. I will continue to bring it up from time to time. But today, I want to talk about the dollar and the yen because that is on the front pages. Mexico for some reason seems to have disappeared from the front pages even though the economic disaster in Mexico probably has more impact on our country long term than the relationship between the dollar and the yen.

We are being told in this morning's papers that the dollar is falling against the yen, that the problem is in the free flight of the dollar, that we must do something to defend the dollar. There is an explicit assumption in that statement that I would like to challenge. What if—just think about it—what if the dollar is the stable measure and it is the yen that is fluctuating in the wrong direction? What if, as you reach into your bag, you pull out the weight that the Bible talks about and it is the dollar that you find there? How are we going to know, if we have two fluctuating against each other, which one is the stable one? Or maybe neither is the stable one? But the unspoken assumption in this morning's paper that the yen is stable and it is the dollar that is falling is the assumption I want to challenge. How can you challenge it?

Well, there is a third unit of measure that I would like to introduce into the equation. That is the measure that has been used for a unit of account of value since biblical times and probably before. There were no dollars, there were no yens when Moses wrote what I have read in Deuteronomy. But there was a measure for money, and it was called gold.

How is the dollar valued currently with respect to that ancient metal? We have been talking about it—the Senator from Arkansas and I—in terms of mining. Let us talk about it in terms of money for just a minute.

The dollar is currently somewhere in the neighborhood where $380 buys you an ounce of gold; a little below that right now, down in the $370's. But the dollar has been fairly stable for months, maybe even going back to a year, around the $380 to $385 mark.

You look at it today. The dollar is still stable in that area with respect to gold. The yen, on the other hand, has been falling with respect to gold. The price of gold in yen is $320 to the ounce. When we add this third element to the equation, it begins to change our perception just a little. Maybe it is the dollar that is stable and the yen that is fluctuating improperly instead of the other way around as this morning's papers indicate.

What would happen if Alan Greenspan, who follows these things more carefully perhaps than any of us, got on the telephone and called his office number in Japan and said, Why don't you start printing extra yen? Do you know what would happen if they started printing extra yen? The value of the yen with respect to gold would begin to change. Of course, if we stayed stable with the price of gold, the value of the yen with respect to dollars would begin to change. And you would see the dollar-yen relationship begin to come together around the common point.

For the sake of illustrating the point, let us say it was at $380 an ounce of gold and the yen would come to the point where you could buy gold at $380 an ounce with yen as well. So the yen and the dollar relationship would be solidified around their common relationship to gold.

I think a number of very interesting things would happen in the world if that were to happen. I leave you with

this intriguing thought which Mr. Greenspan left with us when he testified before the Banking Committee. He said, ''If the United States were on a gold standard, the Mexican peso crisis would not have occurred,'' because, you see, what he is really saying is, if we pegged our unit of account to a weight and a measure that did not change, to a weight and a measure that did not have a light version and a small version, to use the language of the Bible, but had only one, our currency would be the strongest in the world and the other nations would peg their currency to our currency, instead of having a situation where both currencies are constantly moving and producing the kind of uncertainty that this morning's headlines give us.

Mr. President, I have no legislation to offer on this. I expect I probably will have as the Congress unfolds. But I take the occasion of this morning's headlines to once again raise the issue. I raised it last year in the last Congress when Mr. Greenspan first suggested in his testimony before the Banking Committee that pegging the dollar to gold might be a good idea. I have been watching it closely ever since Mr. Greenspan said that. I have been trying to become a student of this issue ever since Mr. Greenspan said that. I have talked about it on the floor of the Senate ever since Mr. Greenspan said that. So far, nobody has noticed. Perhaps nobody will notice it today.

I find it very interesting that in this morning's paper, everybody is interested in the relationship between the dollar and the yen and the dollar and the deutsche marks, just as they were all interested in the relationship between the dollar and the peso. Nobody is addressing the fundamental question raised in the scriptural reference that Ruth Bader Ginsburg gave us at the National Prayer Breakfast when she told us, as the Bible has told us, that we must have stability and honesty in our weights and measures.

I can think of no place where it is more vital to have that stability and honesty than in the weight and measure that we use to measure value throughout the world, which is our currency.

I thank the Chair and yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from California [Mrs. BOXER], is recognized.

Mrs. BOXER. I ask unanimous consent to speak as in morning business at this time.

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

The Senator is recognized.

THE VOTE ON THE BALANCED BUDGET AMENDMENT

Mrs. BOXER. Mr. President, I have just returned from California, where there was obviously great interest in the vote on the balanced budget amendment. I have to say that the response to my vote, in general, was one that greatly encourages me. I have to say, however, that what is of greater interest to my constituency, the people of California, the largest State in the Nation—31 million people—is that we get down to working on the actual budget.

It is one thing to debate a balanced budget amendment that would not take effect until 2002 or later. Depending on if and when the States ratify it, it could be the year 3000, for all we know. It is another thing to actually sit down at the table and work together, Republicans and Democrats alike, and bring back a budget that we can all be proud of. Since I am on the Senate Budget Committee, I truly look forward to that exercise. I hope we can come back here with a bipartisan product that cuts into that deficit and gets us on that glidepath toward a balanced budget that we have been talking about.

Mr. President, there is no question that the vote last week on the balanced budget amendment was clearly one of the most important votes in this Congress. There is talk among some of my colleagues on the other side of the aisle that there could be retribution against those who voted no, including punishing the senior Senator from Oregon who, in my view, simply did what we are supposed to do around here—listen to our conscience, adhere to our principles, and vote those principles and vote that conscience. We only have that chance here once in awhile, that these issues of principle and conscience come before us.

To hear some of my colleagues tell it, the voters will be raging against any one of us who voted against this part of the Contract With America. Well, I have to say to you that threats and political maneuvering have no place in this debate, particularly when we are talking about amending the Constitution of the United States of America. When we do that, every Member of Congress should have the right to vote in the best interest of his or her constituency, as that Senator sees it, without fear of political retribution from his or her party. The stakes are too great and they are too long lasting.

This is not some bill that can be overturned easily. We are talking about the Constitution of the United States of America, the most long-lasting symbol of our freedom.

In the case of the balanced budget amendment, to me, the stakes were enormous. First, the very viability of the Social Security system and, second, the real fear that the amendment, as drafted, would have rendered the Federal Government helpless to respond in cases of economic recession or natural disaster. I have talked about that on the Senate floor.

I showed the pictures of disaster emergencies that have been visited upon States over the recent years, and how terrible it would be if we had to go and look at the faces of our constituency at the very moment of their need and say: We cannot do anything about it because this amendment says you cannot really do it unless you get a supermajority vote, and we simply cannot get those 60 votes.

I think back to my father telling me about the dark days of the Depression. I was born after that, and my dad said, ''You cannot believe what it was like.'' He said, ''Until FDR came in there, you had Herbert Hoover saying, 'Let the States take care of it.' '' I went back and I checked some of the quotes. It is unbelievable. It is the same thing you hear today: ''The States can take care of all of these problems. You do not need the Federal Government.''

Meanwhile, people were jumping out of windows and selling apples on the street. I am not going to be here and vote for an amendment that would cause us to make that same mistake again. If I do, in my view, I am not being true to my conscience nor to the people that I represent. When I came here, I said I was going to fight for them—not against them, but for them.

I want it clear that in 1992, as a Member of the House of Representatives, I voted for a constitutional amendment to balance the budget. But there was a very big difference in that amendment in 1992 and this amendment that I opposed just last week. That amendment would have protected Social Security, and it was flexible enough so that a simple majority vote could have allowed us to act in an emergency. It gave the President the ability to declare an urgency—it was called a declaration of urgency—if in a particular budget year the country needed special spending to solve a crisis.

That is an amendment I would vote for again today. But I want to make something perfectly clear. During this debate, Democrats offered many constructive changes to the Republican balanced budget amendment, which I felt was so inflexible. But of the many amendments offered, the Republicans accepted only one, which was the amendment offered by the senior Senator from Georgia, SAM NUNN. That clarified, somewhat, the role of the power of the Federal courts in balancing the budget. All of the other amendments—and there were many—were tabled, basically on a party-line vote.

Republicans appeared to be under strict instructions to vote down any change to the amendment—even changes they supported in the past. They did vote for the Nunn amendment, but the basic message to the Democrats was: Offer all of the suggestions you like, but we are not really going to accept them. And then when Democrats, who had clearly laid out their problems with the amendment, voted against the amendment, they were berated for voting no, as if they were doing something that was so unusual, when we had spent all of that

time trying to offer constructive amendments.

The majority leader even delayed the vote for one day. That is very unusual. He wanted to make sure the heat was put on us. He wanted to make sure he could get that final vote so that the Contract With America—that Republican Contract With America—could move forward.

I happen to believe that move backfired, because in that 24-hour period, the focus was on the amendment. And, as our colleague, Senator ROBERT BYRD, who was such a leader in this debate, has said, the amendment could be compared to a used car—and I agree with him—a used car that looks great on the outside, but when the public looked under the hood, it did not look so good.

Our Democratic leader, Senator DASCHLE, told the Social Security story, and that changed the public support for this amendment. Although 70 percent support a balanced budget amendment to the Constitution, support drops to 30 percent when those questioned understand that the Social Security trust fund would not be protected and could be looted. Let me repeat that: seventy percent of the people support a balanced budget amendment in the abstract, but when you tell them that Social Security trust funds can be looted to balance the budget, it flip-flops completely and 70 percent then oppose it.

By the way, that same poll was taken in my home State of California with exactly the same result.

I thought Senator KENT CONRAD said it best when he described the raid on Social Security like this. He said, if your boss came into your office one day and said, ''Look, I think you are doing a great job, but I can't meet my operating expenses this year, so I am going to take the money you put into your pension fund and I am going to use it to pay the bills. After all,'' the boss could say, ''you are a young person. You are not going to retire for a long time. So if I take that money, you don't have to worry. Someday I will put it back.''

Well, I say if your boss does that, you ought to call the police, and you have a right to do it, because that is pure theft.

But that was exactly what was going to happen to Social Security. It is not a matter of never touching the benefits. We have touched benefits before. We have changed the system before. We will probably have to do it again. But it is a matter of the Social Security trust fund itself.

The Republican leadership refused to protect Social Security in that balanced budget amendment. During the debate, they said they would never touch it. They would never touch Social Security. They said they had no intention of ever using the surplus or raiding Social Security. They even had an amendment that said they would not do it.

Well, that is why several of my Democratic colleagues thought, ''Well, gee. They say they are never going to touch Social Security. Maybe we have a chance here to make this amendment work, to change it, to build the protections of Social Security into the amendment itself.''

Well, in private negotiations, it went something like this, according to what I have been told. The Republicans said to my colleagues, ''Look, we need your vote. We promise, we will put it in writing, we will stop using the surplus in Social Security by the year 2012.''

Well, my colleagues were not happy with that.

They said, ''What about 2008? We will stop using the surplus in the year 2008.''

Well, I ask you: If someone says they will not ever touch Social Security in one breathe and in the next breathe they say they will stop touching it in 2012, what does that mean to you? It is like getting beaten up by a bully and all the while you are getting hit, he says, ''I'm not hitting you.'' And then he says, ''OK, I'll stop hitting you in 5 minutes, but, remember, I'm not hitting you now.'' That is doublespeak.

So I think it is important to remember every time you hear the Republicans say that they would never hurt Social Security, ask them why they refused to change their constitutional amendment to make it impossible for anyone to raid it. Keep asking them that question, because all the talk is simply that. They would not protect Social Security, period. We gave them every chance.

I want every single person who paid a FICA tax—that is the Social Security payroll tax—to realize the benefits. We know now—there was a very recent survey—that four out of five families are not prepared enough for their retirement. They are going to need Social Security in order to survive. Let us not ruin a system that has worked so well.

If the Republicans want an amendment to the Constitution—and I know they want it; they are going to bring it back up here—they can have it if they protect Social Security.

I, myself, felt, as I said before, that there are other crucial issues to address—the issue of recession, the issue of disaster—but clearly there are enough votes on the Democratic side of the aisle to get that amendment through if the Republicans agree to protect Social Security.

My colleagues put it in writing and they sent the letter over to the other side.

So, where are we now? The balanced budget amendment for now is off the table, but what is on the table is the budget itself, which takes me back to my opening remarks.

I am on the Budget Committee and I am waiting to see the Republican budget for next year. I look forward to making progress on the deficit.

We saw President Clinton's budget. He has deficit reduction in it. There are some who say it is not enough. Maybe we can do more. I look forward to doing more, as long as we ensure that our Nation takes care of its basic needs and its future. You do not want to destroy this country. We want to get this country on a glidepath toward a balanced budget; frankly, towards a surplus budget. That is what we really should be going for.

I think it is important to note that, had the balanced budget amendment passed and were we back here today, there would have been a lot of hoopla, but the deficit would not have declined by one penny. Deficit reduction will begin in the Budget Committee with real cuts.

Two years ago, we made real progress on the deficit by carrying out President Clinton's plan to cut the deficit by $500 billion. That was a tough deficit reduction vote. We did not get one Republican vote. So it was hard, but it passed.

Again, the President has submitted a follow-up budget. He says it reflects his priorities, what he thinks we need to invest in—education, technology, et cetera—and that it achieves deficit reduction. And he includes a middle-class tax plan in there.

I am ready, willing, and able to look at the President's budget, look at my Republican friends' budget, and to work on a budget with my Democratic colleagues so that we can really put our best ideas together and start doing our work. But I want to make one thing clear tonight. I will not work in any way to injure the children of this country. No way. But if we look at the product that is coming over from the House of Representatives, that is exactly what is going on.

I will never forget the new chairman of the House Appropriations Committee telling the press that he is having the time of his life as he ends the Federal school lunch program and the nutrition program for women, infants and children. He actually held up a knife at the opening session and waived it around. Even the children in the country saw it.

In my mind, that knife is a symbol—a symbol—of what is happening here in Washington. It is going too far. It is slashing. It is injuring. It is hurting.

What are we, as a people, if we take effective feeding programs and gut them? Do we want to become a nation where old people become bag ladies because Social Security has been looted, and little children have their hands out and their tummies swollen like they do in some faraway land? I do not think that is what the American people want.

I do not care if it is in somebody's contract. It is not in my contract. Anything I can do to protect the children under the rules of this Senate, I will do. I am here to announce that I will do anything I have to do to protect the children.

Do the people want change? Yes. Do the people want deficit reduction? Yes. But do they want us to hurt the innocents in our country? No. And I will not and others will not.

Often I read the Constitution. I carry it around, a little pocket-sized version, and I say God bless this Constitution for giving us a bicameral legislature so that the impact of a radical revolution—and it has been called such—the impact of a radical revolution can be studied or modified or turned back.

I have been in politics for a while. This is a time of rough rhetoric and threats and the worst type of politics I have ever seen. When I got elected to the Senate I really made a very basic promise to the people of California: That is, I would fight for them, for their environment, for their families, for their grandmas and grandpas, and for their jobs. I also promised to fight for what I believe in. I said I would never be intimidated by threats. I repeat that today.

There are some awfully good men and women in this U.S. Senate, across party lines. I think it is time that we change the atmosphere of the Congress—we can do it here in the U.S. Senate—and that we work together for the people. I think if we do that we will make great progress on the deficit, on this economy, and on restoring the American dream. We can do it.

However, we need to look at some of these proposals that truly will hurt our Nation, because when we wage an assault on the most vulnerable people in our country, we wage an assault on all of America. Thank you, Mr. President. I yield the floor.

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

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

PAPERWORK REDUCTION ACT

The Senate continued with consideration of the bill.

AMENDMENT NO. 318

(Purpose: To provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes)

Mr. MCCAIN. 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 Arizona [Mr. MCCAIN] proposes an amendment numbered 318.

Mr. MCCAIN. 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 pending measure, add the following new section:

SEC. . TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any report specified in the list described under subsection (c) shall cease to be effective, with respect to that requirement, 5 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) The Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101–576).

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives of the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives.

Mr. MCCAIN. Mr. President, this amendment is based on S. 233, the Reporting Requirements Sunset Act of 1995. The amendment would sunset all congressionally mandated reports after 5 years except those required by the Inspector General Act and the Chief Financial Officers Act.

The objective of the amendment, Mr. President, is very clear. It is to alleviate the massive costs to taxpayers and the huge burdens Congress has placed upon Federal agencies with statutory reporting requirements.

Let me repeat, Mr. President, this amendment calls for sunset of all congressionally required, mandated reports in 5 years. It does not require that those congressionally mandated reports be ended immediately. These reports, many of which are very important to keep the Congress informed as to the activities of the executive branch of Government, can be reauthorized and probably should be reauthorized. But what I am seeking here is simply a sunset of all these reports over a 5-year period.

Now, Mr. President, I use as my source no less an important person than the Vice President of the United States. When sending his report to the Congress, called ''Creating a Government That Works Better and Costs Less, Report of the National Performance Review,'' by Vice President AL GORE, on September 7, 1993, he said:

Action: *Reduce the burden of congressionally mandated reports.*

Woodrow Wilson was right. Our country's 28th president once wrote that ''there is no distincter tendency in congressional history than the tendency to subject even the details of administration'' to constant congressional supervision.

One place to start in liberating agencies from congressional micromanagement is the issue of reporting requirements. Over the past decades, we have thrown layer upon layer of reporting requirements on federal agencies, creating an almost endless series of required audits, reports, and exhibits.

Today the annual calendar is jammed with report deadlines. On August 31 of each year, the Chief Financial Officers (CFO) Act requires that agencies file a 5-year financial plan and a CFO annual report. On September 1, budget exhibits for financial management activities and high risk areas are due.

He goes on to say:

In fiscal year 1993, Congress required executive branch agencies to prepare 5,348 reports. Much of this work is duplicative. And because there are so many different sources of information, not one gets an integrated view of an agency's condition—least of all the agency manager who needs accurate and up to date numbers. Meanwhile, trapped in this blizzard of paperwork, no one is looking at results.

We propose to consolidate and simplify reporting requirements, and to redesign them so that the manager will have a clear picture of the agency's financial condition, the condition of individual programs, and the extent to which the agency is meeting its objectives. We will ask Congress to pass legislation granting OMB the flexibility to consolidate and simplify statutory reports and establishing a sunset provision in any reporting requirement adopted by Congress in the future.

That is the recommendation of the Vice President.

Mr. President, some Americans might be interested to know some of the requirements, some of the reports that are required, which have been mandated by the Congress to be submitted to Congress every year:

''Transportation, Sale, and Handling of animals for research and pets.'' That is a report which is required annually.

''Effects of Changes in the Stratosphere Upon Animals.'' That is only required every 2 years.

''U.S.-Japan Cooperative Medical Science Program.'' That is an annual report.

''Operation of Mobile Trade Fairs.'' That is an annual report required, mandated by the Congress.

''Studies of the Striped Bass.'' That is an annual report.

''Number of Customs Service Undercover Operations Commenced, Pending, and Closed''; an annual report.

''Monitoring of the Stratosphere''; that is biennially.

''Effectiveness of Ice Control Programs on the Kankakee River in Wilmington, Illinois.'' That is a mandated annual report.

''Activities Involving Electric and Hybrid Vehicle Research''; annually.

''International Coffee Agreement.'' That is an annual report.

And, as appropriate: ''Recommendations for Correcting High Coffee Prices.''

''Summary and Analysis of Agency Statements With Respect to Motor Vehicle Use.'' That is an annual report.

''World Food Day.'' This is an annual report that is mandated by the Congress; a report on World Food Day.

Here is another one which is probably a compelling report that everyone in

the Congress reads, I am sure, every year when it comes in:

''The Air Force Participation in State Department Housing Pools.''

''The Telephone Bank Board.''

''The Financial Report of the Agricultural Hall of Fame.''

Mr. President, I have always been interested in the Agricultural Hall of Fame. I am just not sure that I need a report every year on its condition.

''Developing an Agricultural Information Exchange Program With Ireland.''

''Investigations Into Increased Use of Protein By-Products From Alcohol Fuel Production''; annually.

''Continuation Pay for Armed Forces Dentists.''

Mr. President, I have to make a confession right now. I have been on the Armed Services Committee, now in my 9th year, and I have never read the annual report that is required concerning the continuation pay for Armed Forces dentists. I am probably doubly guilty because for 8 of those years, I was a member of the Personnel Subcommittee, and I still never read that congressionally mandated report requiring the Congress to be updated annually on the Continuation Pay for Armed Forces Dentists. So I am one of those guilty parties who has failed to pay attention to these vital reports that are sent to the Congress on an annual basis.

''Average Cost per-Mile of Privately Owned Motorcycles, Automobiles, and Airplanes''; annually.

''Proposed Reductions in Pricing Policy for Space Transportation System For Commercial and Foreign Users.''

And finally, last but not least, the Congress is requiring a report annually concerning the condition of the ''Ladies of the Grand Army of the Republic,'' on an annual basis.

I do not know if that report requires an update on the individual health of the members or perhaps the status of the Grand Army of the Republic's finances. But again, although I must confess my deep and abiding interest in the activities of the Ladies of the Grand Army of the Republic, I have not read that annual report, either. But I intend to do so at least once because for the life of me I cannot imagine—I cannot imagine—why the Congress of the United States would require an annual report concerning the Ladies of the Grand Army of the Republic. I am sure that Senator NUNN would want, perhaps, to have included in that a report on the Daughters of the Confederacy, given his regional interests.

However, I do not think that either of these, frankly, are required. And the reality is that each of these reports costs money. Someone has to take time from his or her duties and go to work and compile these reports and send them over to the Congress of the United States. And the fact is, I am sorry to be a bit jocular about this issue, but no one reads most of these reports.

What we do to the bureaucrats and the people who are hard-working men and women is two things. One, waste their time; and then, two, we do not get the emphasis that we really need on the reports that are vital to Congress, the reports that are necessary to help us do our work. Instead, we clutter it up with 5,300 reports.

In case you think we have been doing this forever, let me remind you, for the RECORD, in 1970 the GAO stated that Congress mandated only 750 reports. Now we have spiraled past 5,300. I believe the number, to be exact, is 5,348 reports last year. Further, the GAO study states that Congress imposes about 300 new requirements on Federal agencies each year.

Mr. President, we should sunset these and we should also have a requirement that any report that is mandated by Congress have a sunset provision in it. If the report is necessary, if it is vital, if it is something that the Congress needs in order to do its work, then we can easily reauthorize these every 5 years.

As Senators LEVIN and COHEN, who have worked very hard on this issue have noted, the Department of Agriculture alone has estimated the cost of preparing the 280 reports it had to submit to Congress last year at $40 million.

The sum of $40 million was spent last year just by the Department of Agriculture alone in preparing the 280 reports that they had to submit to Congress.

Mr. President, I support the bills that have been proposed by Senator LEVIN and Senator COHEN to eliminate several hundred specific reports. I think many of them should be done away with now. I hope that we can consider Senator LEVIN's and Senator COHEN's legislation as soon as possible. In the meantime, why do we not get about the business of sunsetting these?

Mr. President, I am joined by my friends at the National Taxpayers Union and the Citizens for a Sound Economy. Let me just quote briefly from the National Taxpayers Union letter and the letter from Citizens for a Sound Economy.

> National Taxpayers Union, America's largest taxpayer organization, is pleased to endorse * * * the bill to terminate all congressionally mandated reports after five years. This legislation would save millions of taxpayer dollars that are now wasted on unnecessary reports.
>
> National Taxpayers Union is pleased to support this important ''sunset'' bill and encourages you to offer it as an amendment to pending legislation on the Senate floor. The sooner wasteful government reports can be eliminated, the better it will be for America's taxpayers.

The Citizens Against Government Waste are also in support of this amendment.

Mr. President, Citizens for a Sound Economy says:

> While it is important for Congress to keep a watchful eye on the activities of Federal agencies, requiring more than 5,300 reports from the executive branch each year is a costly case of extreme micromanagement. These reports—most of which are probably never read and many of which are redundant—constitute a monumental waste of time, money and manpower. Ultimately, American taxpayers pay for these unnecessary reports. The price tag on these reports was $757 million in 1993.

Mr. President, I think that is an important point that the Citizens for a Sound Economy have made. The price tag on this 5,300 reports last year, in 1993, 2 years ago, was $757 million.

So I urge my colleagues. I would like to see, frankly, this amendment accepted by both sides. I would be more than happy to discuss this issue with my friends on the other side, the managers of the bill. I want to thank them for their hard work on this issue.

Let me also point out the final report of the Senate members of the Joint Committee on the Organization of Congress which was issued in December 1993. On page 22, it said—this is the report of a bipartisan group of Senate members chaired by Senator BOREN and Senator DOMENICI. The other members were Senators SASSER, FORD, REID, SARBANES, PRYOR, KASSEBAUM, LOTT, STEVENS, COHEN, and LUGAR.

Item 33 of this report, Organization of Congress recommendation, the requirement for an executive agency to report to Congress should be effective for no more than 5 years. They go on to say the proliferation of mandatory agency reporting is a matter of wide concern. Several times in recent years the House Government Operations Committee and the Senate Governmental Affairs Committee have acted to eliminate the reports which have outlived their usefulness. However, the recent reports should not continue in perpetuity without some clear evidence that the report serves a useful policy and purpose. The proliferation of mandatory agency reports has been a matter of wide concern in the Congress and in the executive branch. This provision would automatically terminate such reports and will encourage committees and Members who find a particular report valuable to act to extend the statutory requirement for a specific report.

Mr. President, I want to thank both Senator ROTH, the distinguished chairman of the committee, and Senator NUNN for their hard work on this bill. I believe that this amendment is an appropriate addition to it. I would like to see us understand that, if this amendment were passed, we may not save $757 million because I think we all are aware that there are a number of reports that need to be made to Congress and there are many areas which the Congress needs to be aware of. But there is also literally thousands that have long outlived their usefulness, if they ever had any, and it is time that we sunseted them all.

Mr. President, I yield the floor.

Mr. President, I ask unanimous consent that the letters from the Citizens for a Sound Economy and the National

Taxpayers Union be printed in the RECORD.

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

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, July 29, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: This is to express the support of Citizens for a Sound Economy (CSE) for S. 1971, which would eliminate all congressionally mandated reports after five years. CSE is a 250,000 member grassroots advocacy group that promotes free market economic policies.

While it is important for Congress to keep a watchful eye on the activities of federal agencies, requiring more than 5300 reports from the executive branch each year is a costly case of extreme micromanagement. These reports—most of which are probably never read and many of which are redundant—constitute a monumental waste of time, money and manpower. Ultimately, American taxpayers pay for these unnecessary reports. The price tag on these reports was $757 million in 1993. S. 1971 would reduce that burden substantially.

Citizens for a Sound Economy therefore applauds your sponsorship of S. 1971, and we urge you and your colleagues to pass this bill.

Sincerely,

PAUL BECKNER,
President.

NATIONAL TAXPAYERS UNION,
Washington, DC, June 13, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: National Taxpayers Union, America's largest taxpayer organization, is pleased to endorse S. 1971, your bill to terminate all congressionally mandated reports after five years. This legislation would save millions of taxpayer dollars that are now wasted on unnecessary reports.

S. 1971 would ''sunset'' the more than 5,300 Executive Branch department and agency reports that Congress now requires. It would provide a five-year window of opportunity for important and necessary reports to be reauthorized. This would alleviate the present avalanche of reports mandated by laws enacted over the years.

In the words of Vice President Gore's National Performance Review Report, ''over the past decades, we have thrown layer upon layer of reporting requirements on federal agencies, creating an almost endless series of required audits, reports, and exhibits.''

NTU agrees with that analysis as well as the recommendation of the Senate members of the Joint Committee on the Organization of Congress, to limit all agency reporting requirements enacted by Congress to an effective period of no more than five years. Again, as in S. 1971, those reports that are particularly valuable could be reauthorized for a specific period.

National Taxpayers Union is pleased to support this important ''sunset'' bill and encourages you to offer it as an amendment to pending legislation on the Senate floor. The sooner wasteful government reports can be eliminated, the better it will be for America's taxpayers.

We urge your Senate colleagues to join with you to enact the provisions of S. 1971.

Sincerely,

AL CORS, Jr.,
Director, Government Relations.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, it is my hope that we can accept this amendment. I am checking right now to make sure there is no one who has a strong feeling otherwise.

But I think the Senator from Arizona makes a good case. These reports oftentimes are needed when first requested and then they get into law and they become permanent fixtures. So where we can eliminate a lot of these reports, I would certainly welcome that.

We have done some similar things in the authorization bill in the defense report. Once, I recall, DOD complained very much about all the reports. We gave them the authority to come up and tell us all they did not want. Lo and behold, they ended up wanting most of them.

So you never know who has decided they like reports until you test the waters. But I think that is what the Senator from Arizona is doing here. He is testing the water. It would be up to those, I understand, who want to keep a report to have it specifically reviewed as well as have it go on in perpetuity. I hope we accept this, and I think we will get an affirmative OK of that in just a minute.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I wonder if the managers of the bill would object if I went off this while they are looking for that approval and spoke as if in morning business for a short period of time.

Mr. ROTH. Mr. President, I say to the distinguished Senator that there will be no objection so long as we are able to come back for a unanimous-consent request and that we be free to do so.

Mr. GORTON. There will be no problem.

Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

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

THE BALANCED BUDGET AMENDMENT

Mr. GORTON. Mr. President, last Thursday at the end of the dramatic vote on the balanced budget amendment and its rejection by a single vote, there were many who felt that this was a tragedy with respect to dealing with the problems facing the United States and its huge budget deficits now and during the course of this year.

While I was a strong supporter of that amendment, and while I hope that the majority leader is able to bring it back up for another and more successful vote sometime in future, I believe that its rejection not only did not reduce the pressure on Members of the U.S. Senate, House of Representatives or the President of the United States to work toward a balanced budget, but I believe that in fact it increased that pressure.

On several occasions during the 5-week long debate on that proposition, I observed, as did others, that this body was divided essentially into three groups of Members with respect to the balanced budget and the balanced budget amendment:

First, the rather large majority, those who believe that the present system was broken and needed to be fixed by radical and dramatic action, the imposition of an outside discipline on all of us to see to it that we did what we know needs to be done, but against which political pressures have for some 30 years been invariably successful;

A smaller group of Members, who not only thought that a balanced budget amendment was undesirable but thought that a balanced budget itself was undesirable, who favor the status quo, not only with respect to the Constitution, but with respect to our own fiscal actions;

And a third group who were very prominent in the debate who agreed with the proposition that we need a more responsible fiscal policy, that we need to work toward a balanced budget, but that we did not need the discipline of a constitutional amendment to cause that to take place.

It is in one sense to that group, but also those who supported the constitutional amendment, that I speak here this evening. I believe that all of us are under the gun at this point.

I think it behooves the party on this side of the aisle, the conservatives in this body, to seriously attempt to pass a budget resolution which, if followed for a 7-year period, would lead to a balanced budget in the year 2002, and to do that without touching Social Security and to do it with at least a modest tax cut on the level proposed by the President of the United States.

I think that Members on this side will undertake that very, very difficult task. I believe that, if anything, the great majority of those who voted for the constitutional amendment find themselves even more determined today than they were a week ago to follow in fact the discipline they wanted to set for the indefinite future, even without that constitutional discipline. But I believe that goal encompasses not just those on this side of the aisle, not just the chairman of the Senate Budget Committee, but his distinguished ranking Democratic member, who also voted for the constitutional amendment, and the majority of the members of the Senate Budget Committee.

More important, however, Mr. President, I hope that that goal, in reality, will be shown to be the goal of all of those Members who said that they believe in a balanced budget but not in the amendment. If they will join with us, if they will express their support for a course of action bringing us to a

balanced budget within 7 years, without any reductions in Social Security benefits, and with some reduction in taxes, they will have done in fact what they claim to support in theory. And if they will join with the 66 Members who voted for the constitutional amendment, we should have upward of 80 votes in this body for a responsible budget resolution, for the actions in reconciliation and outside of reconciliation necessary, to meet that goal this year, right now.

I am optimistic, Mr. President. I think that determination is there, and I hope that the leadership of this body will be able to see to it that we start working toward it in fact, not just in theory, very soon, in the course of the next few weeks.

We have all had our say. Those of us for the constitutional amendment should remain committed. Those against it, who claim to believe in a balanced budget, should be even more dedicated to the proposition that we do the job. If that is the result of last week's debate, our loss will not have been in vain.

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. 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.

PAPERWORK REDUCTION ACT

The Senate continued with consideration of the bill.

Mr. MCCAIN. Mr. President, I will be asking unanimous consent to modify my amendment, in language to be worked out amongst staff, that this amendment not be in application to reports that are triggered by specific legislation that is on the books.

For example, the War Powers Act requires a report from the executive branch to the Congress, and there are certain pieces of legislation that are on the books and in law that require specific reports to be made in the event of certain actions or events taking place. In arms sales, there is a report that needs to be made to Congress in the event of an arms sale to certain countries under certain circumstances. So the staff understands and Senator LEVIN and Senator ROTH understand.

I ask unanimous consent that I may modify my amendment in a technical way to ensure that the language exempts those reports that are triggered by acts of Congress.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank, first of all, my friend from Arizona for this modification. His amendment is right on target. We should be sunsetting reports which are automatically and routinely filed. Many of them are not needed. We should sunset those reports after a period of time as his amendment does.

On the other hand, we should not put into jeopardy those reports, such as the War Powers Act reports and arms sales reports, which are not those routine, regular reports that are automatic, but rather are triggered by events that are important to Congress, as indicated by the legislation that is already on the books.

I wish to thank the Senator from Arizona for that modification.

In addition, I believe that the Senator from Delaware will be seeking unanimous consent that I be allowed to offer an amendment—which I believe will be accepted—in the morning, which will eliminate a number of reports, I believe 200 reports, which have been cleared by various committees that are no longer needed.

Senator MCCAIN's amendment is a sunset amendment, a very important amendment. What my amendment does is take a smaller number of reports that are currently required which should no longer be filed, which take a lot of time and take a lot of money. We have methodically gone through, report by report by report, and have determined, I believe, from memory, that there are in the area of 200 to 300 reports that we can eliminate—not just sunset, but absolutely eliminate.

I think the Senator from Delaware will be making a unanimous-consent request, if a unanimous-consent request is required—I am not sure what the status is—but will be offering a unanimous-consent request that would allow me to offer an amendment tomorrow morning, with 10 minutes of debate.

Mr. ROTH. Mr. President, I say to my distinguished friend from Michigan that that is my intent.

I, first of all, wish to congratulate the distinguished Senator from Arizona for his amendment, because I do think it is a valuable one. We look forward to seeing it adopted.

I believe the proposal of the distinguished Senator from Michigan adds a positive factor. We are trying to work out a unanimous-consent that would allow him to bring it up the first thing tomorrow morning at 10:30.

I very much appreciate that.

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

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

ORDERS FOR TOMORROW

Mr. ROTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Tuesday, March 7, and that immediately following the prayer, the Senate resume consideration of S. 244, and Senator LEVIN be recognized to offer an amendment dealing with reports on which there be 10 minutes for debate, to be equally divided in the usual form. I further ask that Senator WELLSTONE be recognized to offer an amendment dealing with children immediately following the debate or conclusion of the Levin amendment, on which there be 90 minutes to be equally divided in the usual form.

I further ask that following the conclusion of debate on the Wellstone amendment, the Senator be recognized to offer a second amendment dealing with gifts on which there be 90 minutes, to be equally divided in the usual form.

I further ask that following the disposition of debate on the second Wellstone amendment, Senator GREGG be recognized to offer an amendment dealing with education, and that no second-degree amendments be in order prior to a motion to table and if offered, the second degree amendments be relevant.

I further ask that the above-listed amendments be the only amendments remaining in order to S. 244.

I further ask unanimous consent that any votes ordered on or in relation to the above-mentioned amendments, be stacked to occur beginning at 2:15 p.m. on Tuesday, if all time is used or yielded back.

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

Mr. LEVIN addressed the Chair.

Mr. ROTH Mr. President, I renew my unanimous-consent request.

Mr. LEVIN. The minority has no objection.

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

Mr. ROTH. Mr. President, I thank the distinguished Senator from Michigan. 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. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

AMENDMENT NO. 318, AS MODIFIED

Mr. ROTH. Mr. President, on behalf of the distinguished senior Senator from Arizona, I send an amendment modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

At the end of the pending measure, add the following new section:

SEC. . TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual or other regular periodic reports specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 5 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452);

(B) the Chief Financial Officers Act of 1990 (Public Law 101–576).

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) includes only the annual semiannual, or other regular periodic reports on the list prepared by the Clerk of the House of Representatives for the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives.

Mr. ROTH. Mr. President, I think that amendment is self-explanatory. It has already been explained. I think it is acceptable to the minority as well as the majority.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I wish to thank the Senators from Delaware and Arizona for the modification. It now makes it apply only to those reports which are filed annually, semiannually, or at other regular intervals, regular periodic intervals. It will not include reports which are triggered by events, or possible events, such as a War Powers Act report or weapons sales report where the requirement is based on an external event which is not a regular periodic event like a date on a calendar.

That was acceptable to the Senator from Arizona, and I think it now will make this accomplish its goal, which is to try to get rid of a whole bunch of reports which we get every year or 6 months which nobody really relies on but not wipe out reports, or sunset reports which we do heavily rely on which are those reports such as the War Powers Act or weapons sales reports which are triggered by specific events covered by statute which the Congress indicated its intent to obtain reports on for those other external reasons.

So we do very much appreciate the modification.

Mr. ROTH. Mr. President, if there is no further debate, I urge acceptance of the amendment.

The PRESIDING OFFICER. Without objection, the amendment as modified, is agreed to.

So the amendment (No. 318), as modified, was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY—MESSAGE FROM THE PRESIDENT—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the provisions of section 504(h) of Public Law 98–164, as amended (22 U.S.C. 4413(i)), I transmit herewith the 11th Annual Report of the National Endowment for Democracy, which covers fiscal year 1994.

Promoting democracy abroad is one of the central pillars of the United States security strategy. The National Endowment for Democracy has proved to be a unique and remarkable instrument for spreading and strengthening the rule of democracy. By continuing our support, we will advance America's interests in the world.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 6, 1995.*

NATIONAL PROGRAM FOR FLOODPLAIN MANAGEMENT—MESSAGE FROM THE PRESIDENT—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

It is with great pleasure that I transmit *A Unified National Program for Floodplain Management* to the Congress. The Unified National Program responds to section 1302(c) of the National Flood Insurance Act of 1968 (Public Law 90–448), which calls upon the President to report to the Congress on a Unified National Program. The report sets forth a conceptual framework for managing the Nation's floodplains to achieve the dual goals of reducing the loss of life and property caused by floods and protecting and restoring the natural resources of floodplains. This document was prepared by the Federal Interagency Floodplain Management Task Force, which is chaired by FEMA.

This report differs from the 1986 and 1979 versions in that it recommends four national goals with supporting objectives for improving the implementation of floodplain management at all levels of government. It also urges the formulation of a more comprehensive, coordinated approach to protecting and managing human and natural systems to ensure sustainable development relative to long-term economic and ecological health. This report was prepared independent of *Sharing the Challenge: Floodplain Management Into the 21st Century* developed by the Floodplain Management Review Committee, which was established following the Great Midwest Flood of 1993. However, these two reports complement and reinforce each other by the commonality of their findings and recommendations. For example, both reports recognize the importance of continuing to improve our efforts to reduce the loss of life and property caused by floods and to preserve and restore the natural resources and functions of floodplains in an economically and environmentally sound manner. This is significant in that the natural resources and functions of our riverine and coastal floodplains help to maintain the viability of natural systems and provide multiple benefits for people.

Effective implementation of the Unified National Program for Floodplain Management will mitigate the tragic loss of life and property, and disruption of families and communities, that are caused by floods every year in the United States. It will also mitigate the unacceptable losses of natural resources and result in a reduction in the financial burdens placed upon governments to compensate for flood damages caused by unwise land use decisions made by individuals, as well as governments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 6, 1995.*

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time and placed on the calendar:

S.J. Res. 28. Joint resolution to grant consent of Congress to the Northeast Interstate Dairy Compact.

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 Mrs. HUTCHISON:

S. 498. A bill to amend title XVI of the Social Security Act to deny SSI benefits for individuals whose disability is based on alcoholism or drug addiction, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON:

S. 499. A bill to provide an exception to the coverage of State and local employees under

Social Security; to the Committee on Finance.

S. 500. A bill to amend the Internal Revenue Code of 1986 to provide certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 501. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free rollover of certain payments made by employers to separated employees; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 502. A bill to clarify the tax treatment of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 503. A bill to amend the Endangered Species Act of 1973 to impose a moratorium on the listing of species as endangered or threatened and the designation of critical habitat in order to ensure that constitutionally protected private property rights are not infringed, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BUMPERS (for himself, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mr. LEVIN, Mr. PRYOR, Mr. KOHL, Mr. FEINGOLD, and Mr. PELL):

S. 504. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 505. A bill to direct the Administrator of the Environmental Protection Agency not to act under section 6 of the Toxic Substances Control Act to prohibit the manufacturing, processing, or distribution of certain fishing sinkers or lures; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. LIEBERMAN, Mr. BROWN, Mr. ROBB, Mr. D'AMATO, Mr. SIMON, Mr. THOMAS, Mr. HELMS, Mr. COATS, Mr. PELL, Mr. WARNER, Mr. AKAKA, Mr. GRAMS, Mr. DOLE, Mr. KEMPTHORNE, Mr. DORGAN, Mr. SPECTER, Mr. HATFIELD, Mr. LUGAR, Mr. FEINGOLD, Mr. ROTH, Mr. THURMOND, Mr. HATCH, Mr. GORTON, Mr. CAMPBELL, Mr. MACK, Mr. INOUYE, Mr. ASHCROFT, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. SIMPSON, Mr. COCHRAN, Mr. CONRAD, Mr. DEWINE, Mr. GREGG, and Mr. CRAIG):

S. Con. Res. 9. A concurrent resolution expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 498. A bill to amend title XVI of the Social Security Act to deny SSI benefits for individuals whose disability is based on alcoholism or drug addiction, and for other purposes; to the Committee on Finance.

LEGISLATION TO DENY SSI BENEFITS TO INDIVIDUALS WHOSE DISABILITY IS BASED ON DRUG OR ALCOHOL ADDICTION

Mrs. HUTCHISON. Mr. President, I would like to introduce a bill this morning because there is something fundamentally wrong with a Government program that pays drug addicts to remain addicted and pays alcoholics to continue being addicted to alcohol. Yet, that is precisely what the Supplemental Security Income Program currently does: It grants substance abusers an entitlement based upon their addiction.

Most Americans are surprised to learn that drug abuse is now classified as a disability and that addicts and alcoholics are given SSI payments which they use to supply their addictions rather than to obtain food, shelter, and treatment which, of course, was the purpose of the program.

This simply defies the commonsense test. It wastes resources and does actual harm to those it claims to help. SSI payments may, under these circumstances, provide a perverse incentive to beneficiaries. We pay them to stay on drugs, we pay them not to work, and we pay them to avoid recovery.

In the words of one doctor who has spent her entire professional career dealing with the problems of addiction, SSI payments ''* * * undermine the very thing they are supposed to be doing for my patients—promoting their rehabilitation.''

In 1994, 100,000 drug addicts and alcoholics were on the SSI rolls and received an estimated $382 million in Federal benefits, benefits that came out of the pockets of responsible, hardworking, taxpaying Americans.

The SSI caseload of drug addicts and alcoholics has expanded more than 700 percent since 1988 when there were only 13,000 such individuals in the programs. At their current rate of increase, their numbers are expected to rise to 200,000 within 5 years.

Sadly, only 10 percent ever recover and escape the SSI rolls. Such a recovery rate is devastating. We have botched our attempt to provide a safety net and have instead provided these individuals the means to continue their free-fall into addiction. Congress cannot in good conscience continue this policy.

So today, I am introducing a bill to stop payments to individual addicts and instead rededicate those resources to put addiction research and treatment programs on the books. These funds will be put to much more constructive alternative uses. Society as a whole will benefit because treatment programs reduce criminal justice costs and lost productivity.

Drug addicts and alcoholics do not need an allowance from the Government which they can then use to feed their addictions. What they need is treatment. The drug addicts and alcoholics program within SSI was intended to support these individuals while they were under treatment. But that is not how things worked out. The program has been difficult to monitor and they have, in fact, not found that people who are taking the benefits are going into rehabilitation programs. In fact, rehabilitation is actually discouraged because rehabilitation results in loss of benefits of the program.

Substance abuse is taking a horrible toll on our society. The current SSI Program is doing nothing to remedy that unfortunate fact. My bill would alter our fundamental approach to substance abuse and abusers. Instead of general monthly payments, the abusers would be given treatment programs that require participation by them and commitment by them to stop their habit and rehabilitate themselves to be responsible citizens. It will save money, and it will put our taxpayer dollars to better use.

By Mr. JOHNSTON:

S. 499. A bill to provide an exception to the coverage of State and local employees under Social Security; to the Committee on Finance.

S. 500. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of schoolbus drivers shall be allowable in computing adjusted gross income; to the Committee on Finance.

LEGISLATION TO HELP SCHOOLBUS DRIVERS

• Mr. JOHNSTON. Mr. President, today I am introducing legislation to help assist our Nation's schoolbus drivers who provide a very important role in the education of our children. Recently, several broad-based tax provisions have been enacted into law which adversely affect schoolbus drivers. The bills I am introducing today will provide some of our most dedicated school employees with relief which they need and deserve.

The first measure would permit busdrivers to deduct actual operating expenses, regardless of whether or not they itemize on their Federal tax returns. This was the law prior to enactment of the Tax Reform Act of 1986. Under current law, however, schoolbus drivers' actual expenses are treated as miscellaneous expenses, thus limiting the deduction to those who itemize and subjecting it to the 2-percent floor. The floor has prevented many schoolbus drivers from qualifying for any deduction for their actual operational expenses because they cannot meet the 2-percent floor applicable to miscellaneous itemized deductions. The result has been a substantial increase in schoolbus drivers' annual income tax liability. Moreover, even those busdrivers who itemize and qualify for deductions under the 2-percent floor have been penalized, especially those who file joint returns.

The second measure would exempt schoolbus drivers—and other State and local employees who work on a part-time, seasonal, or temporary basis—

from paying Social Security taxes. Many of these individuals are already covered under State and local retirement systems; however, the law currently requires that they pay into Social Security as well. The result is increased costs to the employer and smaller take-home paychecks for the employees. Perversely, some States may even decide to remove these workers from their retirement systems, which could result in a reduction in, or loss of, retirement benefits for which the employees have worked for many years.

Our schoolbus drivers do a yeoman's job in transporting future generations to and from school. We all agree that education of our youth should be one of our highest priorities. Let's pass this legislation and provide some relief to those individuals who make it possible for our children to arrive at school in a safe and timely manner.●

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 501. A bill to amend the Internal Revenue Code of 1986 to permit the tax-free rollover of certain payments made by employers to separated employees.

TAX FREE ROLLOVER OF CERTAIN PAYMENTS TO SEPARATED EMPLOYEES

● Mr. BREAUX. Mr. President, I rise today to reintroduce legislation to help those employees who are living under a new reality of the 1990's—corporate downsizing. This bill will allow taxpayers who lose their jobs due to corporate downsizing to roll over, tax-free, any lump sum payment received as part of the termination into an individual retirement account [IRA] or similar qualified plan. Taxes would be paid when the funds are withdrawn at retirement. This will allow the upfront payment to serve the purpose of providing the necessary income for retirement. This legislation will relieve an enormous tax burden on thousands of Americans and further encourage retirement savings. Last year the bill was estimated to cost $405 million over 5 years.

Without this legislation, many workers, generally 5 to 10 years from retirement age, will see between 40 to 50 percent of these payments immediately eaten up by Federal, State, and local income taxes. Of course, if these payments are made out of excess funds in a qualified retirement plan funded by the employer, this problem does not arise. This however, is not always the case. Given the generally dismal rate of underfunded private retirement plans, payments will often come out of the general revenues of the company rather than from a qualified plan, and thus will not qualify for the tax exempt rollover provisions that currently exist under the code.

Mr. President, I hope that my colleagues will join me by cosponsoring this important legislation.●

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 502. A bill to clarify the tax treatment of certain disability benefits received by former police officers or firefighters; to the Committee on Finance.

POLICE AND FIREFIGHTERS TAX CLARIFICATION ACT

● Mr. DODD. Mr. President, today I am reintroducing an important piece of legislation that will provide a measure of tax fairness for more than 1,000 police officers, firefighters and their families in my home State of Connecticut. I am pleased to be joined in this effort by Senator LIEBERMAN.

This bill clarifies the tax treatment of heart and hypertension benefits awarded to Connecticut's police officers and firefighters prior to 1992. The clarification is necessary because of an error made in the original version of Connecticut's heart and hypertension law. Under the law, Connecticut intended to treat heart and hypertension benefits as workmen's compensation for tax purposes. Unfortunately, because of the language used in the State statute, the heart and hypertension benefits became taxable under a ruling by the Internal Revenue Service [IRS] in 1991.

Since the IRS ruling, Connecticut has amended its law. But that change does not help those police officers, firefighters, and their families, who received benefits prior to the amendment. These law-abiding citizens accepted the benefits with the understanding that they were not taxable. Now, as a result of the problem with the State law, and through no fault of their own, they are being charged with back taxes, interest, and penalties by the IRS.

Mr. President, we must address this unfortunate situation. Our firefighters and police officers are dedicated public servants. Every day, they face enormous difficulties and dangers protecting our homes and neighborhoods. The hazards they face make their jobs particularly stressful. They need the security provided by heart and hypertension benefits. They should not have to contend with back taxes and penalties that are being assessed due to an error in State law.

Under this legislation, which would exempt heart and hypertension benefits from taxable income for the years prior to the IRS ruling—1989, 1990, and 1991—we can treat these public servants and their families more fairly. This bill is narrowly drafted to accomplish that limited purpose and would not affect the tax treatment of heart and hypertension benefits awarded after January 1, 1992.

Mr. President, my efforts to pass this legislation date back to the 102d Congress. During that Congress, Senator LIEBERMAN and I worked with Representatives BARBARA KENNELLY and ROSA DELAURO and this bill became a part of the Revenue Act of 1992. Although the Revenue Act was passed by Congress, it was vetoed by President Bush 1 day after he lost the election. We tried again during the 103d Congress, but we were unable to move the bill through the relevant committees.

I am hopeful that we can pass this legislation quickly this year so that we can remove the threat of back taxes and penalties that hangs over Connecticut's police officers, firefighters, and their families.●

By Mr. BUMPERS (for himself, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mr. LEVIN, Mr. PRYOR, Mr. KOHL, Mr. FEINGOLD, and Mr. PELL):

S. 504. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

MINERAL EXPLORATION AND DEVELOPMENT ACT

Mr. BUMPERS. Mr. President, I rise today to introduce the Mineral Exploration and Development Act of 1995.

This is the fourth Congress that I have proposed comprehensive legislation to reform the 1872 mining law. Obviously, if I had been successful in the past, I would not be here again today. There are few issues around here that I have such strong feelings about as I have on this subject.

Mr. President, as it provided for in 1872, and what it still permits today, the 1872 mining law allows for any citizen of this country to go on any of the 550 million acres of Federal lands open to mining, drive down four stakes encompassing 20 acres of land and notify the Bureau of Land Management that the land is subject to a mining claim. If, at some time in the future, the claimant decides that that 20-acre claim has gold, silver, copper, platinum, or any other hardrock mineral under it, the claimant can demand—literally demand—a deed from the U.S. Government for that 20 acres. If the BLM decides that yes, it does indeed have commercially mineable minerals under the claim, the Government will give you a deed to the land. Mr. President, they will give you a deed for either $2.50 an acre or $5 an acre, depending on the type of mining claim you have.

Mr. President, it is very difficult to make this case because the people across the country say that this simply cannot be true. No government in its right mind, especially a government that is in debt $4.6 trillion, would give away the public domain and billions of dollars worth of minerals for $2.50 an acre, with billions of dollars worth of gold under it. Well, unhappily, we are crazy enough to do just that, and we have been doing it since 1872.

Mr. President, there are estimates that between $1 and $4 billion worth of gold and other minerals are removed from our public lands every year. The taxpayers, the very owners of the public lands, don't even receive one red cent in return.

Mr. President, the Goldstrike Mine in Nevada is owned by a subsidiary of

American Barrick Resources, which is a Canadian corporation. Incidentally, many of the top gold-mining companies in this country are foreign owned.

On September 10, 1992, Barrick filed an application for patents on 1,800 acres of its Golstrike Mine with the Bureau of Land Management. The BLM checked it out and found that there were commercial quantities of gold underneath that 1,800 acres.

(Mr. CRAIG assumed the chair.)

Mr. BUMPERS. As a result, the Bureau of Land Management had no choice but to give Barrick a deed to the 1,800 acres of land for $9,000; $5 an acre. According to Barrick—not DALE BUMPERS—the land contains $10 billion dollars' worth of gold.

And so Barrick is going to mine 10 billion dollars' worth of gold—and what do you think Uncle Sam's return will be? Absolutely nothing.

Let me ask my colleagues: If you had 1,800 acres of land and Barrick Mining Co. was getting ready to mine 10 billion dollars' worth of gold off your land, what would you expect in return? Five percent? Ten percent? As a matter of fact, the Newmont Mining Co. in Nevada pays an 18-percent royalty to a private landowner in the Carlin Trend of Nevada.

However, the U.S. taxpayers will not receive one red cent in royalties. And it is our land. It is our gold. It belongs to the people of this country.

People who watch speeches like this on the floor of the Senate say this couldn't possibly be true.

It not only can happen, but it has been happening for years and years and years. And I can tell you, with the makeup of the Senate in the 104th Congress, it will likely continue to happen. While I may not win this battle this year, I am certainly not going to quit speaking out about it.

While the hardrock mining companies argue that the imposition of a reasonable royalty would put them out of business, they continue to ignore the fact that gross royalties are paid for all other minerals that are extracted from the taxpayer-owned land. We charge people who mine coal 12.5 percent. If you extract natural gas from Federal lands, you pay the U.S. Government a 12.5-percent royalty. If you mine geothermal resources, as we do out West, it is 10 to 15 percent of gross revenues. If you drill oil on Federal lands, you pay a 12.5-percent royalty.

However, if you mine for gold, silver, or copper, you do not pay one red cent to the U.S. Government.

Why? Because the mining companies have the political clout in this body to prevent the enactment of comprehensive mining law reform. Last year the House of Representatives passed a comprehensive and reasonable mining law reform bill. However, when it came over to the Senate it fell into the same old sump hole.

Occasionally, ''60 Minutes'' or ''20–20'' or ''Prime Time Live'' will do a 10- to 20-minute segment on this issue. Sam Donaldson will say, ''Can you believe this?'' And the next morning, my phone rings off the wall.

Several years ago, after ABC did a story on the mining law, a Senator called and said, ''For God's sake, get me on your bill as a cosponsor. My phone hasn't stopped ringing.'' We put him on as a cosponsor. However, when it came time to vote on my amendment to impose a moratorium on the issuance of patents, he voted against it. He just had not yet heard from the mining industry when he cosponsored my bill.

The 1872 mining law does not reflect modern environmental protection policies. Past mining activities have left a legacy of unreclaimed lands, acid mine drainage, and hazardous waste. Approximately 60 abandoned hardrock mining sites are currently on the Superfund National Priority List. Some estimate that it could cost taxpayers upward of $50 billion to clean up these sites.

The 1872 mining law does not contain any bonding or reclamation requirements or any requirements for protecting the environment. While BLM and Forest Service regulations address these issues, their regulations, particularly BLM's, are full of loopholes and weak.

The Mineral Exploration and Development Act of 1995 would provide BLM and the Forest Service with sufficient authority to regulate mining to minimize adverse impacts to the environment. It would mandate reclamation and bonding and would direct the agencies to promulgate specific reclamation standards.

Some of the Senators who come on this floor and make these long speeches about what a wonderful thing the 1872 mining law is and how wonderful it has been to their States, should take a look at what the State governments do. For example, Arizona charges a 2-percent royalty on the gross value of the minerals extracted from State-owned land. If you mine on private or Federal lands, Arizona charges a 2.5-percent severance tax.

What do we charge? Nothing.

Montana gets a 5-percent royalty for raw metallic minerals mined on State lands and they charge a severance tax of 1.6 percent of the gross value in excess of $250,000 for gold, silver, and platinum mined on all lands in the State.

The State of Utah charges a 4-percent gross value royalty on nonfissionable metalliferous metals.

Utah also charges a 2.6-percent severance tax on all metalliferous minerals, including those that are on Federal lands. Whether there is a patent on it or not, whether it is private lands or Federal lands, you pay a severance tax in the State of Utah.

What does the U.S. Government charge? absolutely nothing.

Wyoming charges a 5-percent royalty on the gross sales value of gold, silver, and trona mined on State-owned land, and a 2-percent net of the minemouth value severance tax on everything that is mined anywhere in that State.

However, the mining industry will continue to insist that if my bill or anything even close to it passes, it will be the end of the world as we know it.

Now, Mr. President, I started out talking about the fact that this is the sixth year I have fought this battle. When I first started back about 1990, I could not even fathom that this was actually going on in this country. Sadly, it continues unabated.

The argument of the mining industry then was, ''It will put us out of business if you charge us a royalty.'' ''How about 3 percent?'' ''No, we cannot afford 3 percent.'' ''Two percent?'' ''No, we cannot afford 2 percent. Cannot afford anything.'' Now they say: ''We will pay a small royalty, but you must allow us to deduct every imaginable and unimaginable cost of mining first''.

Mr. President, at the beginning of the 103d Congress gold was selling in this country for $333 an ounce. The mining industry said, ''we cannot afford to pay an 8-percent royalty or even a 5-percent royalty when we are selling gold for $333 an ounce. It would bankrupt us.'' Gold is now selling for approximately $375 an ounce. However, the mining industry is still claiming poverty.

Mr. President, when I first started fighting on this issue in 1990 we had 1.2 million mining claims in this country. Today, because a person now has to pay $100 a year in order to hold his claim, that number has been reduced to 330,000 claims. Do you know why there has been such a precipitous drop in the number of claims? All those claims out there were filed to build summer homes on the land or they were filed hoping some big mining company would come along and say, ''How about letting us explore your claim?'' because they did not have to pay a red cent to keep that claim viable.

Mr. President, almost every one of these mining companies do, in fact, pay royalties. However, they don't pay royalties to the landowner—the American taxpayer. Rather, they pay royalties to somebody they bought the claim from. So who is really getting the royalty? It is the guy who had the claim.

If I had claims amounting to 1,000 acres, never touched it, a mining company could come by and say, ''We would like to have that claim to mine on.'' If I said, ''OK,'' they will look it over. If they find out it has gold on it, they will say, ''We will pay you a 5-percent royalty on all the gold we take off of your land.'' That goes on time and time again. Virtually every major mining company in the United States that mines on Federal lands is paying a pretty good-sized royalty to the guy who went out there and drove the stakes into the ground with no intention of ever doing anything.

Mr. President, I have tried every year to convince the Senate to enact comprehensive mining law reform. In addition, I have tried to impose a moratorium to prohibit the Interior Department from granting patents. The House of Representatives passed such a moratorium every year since I started this fight, and every year the Senate has killed it. Last year the Senate finally agreed to the moratorium during a House-Senate Appropriations conference.

In 1991 I came within a single vote of passing the patent moratorium. Just 4 days later, the Stillwater Mining Co. filed applications for patents on a little more than 2,000 acres of land in Montana. It took them just 4 days to figure out that they might have to pay a royalty one of these days if they did not get a patent. Assuming they get these patents, Stillwater will pay just $10,000 for the 2,000 acres of land. According to Stillwater's own figures, the land contains roughly 35 to 38 billion dollars' worth of platinum and palladium.

And, Mr. and Mrs. Taxpayer, what do you think you are going to get for the 38 billion dollars' worth of platinum and palladium that you own? You guessed it. Not one penny.

Mr. President, I will just make this little summation. The patent moratorium that we passed last year grandfathered-in about 350 patent applications. If we do not keep the moratorium pending until Congress is ready to enact comprehensive reform, the U.S. Government will continue to give away our public lands.

In addition, we will continue to permit mining companies to walk away from unmitigated environmental disasters leaving the taxpayers to pick up the tab. They did not get a red cent out of it, but the taxpayers get the luxury of cleaning up the mess.

Mr. President, my bill constitutes what I believe to be the minimum required for comprehensive mining law reform. It provides for the Secretary to have considerable input into the siting of mining operations to ensure that areas such as Yellowstone National Park are not ruined.

My bill provides for an 8-percent gross royalty. It provides for bonding to make sure that the land is put back in half decent shape when mining operations are completed. It stops this business of giving deeds to people for $2.50 an acre.

Opponents of comprehensive reform will soon introduce a bill that would continue to permit patenting. Rather than $2.50 or $5 an acre, the claimant would have to pay the fair market value for the surface of the land. That is only marginally better than the $5 an acre they pay now.

Senators trying to pass this as reform will say: ''Well, they are paying fair market value.'' You give me the Gulf of Mexico; I will pay for the fair market of the surface of the Gulf of Mexico if you give me all the oil underneath it.

Mr. President, I intend to pursue this matter as long as I am in the U.S. Senate. I want to say to my colleagues and to the American people, there is no greater travesty—no greater travesty—than the continuation of this mining law and allowing the mining interests of this country to take the valuable resources that belong to every taxpayer in the country.

We have a $4.6 trillion debt and Speaker GINGRICH and the proponents of the Contract With America want to put children in orphanages, take away school lunches, and dramatically cut food stamps. But the mining companies can't compensate the taxpayers because there are enough western Senators here to stop it. Where are our priorities?

So I will probably not succeed this year. If I could not succeed last year, given the makeup of the Senate this year, I will not prevail and I am tired of fighting the battle, but I am not tired enough to quit.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be referred to as the ''Mineral Exploration and Development Act of 1995''.

(b) TABLE OF CONTENTS.—

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.

(a) DEFINITIONS.—As used in this Act:

(1) The term ''applicant'' means any person applying for a plan of operations under this Act or a modification to or a renewal of a plan of operations under this Act.

(2) The term ''claim holder'' means the holder of a mining claim located or converted under this Act. Such term may include an agent of a claim holder.

(3) The term ''land use plans'' means those plans required under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or the land management plans for National Forest System units required under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), whichever is applicable.

(4) The term ''legal subdivisions'' means an aliquot quarter section of land as established by the official records of the public land survey system, or a single lot as established by the official records of the public land survey system if the pertinent section is irregular and contains fractional lots, as the case may be.

(5) The term ''locatable mineral'' means any mineral not subject to disposition under any of the following:

(A) the Mineral Leasing Act (30 U.S.C. 181 and following);

(B) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);

(C) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following); or

(D) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 and following).

(6) The term ''mineral activities'' means any activity for, related to or incidental to mineral exploration, mining, beneficiation and processing activities for any locatable mineral, including access. When used with respect to this term—

(A) the term ''exploration'' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade, and value;

(B) the term ''mining'' means the processes employed for the extraction of a locatable mineral from the earth;

(C) the term ''beneficiation'' means the crushing and grinding of locatable mineral ore and such processes which are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques; and

(D) the term ''processing'' means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to, smelting and electrolytic refining.

(7) The term ''mining claim'' means a claim for the purposes of mineral activities.

(8) The term ''National Conservation System unit'' means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or a national conservation area, national recreation area, or a national forest monument.

(9) The term ''operator'' means any person, partnership, or corporation with a plan of operations approved under this Act.

(10) The term ''Secretary'' means, unless otherwise provided in this Act—

(A) the Secretary of the Interior for the purposes of title I and title III;

(B) the Secretary of the Interior with respect to land under the jurisdiction of such Secretary and all other lands subject to this Act (except for lands under the jurisdiction of such Secretary and all other lands subject to this Act (except for lands under the jurisdiction of the Secretary of Agriculture) for the purposes of title II; and

(C) the Secretary of Agriculture with respect to lands under the jurisdiction of the Secretary of Agriculture for the purposes of title II.

(11) The term ''substantial legal and financial commitments'' means significant investments that have been made to develop mining claims under the general mining laws such as: long-term contracts for minerals produced; processing, beneficiation, or extraction facilities and transportation infrastructure; or other capital-intensive activities. Costs of acquiring the mining claim or claims, or the right to mine alone without other significant investments as detailed above, are not sufficient to constitute substantial legal and financial commitments.

(12) The term ''surface management requirements'' means the requirements and standards of section 201, section 203, and section 204 of this Act, and such other standards as are established by the Secretary governing mineral activities and reclamation.

(b) REFERENCES.—(1) Any reference in this Act to the term ''general mining laws'' is a reference to those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30, United States Code.

(2) Any reference in this Act to the ''Act of July 23, 1955'', is a reference to the Act of July 23, 1955, entitled ''An Act to amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.'' (30 U.S.C. 601 and following).

(c) COVERAGE.—This Act shall apply only to mineral activities and reclamation on lands and interests in land which are open to location as provided in this Act.

SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS ACT.

(a) OPEN LANDS.—Mining claims may be located under this Act on lands and interests in lands owned by the United States to the extent that—

(1) such lands and interests were open to the location of mining claims under the general mining laws on the date of enactment of this Act;

(2) such lands and interests are opened to the location of mining claims by reason of section 204(f) or section 205 of this Act; and

(3) such lands and interests are opened to the location of mining claims state the date of enactment of this Act by reason of any administrative action or statute.

(b) RIGHTS.—The holder of a mining claim located or converted under this Act and maintained in compliance with this Act shall have the exclusive right of possession and use of the claimed land for mineral activities, including the right of ingress and egress to such claimed lands for such activities, subject to the rights of the United States under section 108 and title II.

SEC. 103. LOCATION OF MINING CLAIMS.

(a) GENERAL RULE.—A person may locate a mining claim covering lands open to the location of mining claims by posting a notice of location, containing the person's name and address, the time of location (which shall be the date and hour of location and posting), and a legal description of the claim. The notice of location shall be posted on a conspicuous, durable monument erected as near as practicable to the northeast corner of the mining claim. No person who is not a citizen, or a corporation organized under the laws of the United States or of any State or the District of Columbia, may locate or hold a claim under this Act.

(b) USE OF PUBLIC LAND SURVEY.—Except as provided in subsection (c), each mining claim located under this Act shall—

(1) be located in accordance with the public land survey system, and

(2) conform to the legal subdivisions thereof. Except as provided in subsection (c), the legal description of the mining claim shall be based on the public land survey system and its legal subdivision.

(c) EXCEPTIONS.—(1) If only a protracted survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The legal description of the mining claim shall be based on the protracted survey and the mining claim shall be located as near as practicable in conformance with a protracted legal subdivision.

(B) The mining claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object.

(2) If no survey exists for the public lands concerned, each of the following shall apply in lieu of subsection (b):

(A) The mining claim shall be a regular square, with each side laid out in cardinal directions, 40 acres in size.

(B) The claim shall be monumented on the ground by the erection of a conspicuous durable monument at each corner of the claim.

(C) The legal description of the mining claim shall be expressed in metes and bounds and shall include a reference to any existing survey monument, or where no such monument can be found within a reasonable distance, to a permanent natural object. Such description shall be of sufficient accuracy and completeness to permit recording of the claim upon the public land records and to permit the Secretary and other parties to find the claim upon the ground.

(3) In the case of a conflict between the boundaries of a mining claim as monumented on the ground and the description of such claim in the notice of location referred to in subsection (a), the notice of location shall be determinative.

(d) FILING WITH SECRETARY.—(1) Within 30 days after the location of a mining claim pursuant to this section, a copy of the notice of location referred to in subsection (a) shall be filed with the Secretary in an office designated by the Secretary.

(2) Whenever the Secretary receives a copy of a notice of location of a mining claim under this Act, the Secretary shall assign a serial number to the mining claim, and immediately return a copy of the notice of location to the locator of the claim, together with a certificate setting forth the serial number, a description of the claim, and the claim maintenance requirements of section 104. The Secretary shall enter the claim on the public land records.

(e) LANDS COVERED BY CLAIM.—A mining claim located under this Act shall include all lands and interests in lands open to location within the boundaries of the claim, subject to any prior mining claim referenced under subsections (c) and (d) of section 404.

(f) DATE OF LOCATION.—A mining claim located under this Act shall be effective based upon the time of location.

(g) CONFLICTING LOCATIONS.—Any conflicts between the holders of mining claims located or converted under this Act relating to relative superiority under the provisions of this Act may be resolved in adjudication proceedings before the Secretary. Such adjudication shall be determined on the record after opportunity for hearing. It shall be incumbent upon the holder of a mining claim asserting superior rights in such proceedings to demonstrate to the Secretary that such person was the senior locator, or if such person is the junior locator, that prior to the location of the claim by such locator—

(1) the senior locator failed to file a copy of the notice of location within the time provided under subsection (d); or

(2) the amount of rental paid by the senior locator was less than the amount required to be paid by such locator pursuant to section 104.

(h) EXTENT OF MINERAL DEPOSIT.—The boundaries of a mining claim located under this Act shall extend vertically downward.

SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.

(a) IN GENERAL.—(1) In order to maintain a mining claim under this Act a claim holder shall pay to the Secretary an annual rental fee. The rental fee shall be paid on the basis of all land within the boundaries of a mining claim at a rate established by the Secretary of not less than—

(A) $5 per acre in each of the first through fifth years following location of the claim;

(B) $10 per acre in each of the sixth through tenth years following location of the claim;

(C) $15 per acre in each of the eleventh through fifteenth years following location of the claim;

(D) $20 per acre in each of the sixteenth through twentieth years following location of the claim; and

(E) $25 per acre in the twenty-first diligence year following location of the claim, and each year thereafter.(2) The rental fee shall be due and payable at a time and in a manner as prescribed by the Secretary.

(b) FAILURE TO COMPLY.—(1) If a claim holder fails to pay the rental fee as required by this section, the Secretary shall immediately provide notice thereof to the claim holder and after 30 days from the date of such notice the claim shall be deemed forfeited and such claim shall be null and void by operation of the law, except as provided under paragraphs (2) and (3). Such notice shall be sent to the claim holder by registered or certified mail to the address provided by such claim holder in the notice of location referred to in section 103(a) or in the most recent instrument filed by the claim holder pursuant to this section. In the even such notice is returned as undelivered, the Secretary shall be deemed to have fulfilled the notice requirements of this paragraph.

(2) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if the claim holder corrects such failure to the satisfaction of the Secretary within 10 days after the date such claim holder was required to pay the rental fee.

(3) No claim may be deemed forfeited and null and void due to a failure to comply with the requirements of this section if, within 10 days after date of the notice referred to in paragraph (1), the claim holder corrects such failure to the satisfaction of the Secretary, and if the Secretary determines that such failure was justifiable.

(c) PROHIBITION.—The claim holder shall be prohibited from locating a new claim on the lands included in a forfeited claim for one year from the date such claim is deemed forfeited and null and void, except as provided in subsection (d).

(d) RELINQUISHMENT.—A claim holder deciding not to pursue mineral activity on a claim may relinquish such claim by notifying the Secretary. A claim holder relinquishing a claim is responsible for reclamation as required by section 201 of this Act and all other applicable requirements. A claim holder who relinquishes a claim shall not be subject to the prohibition of subsection (c) of this section; however, if the Secretary determines that a claim is being relinquished and relocated for the purpose of avoiding compliance with any provision of this Act, including payment of the applicable annual rental fee, the claim holder shall be subject to the prohibition in subsection (c) of this section.

(e) SUSPENSION.—Payment of the annual rental fee required by this section shall be suspended upon the payment of the royalty required by section 410 of this Act in an amount equal to or greater than the applicable annual rental fee. During any subsequent period of non-production, or period when the royalty required by section 410 of this Act is an amount less than the applicable annual rental fee, the claimant shall pay to the Secretary a total amount equal to the applicable annual rental fee.

(f) FEE DISPOSITION.—The Secretary shall deposit all moneys received from rental fees collected under this subsection into the Fund referred to in title III.

SEC. 105. PENALTIES.

(a) VIOLATION.—Any claim holder who knowingly or willfully posts on a mining claim or files a notice of location with the Secretary under section 103 that contains false, inaccurate or misleading statements shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

(b) REVIEW.—No civil penalty under this section shall be assessed until the claim holder charged with the violation has been given the opportunity for a hearing on the record under section 202(f).

SEC. 106. PREEMPTION.

The requirements of this title shall preempt any conflicting requirements of any State, or political subdivision thereof relating to the location and maintenance of mining claims as provided for by this Act. The filing requirements of section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744) shall not apply with respect to any mining claim located or converted under this Act.

SEC. 107. LIMITATION ON PATENT ISSUANCE.

(a) MINING CLAIMS.—After January 4, 1995, no patent shall be issued by the United States for any mining claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before October 1, 1994; and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(b) MILL SITES.—After October 1, 1994, no patent shall be issued by the United States for any mill site claim located under the general mining laws unless the Secretary of the Interior determines that for the mill site concerned—

(1) a patent application for such land was filed with Secretary on or before October 1, 1994; and

(2) all requirements applicable to such patent application were fully complied with by that date. If the Secretary makes the determinations referred to in paragraphs (1) and (2) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SURFACE RESOURCES.

(A) IN GENERAL.—The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), commonly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), shall apply to all mining claims located or converted under this Act.

(b) ENFORCEMENT.—The Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall take such actions as may be necessary to ensure the compliance by claim holders with section 4 of the Act of July 23, 1955 (30 U.S.C. 612).

SEC. 109. MINERAL MATERIALS.

(a) DETERMINATIONS.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert ''(a)'' before the first sentence.

(2) Strike ''or cinders'' and insert in lieu thereof ''cinders, or clay''.

(3) Add the following new subsection at the end thereof:

''(b)(1) Subject to valid existing rights, after the date of enactment of the Mineral Exploration and Development Act of 1995, all deposits of mineral materials referred to in subsection (a), including the block pumice referred to in such subsection, shall only be subject to disposal under the terms and conditions of the Materials Act of 1947.

''(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of enactment of the Mineral Exploration and Development Act of 1995, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of the Mineral Exploration and Development Act of 1995 and that such claim continues to be valid.''

(b) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), is amended as follows:

(1) In subsection (b) insert ''and mineral material'' after ''vegetative''.

(2) In subsection (c) insert ''and mineral material'' after ''vegetative''.

(c) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled ''An Act to provide for the disposal of materials on the public lands of the United States'' (30 U.S.C. 601 and following) is amended by striking ''common varieties of'' in the first sentence.

(d) SHORT TITLES.—(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section.

''SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.''.

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled ''An Act to provide for the disposal of materials on the public lands of the United States'' (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

''SEC. 5. This Act may be cited as the 'Materials Act of 1947'.''.

(e) REPEAL.—(1) The Act of August 4, 1892 (27 Stat. 348) commonly known as the Building Stone Act is hereby repealed.

(2) The Act of January 31, 1901 (30 U.S.C. 162) commonly known as the Saline Placer Act is hereby repealed.

TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

SEC. 201. SURFACE MANAGEMENT.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities and reclamation be conducted so as to minimize adverse impacts to the environment.

(b) PLANS OF OPERATION.—Except as provided under paragraph (2), no person may engage in mineral activities that may cause a disturbance of surface resources unless such person has filed a plan of operations with, and received approval of such plan of operations, from the Secretary.

(2)(A) A plan of operations may not be required for mineral activities related to exploration that cause a negligible disturbance of surface resources not involving the use of mechanized earth moving equipment, suction dredging, explosives, the use of motor vehicles in areas closed to off-road vehicles, the construction of roads, drill pads, or the use of toxic or hazardous materials.

(B) A plan of operations may not be required for mineral activities related to exploration that, after notice to the Secretary, involve only a minimal and readily reclaimable disturbance of surface resources related to and including initial test drilling not involving the construction of access roads, except activities under notice shall not commence until an adequate financial guarantee is established for such activities pursuant to subsection (1).

(c) CONTENTS OF PLANS.—Each proposed plan of operations shall include a mining permit application and a reclamation plan together with such documentation as necessary to ensure compliance with applicable Federal and State environmental laws and regulations.

(d) MINING PERMIT APPLICATION REQUIREMENTS.—The mining permit referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) The name and mailing address of—

(A) the applicant for the mining permit;

(B) the operator if different than the applicant;

(C) each claim holder of the lands subject to the plan of operations if different than the applicant;

(D) any subsidiary, affiliate or person controlled by or under common control with the applicant, or the operator or each claim holder, if different than the applicant; and

(E) the owner or owners of any land, or interests in any such land, not subject to this Act, within or adjacent to the proposed mineral activities.

(2) A statement of any plans of operation held by the applicant, operator or each claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant.

(3) A statement of whether the applicant, operator or each claim holder if different

than the applicant, and any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant has an outstanding violation of this Act, any surface management requirements, or applicable air and water quality laws and regulations and if so, a brief explanation of the facts involved, including identification of the site and the nature of the violation.

(4) A description of the type and method of mineral activities proposed, the engineering techniques proposed to be used and the equipment proposed to be used.

(5) The anticipated starting and termination dates of each phase of the mineral activities proposed.

(6) A map, to an appropriate scale, clearly showing the land to be affected by the proposed mineral activities.

(7) A description of the quantity and quality of surface and ground water resources within and along the boundaries of, and adjacent to, the area subject to mineral activities based on 12 months of pre-disturbance monitoring.

(8) A description of the biological resources found in or adjacent to the area subject to mineral activities, including vegetation, fish and wildlife, riparian and wetland habitats.

(9) A description of the monitoring systems to be used to detect and determine whether compliance has and is occurring consistent with the surface management requirements and to regulate the effects of mineral activities and reclamation on the site and surrounding environment, including but not limited to, groundwater, surface water, air and soils.

(10) Accident contingency plans that include, but are not limited to, immediate response strategies, corrective measures to mitigate impacts to fish and wildlife, ground and surface waters, notification procedures and waste handling and toxic material neutralization.

(11) Any measures to comply with any conditions on minerals activities and reclamation that may be required in the applicable land use plan, including any condition stipulated pursuant to section 204(d)(1)(B).

(12) A description of measures planned to exclude fish and wildlife resources from the area subject to mineral activities by covering, containment, or fencing of open waters, beneficiation, and processing materials; or maintenance of all facilities in a condition that is not harmful to fish and wildlife.

(13) Such environmental baseline data as the Secretary, by rule, shall require sufficient to validate the determinations required for plan approval under this Act.

(e) RECLAMATION PLAN APPLICATION REQUIREMENTS.—The reclamation plan referred to in subsection (c) shall include such terms and conditions as prescribed by the Secretary, and each of the following:

(1) A description of the condition of the land subject to the mining plant permit prior to the commencement of any mineral activities.

(2) A description of reclamation measures proposed pursuant to the requirements of subsections (m) and (n).

(3) The engineering techniques to be used in reclamation and the equipment proposed to be used.

(4) The anticipated starting and termination dates of each phase of the reclamation proposed.

(5) A description of the proposed condition of the land following the completion of reclamation.

(6) A description of the maintenance measures that will be necessary to meet the surface management requirements of this Act, such as, but not limited to, drainage water treatment facilities, or liner maintenance and control.

(7) The consideration which has been given to making the condition of the land after the completion of mineral activities and final reclamation consistent with the applicable land use plan.

(f) PUBLIC PARTICIPATION.—(1) Concurrent with submittal of a plan of operations, or a renewal application for a plan of operations, the applicant shall publish a notice in a newspaper of local circulation for 4 consecutive weeks that shall include: the name of the applicant, the location of the proposed mineral activities, the type and expected duration of the proposed mineral activities, and the intended use of the land after the completion of mineral activities and reclamation. The Secretary shall also notify in writing other Federal, State and local government agencies that regulate mineral activities or land planning decisions in the area subject to mineral activities.

(2) Copies of the complete proposed plan of operations shall be made available for public review for 30 days at the office of the responsible Federal surface management agency located nearest to the location of the proposed mineral activities, and at the country courthouse of the county in which the mineral activities are proposed to be located, prior to final decision by the Secretary. During this period, any person and the authorized representative of a Federal, State or local governmental agency shall have the right to file written comments relating to the approval or disapproval of the plan of operations. The Secretary shall immediately make such comments available to the applicant.

(3) Any person that is or may be adversely affected by the proposed mineral activities may request, after filing written comments pursuant to paragraph (2), a public hearing to be held in the county in which the mineral activities are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is to be held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(g) PLAN APPROVAL.—(1) After providing notice and opportunity for public comment and hearing, the Secretary may approve, require modifications to, or deny a proposed plan of operations, except as provided in section 405. To approve a plan of operations, the Secretary shall make each of the following determinations:

(A) The mining permit application and reclamation plan are complete and accurate.

(B) The applicant has demonstrated that reclamation as required by this Act can be accomplished under the reclamation plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

(C) The proposed mineral activities, reclamation and condition of the land after the completion of mineral activities and final reclamation would be consistent with the land use plan applicable to the area subject to mineral activities.

(D) The area subject to the proposed plan of operations is not included within an area designated unsuitable under section 204 for the types of mineral activities proposed.

(E) The applicant has demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(2) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsection (1) and, based on information supplied by the applicant, a determination of the probable hydrologic consequences of the proposed mineral activities and reclamation.

(3)(A) A plan of operations under this section shall not be approved if the applicant, operator, or any claim holder if different than the applicant, or any subsidiary, affiliate, or person controlled by or under common control with the applicant, operator or each claim holder if different than the applicant, is currently in violation of this Act, any surface management requirement or of any applicable air and water quality laws and regulations at any site where mineral activities have occurred or are occurring.

(B) The Secretary shall suspend an approved plan of operations if the Secretary determines that any of the entities described in section 201(d)(1) were in violation of the surface management requirements at the time the plan of operations was approved.

(C) A plan of operations referred to in this subsection shall not be approved or reinstated, as the case may be, until the applicant submits proofs that the violation has been corrected or is in the process of being corrected to the satisfaction of the Secretary; except that no proposed plan of operations, after opportunity for a hearing, shall be approved for any applicant, operator or each claim holder if different than the applicant with a demonstrated pattern of willful violations of the surface management requirements of such nature and duration and with such resulting irreparable damage to the environment as to clearly indicate an intent not to comply with the surface management requirements.

(h) TERM OF PERMIT; RENEWAL.—(1) The approval of a plan of operations shall be for a stated term. The term shall be no greater than that necessary to accomplish the proposed operations, and in no case for more than 10 years, unless the applicant demonstrates that a specified longer term is reasonably needed to obtain financing for equipment and the opening of the operation.

(2) Failure by the operator to commence mineral activities within one year of the date scheduled in an approved plan of operations shall be deemed to require a modification of the plan.

(3) A plan of operations shall carry with it the right of successive renewal upon expiration only with respect to operations on areas within the boundaries of the existing plan of operations, as approved. An application for renewal of such plan of operations shall be approved unless the Secretary determines, in writing, any of the following:

(A) The terms and conditions of the existing plan of operations are not being met.

(B) Mineral activities and reclamation activities as approved under the plan of operations are not in compliance with the surface management requirements of this Act.

(C) The operator has not demonstrated that the financial guarantee would continue to apply in full force and effect for the renewal term.

(D) Any additional revised or updated information required by the Secretary has not been provided.

(E) The applicant has not demonstrated that the plan of operations will be in compliance with the requirements of all other applicable Federal requirements, and any State requirements agreed to by the Secretary pursuant to subsection 203(c).

(4) A renewal of a plan of operations shall be for a term not to exceed the period of the original plan as provided in paragraph (1). Application for plan renewal shall be made at least 120 days prior to the expiration of an approved plan.

(5) Any person that is, or may be, adversely affected by the proposed mineral activities may request a public hearing to be held in the county in which the mineral activities

are proposed. If a hearing is requested, the Secretary shall conduct a hearing. When a hearing is held, notice of such hearing shall be published in a newspaper of local circulation for 2 weeks prior to the hearing date.

(i) PLAN MODIFICATION.—(1) Except as provided under section 405, during the term of a plan of operations the operator may submit an application to modify the plan. To approve a proposed modification to a plan of operations the Secretary shall make the determinations set forth under subsection (g)(1). The Secretary shall establish guidelines regarding the extent to which requirements for plans of operations under this section shall apply to applications to modify a plan of operations based on whether such modifications are deemed significant or minor; except that:

(A) any significant modifications shall at a minimum be subject to subsection (f), and

(B) any modification proposing to extend the area covered by the plan of operations (except for incidental boundary revisions) must be made by application for a new plan of operations.

(2) The Secretary may, upon a review of a plan of operations or a renewal application, require reasonable modification to such plan upon a determination that the requirements of this Act cannot be met if the plan is followed as approved. Such determination shall be based on a written finding and subject to notice and hearing requirements established by the Secretary.

(j) TEMPORARY CESSATION OF OPERATIONS.—(1) Before temporarily ceasing mineral activities or reclamation for a period of 180 days or more under an approved plan of operations or portions thereof, an operator shall first submit a complete application for temporary cessation of operations to the Secretary for approval.

(2) The application for approval of temporary cessation of operations shall include such terms and conditions as prescribed by the Secretary, including but not limited to the steps that shall be taken during the cessation of operations period to minimize impacts on the environment. After receipt of a complete application for temporary cessation of operations the Secretary shall conduct an inspection of the area for which temporary cessation of operations has been requested.

(3) To approve an application for temporary cessation of operations, the Secretary shall make each of the following determinations:

(A) The methods for securing surface facilities and restricting access to the permit area, or relevant portions thereof, shall effectively ensure against hazards to the health and safety of the public and fish and wildlife.

(B) Reclamation is contemporaneous with mineral activities as required under the approved reclamation plan, except in those areas specifically designated in the application for temporary cessation of operations for which a delay in meeting such standards is necessary to facilitate the resumption of operations.

(C) The amount of financial assurance filed with the plan of operations is sufficient to assure completion of the reclamation plan in the event of forfeiture.

(D) Any outstanding notices of violation and cessation orders incurred in connection with the plan of operations for which temporary cessation is being requested are either stayed pursuant to an administrative or judicial appeal proceeding or are in the process of being abated to the satisfaction of the Secretary.

(k) REVIEW.—Any decision made by the Secretary under subsections (g), (h), (i), (j) or (l) shall be subject to review under section 202(f).

(l) BONDS.—(1) Before any plan of operations is approved pursuant to this Act, or any mineral activities are conducted pursuant to subsection (b)(2), the operator shall file with the Secretary financial assurance payable to the United States and conditional upon faithful performance of all requirements of this Act. The financial assurance shall be provided in the form of a surety bond, trust fund, cash or equivalent. The amount of the financial assurance shall be sufficient to assure the completion of reclamation satisfying the requirements of this Act if the work had to be performed by the Secretary in the event of forfeiture, and the calculation shall take into account the maximum level of financial exposure which shall arise during the mineral activity including, but not limited to, provision for accident contingencies.

(2) The financial assurance shall be held for the duration of the mineral activities and for an additional period to cover the operator's responsibility for revegetation under subsection (n)(6)(B).

(3) The amount of the financial assurance and the terms of the acceptance of the assurance shall be adjusted by the Secretary from time to time as the area requiring coverage is increased or decreased, or where the costs of reclamation or treatment change, but the financial assurance must otherwise be in compliance with this section. The Secretary shall specify periodic times, or set a schedule, for reevaluating or adjusting the amount of financial assurance.

(4) Upon request, and after notice and opportunity for public comment, the Secretary may release in whole or in part the financial assurance if the Secretary determines each of the following:

(A) Reclamation covered by the financial assurance has been accomplished as required by this Act.

(B) The operator has declared that the terms and conditions of any other applicable Federal requirements, and State requirements pursuant to subsection 203(b), have been fulfilled.

(5) The release referred to in paragraph (4) shall be according to the following schedule:

(A) After the operator has completed the backfilling, regrading and drainage control of an area subject to mineral activities and covered by the financial assurance, and has commenced revegetation on the regraded areas subject to mineral activities in accordance with the approved plan of operations, 50 percent of the total financial assurance secured for the area subject to mineral activities may be released.

(B) After the operator has completed successfully all mineral activities and reclamation activities and all requirements of the plan of operations and the reclamation plan and all the requirements of this Act have in fact been fully met, the remaining portion of the financial assurance may be released.

(6) During the period following release of the financial assurance as specified in paragraph (5)(A), until the remaining portion of the financial assurance is released as provided in paragraph (5)(B), the operator shall be required to meet all applicable standards of this Act and the plan of operations and the reclamation plan.

(7) Where any discharge from the area subject to mineral activities requires treatment in order to meet the applicable effluent limitations, the treatment shall be monitored during the conduct of mineral activities and reclamation and shall be fully covered by financial assurance and no financial assurance or portion thereof for the plan of operations shall be released until the operator has met all applicable effluent limitations and water quality standards for one full year without treatment.

(8) Jurisdiction under this Act shall terminate upon release of the final bond. If the Secretary determines, after final bond release, that an environmental hazard resulting from the mineral activities exists, or the terms and conditions of the plan of operations or the surface management requirements of this Act were not fulfilled in fact at the time of release, the Secretary shall reassert jurisdiction and all applicable surface management and enforcement provisions shall apply for correction of the condition.

(m) RECLAMATION.—(1) Except as provided under paragraphs (5) and (7) of subsection (n), lands subject to mineral activities shall be restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans.

(2) All required reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities and shall use the best technology currently available.

(n) RECLAMATION STANDARDS.—The Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following:

(1) SOILS.—(A) Topsoil removed from lands subject to mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation.

(B) In the event the topsoil from lands subject to mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands subject to the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in alike manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

(C) Mineral activities shall be conducted to prevent any contamination or toxification of soils. If any contamination or toxification occurs in violation of this subparagraph, the operator shall neutralize the toxic material, decontaminate the soil, and dispose of any toxic or acid materials in a manner which complies with this section and any other applicable Federal or State law.

(2) STABILIZATION.—All surface areas subject to mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area subject to mineral activities, including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of paragraph (5) and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems, including stream flow, in the area subject to mineral activities and adjacent areas, and in all cases the operator shall comply with applicable Federal or State effluent limitations and water quality standards.

(B) Mineral activities shall prevent the generation of acid or toxic drainage during the mineral activities and reclamation, to the extent possible using the best available demonstrated control technology; and the operator shall prevent any contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

(C) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition.

(D) Where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

(5) GRADING.—(A) Except as provided under this paragraph (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography.

(B) The requirement of subparagraph (A) shall not apply with respect to an open mine pit if the Secretary finds that such open pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or groundwater pollution.

(C) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area subject to mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area subject to mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

(7) EXCESS SPOIL AND WASTE.—(A) Spoil material and waste material in excess of that required to comply with paragraph (5) shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, fish and wildlife, and the environment.

(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during mineral activities shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the postmining uses or for environmental monitoring.

(10) FISH AND WILDLIFE.—All fish and wildlife habitat in areas subject to mineral activities shall be restored in a manner commensurate with or superior to habitat conditions which existed prior to the mineral activities, including such conditions as may be prescribed by the Director, Fish and Wildlife Service.

(o) ADDITIONAL STANDARDS.—The Secretary may, by regulation, establish additional standards to address the specific environmental impacts of selected methods of mineral activities, such as, but not limited to, cyanide leach mining.

(p) DEFINITIONS.—As used in subsections (m) and (n):

(1) The term ''best technology currently available'' means equipment, devices, systems, methods, or techniques which are currently available anywhere even if not in routine use in mineral activities. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, scheduling of activities and design of sedimentation ponds. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best technology currently available on a case-by-case basis.

(2) The term ''best available demonstrated control technology'' means equipment, devices, systems, methods, or techniques which have demonstrated engineering and economic feasibility and practicality in preventing disturbances to hydrologic balance during mineral activities and reclamation. Such techniques will have shown to be effective and practical methods of acid and other mine water pollution elimination or control, and other pollution affecting water quality. The ''best available demonstrated control technology'' will not generally be in routine use in mineral activities. Within the constraints of the surface management requirements of this Act, the Secretary shall have the discretion to determine the best available demonstrated control technology on a case-by-case basis.

(3) The term ''spoil material'' means the overburden, or nonmineralized material of any nature, consolidated or unconsolidated, that overlies a deposit of any locatable mineral that is removed in gaining access to, and extracting, any locatable mineral, or any such material disturbed during the conduct of mineral activities.

(4) The term ''waste material'' means the material resulting from mineral activities involving beneficiation, including but not limited to tailings, and such material resulting from mineral activities involving processing, to the extent such material is not subject to subtitle C of the Resource Conservation and Recovery Act of 1976 or the Uranium Mill Tailings Radiation Control Act.

(5) The term ''ore piles'' means ore stockpiled for beneficiation prior to the completion of mineral activities and reclamation.

(6) The term ''subgrade ore'' means ore that is too low in grade to be of economic value at the time of extraction but which could reasonably be economical in the foreseeable future.

(7) The term ''excess spoil'' means spoil material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

(8) The term ''excess waste'' means waste material that may be excess of the amount necessary to comply with the requirements of subsection (m)(3).

SEC. 202. INSPECTION AND ENFORCEMENT.

(a) INSPECTIONS AND MONITORING.—(1) The Secretary shall make such inspections of mineral activities so as to ensure compliance with the surface management requirements. The Secretary shall establish a frequency of inspections for mineral activities conducted under an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter or two complete inspections annually for a plan of operations for which the Secretary approves an application under section 201(j).

(2)(A) Any person who has reason to believe they are or may be adversely affected by mineral activities due to any violation of the surface management requirements may request an inspection. The Secretary shall determine within 10 days of receipt of the request whether the request states a reason to believe that a violation exists, except in the event the person alleges and provides reason to believe that an imminent danger as provided by subsection (b)(2) exists, the 10-day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the person filing the complaint and such person shall be allowed to accompany the inspector during the inspection. The identity of the person supplying information to the Secretary relating to a possible violation or imminent danger or harm shall remain confidential with the Secretary if so requested by that person, unless that person elects to accompany an inspector on the inspection.

(B) The Secretary shall, by regulation, establish procedures for the review of any decision by his authorized representative not to inspect or by a refusal by such representative to ensure remedial actions are taken the respect to any alleged violation. The Secretary shall furnish such persons requesting the review a written statement of the reasons for the Secretary's final disposition of the case.

(3)(A) The Secretary shall require all operators to develop and maintain a monitoring and evaluation system which shall be capable of identifying compliance with all surface management requirements.

(B) Monitoring shall be conducted as close as technically feasible to the mineral activity or reclamation involved, and in all cases the monitoring shall be conducted within the area affected by mineral activities and reclamation.

(C) The point of compliance shall be as close to the mineral activity involved as is technically feasible, but in any event shall be located to comply with applicable State and Federal standards. In no event shall the point of compliance be outside the area affected by mineral activities and reclamation.

(D) The operator shall file reports with the Secretary on a quarterly basis on the results of the monitoring and evaluation process except that if the monitoring and evaluation show a violation of the surface management requirements, it shall be reported immediately to the Secretary.

(E) The Secretary shall determine what information must be reported by the operator

pursuant to subparagraph (B). A failure to report as required by the Secretary shall constitute a violation of this Act and subject the operator to enforcement action pursuant to this section.

(F) The Secretary shall evaluate the reports submitted pursuant to this paragraph, and based on those reports and any necessary inspection shall take enforcement action pursuant to this section.

(b) ENFORCEMENT.—(1) If the Secretary or authorized representative determines, on the basis of an inspection that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of any surface management requirement, the Secretary or authorized representative shall issue a notice of violation to the operator or person describing the violation and the corrective measures to be taken. The Secretary or authorized representative shall provide such operator or person with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

(2) If the Secretary or authorized representative determines, on the basis of an inspection, that any condition or practice exists, or that an operator, or any person conducting mineral activities under section 201(b)(2), is in violation of the surface management requirements, and such condition, practice or violation is causing, or can reasonably be expected to cause—

(A) an imminent danger to the health or safety of the public; or

(B) significant, imminent environmental harm to land, air or water resources;

the Secretary or authorized representative shall immediately order a cessation of mineral activities or the portion thereof relevant to the condition, practice or violation.

(3)(A) a cession order by the Secretary or authorized representative pursuant to paragraphs (1) or (2) shall remain in effect until the Secretary or authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or authorized representative. In any such order, the Secretary or authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

(B) Any notice or order issued pursuant to paragraphs (1) or (2) may be modified, vacated or terminated by the Secretary or authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record pursuant to subsection (f).

(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

(5) In the event an operator, or person conducting mineral activities under section 201(b)(2), is unable to abate a violation or defaults on the terms of the plan of operation the Secretary shall forfeit the financial assurance for the plan of operations if necessary to ensure abatement and reclamation under this Act.

(6) The Secretary shall not forfeit the financial assurance while a review is pending pursuant to subsections (f) and (g).

(c) COMPLIANCE.—(1) The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator, or person conducting mineral activities under section 201(b)(2):

(A) violates, fails or refuses to comply with any order issued by the Secretary under subsection (b); or

(B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (a). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for review of such order under subsections (f) and (g), unless the district court granting such relief sets it aside or modifies it.

(2) Notwithstanding any other provision of law, the Secretary shall utilize enforcement personnel from the Office of Surface Mining Reclamation and Enforcement to augment personnel of the Bureau of Land Management and the Forest Service to ensure compliance with the surface management requirements, and inspection requirements of subsection (a). The Bureau of Land Management and the Forest Service shall each enter into a memorandum of understanding with the Office of Surface Mining Reclamation and Enforcement for this purpose.

(d) PENALTIES.—(1) Any operator, or person conducting mineral activities under section 201(b)(2), who fails to comply with the surface management requirements shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing under subsection (f).

(2) An operator, or person conducting mineral activities under section 201(b)(2), who fails to correct a violation for which a cessation order has been issued under subsection (b) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

(3) Whenever a corporation is in violation of the surface management requirements or fails or refuses to comply with an order issued under subsection (b), any director, officer or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same penalties that may be imposed upon an operator under paragraph (1).

(e) CITIZEN SUITS.—(1) Except as provided under paragraph (2), any person having an interest which is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance—

(A) against the Secretary where there is alleged a violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(B) against any other person alleged to be in violation of any of the provisions of this Act or any regulation promulgated pursuant to this Act or terms and conditions of any plan of operations approved pursuant to this Act;

(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act or any regulation promulgated pursuant to this Act which is not within the discretion of the Secretary; or

(D) against the Secretary where it is alleged that the Secretary acts arbitrarily or capriciously or in a manner inconsistent with this Act or any regulation promulgated pursuant to this Act. The United States district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties. (2) No action may be commenced except as follows:

(A) Under paragraph (1)(A) prior to 60 days after the plaintiff has given notice in writing of such alleged violation to the Secretary, or to the person alleged to be in violation; except no action may be commenced against any person alleged to be in violation if the Secretary has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this title (but in any such action in a court of the United States the person making the allegation may intervene as a matter of right.)

(B) Under paragraph (1)(B) prior to 60 days after the plaintiff has given notice in writing of such action to the Secretary, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the environment or to the health or safety of the public or would immediately affect a legal interest of the plaintiff.

(3) Venue of all actions brought under this subsection shall be determined in accordance with title 28 U.S.C. 1391(a).

(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) may award costs of litigation (including attorney and expert witness fees) to any party whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, including relief against the Secretary.

(f) REVIEW BY SECRETARY.—(1)(A) Any, operator, or person conducting mineral activities under section 201(b)(2), issued a notice of violation or cessation order under subsection (b), or any person having an interest which is or may be adversely affected by such decisions, notice or order, may apply to the Secretary for review of the notice or order within 30 days of receipt thereof, or as the case may be, within 30 days of such notice or order being modified, vacated or terminated.

(B) Any operator, or person conducting mineral activities under section 201(b)(2), who is subject to a penalty under subsection (d) or section 105 may apply to the Secretary for review of the assessment within 30 days of notification of such penalty.

(C) Any person having an interest which is or may be adversely affected by a decision made by the Secretary under subsections (g), (h), (i), (j), and (l) of section 201, or subsection 202(a)(2), or subsection 204(g), may apply to the Secretary for review of the decision within 30 days after it is made.

(2) The Secretary shall provide an opportunity for a public hearing at the request of any party. Any hearing conducted pursuant

to this subsection shall be on record and shall be subject to section 554 of title 5 of the United States Code. The filing of an application for review under this subsection shall not operate as a stay on any order or notice issued under subsection (b).

(3) Following the hearing referred to in paragraph (2), if requested, but in any event the Secretary shall make findings of fact and shall issue a written decision incorporating therein an order vacating, affirming, modifying or terminating the notice, order or decision, or with respect to an assessment, the amount of penalty that is warranted. Where the application for review concerns a cessation order issued under subsection (b), the Secretary shall issue the written decision within 30 days of the receipt of the application for review, unless temporary relief has been granted by the Secretary under paragraph (4).

(4) Pending completion of any proceedings under this subsection, the applicant may file with the Secretary a written request that the Secretary grant temporary relief from any order issued under subsection (b) together with a detailed statement giving reasons for such relief. The Secretary shall expeditiously issue an order or decision granting or denying such relief. The Secretary may grant such relief under such conditions as he may prescribe only if such relief shall not adversely affected the health or safety of the public or cause significant, imminent environmental harm to lad, air or water resources.

(5) The availability of review under this subsection shall not be construed to limit the operation of rights established under subsection (e).

(g) JUDICIAL REVIEW.—(1) Any action by the Secretary in promulgating regulations to implement this Act, or any other actions constituting rulemaking by the Secretary to implement this Act, shall be subject to judicial review in the United States District of Columbia. Any action subject to judicial review under this subsection shall be affirmed unless the court concludes that such action is arbitrary, capricious, or otherwise inconsistent with law. A petition for review of any action subject to judicial review under this subsection shall be filed in the United States District Court for the District of Columbia within 60 days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such petition may be made by any person who commented or otherwise participated in the rulemaking or who may be adversely affected by the action of the Secretary.

(2) Final agency action under this Act, including such final action on those matters described under subsection (f), shall be subject to judicial review in accordance with paragraph (4) and pursuant to 28 U.S.C. 1391(a) of the United States Code on or before 60 days from the date of such final action.

(3) The availability of judicial review established in this subsection shall not be construed to limit the operations of rights established under subsection (e).

(4) The court shall hear any petition or complaint filed under this subsection solely on the record made before the Secretary. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(5) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

(h) PROCEEDINGS.—Whenever a proceeding occurs under subsection (a), (f), or (g), or under section 201, or under section 204(g), at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary or the court to have been reasonably incurred by such person for or in connection with participation in such proceedings, including any judicial review of the proceeding, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

SEC. 203. STATE LAW AND REGULATION.

(a) STATE LAW.—(1) Any reclamation standard or requirement in State law or regulation that meets or exceeds the requirements of subsections (m) and (n) of section 201 shall not be construed to be inconsistent with any such standard.

(2) Any bonding standard or requirement in State law or regulation that meets or exceeds the requirements of section 201(1) shall not be construed to be inconsistent with such requirements.

(3) Any inspection standard or requirement in State law or regulation that meets or exceeds the requirements of section 202 shall not be construed to be inconsistent with such requirements.

(b) APPLICABILITY OF OTHER STATE REQUIREMENTS.—(1) Nothing in this Act shall be construed as affecting any air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act.

(2) Nothing in this Act shall be construed as affecting in any way the right of any person or enforce or protect, under applicable law, such person's interest in water resources affected by mineral activities on lands subject to this Act.

(c) COOPERATIVE AGREEMENTS.—(1) Any State may enter into a cooperative agreement with the Secretary for the purposes of the Secretary applying such standards and requirements referred to in subsection (a) and subsection (b) to mineral activities or reclamation on lands subject to this Act.

(2) In such instances where the proposed mineral activities would affect lands not subject to this Act in addition to lands subject to this Act, in order to approve a plan of operations the Secretary shall enter into a cooperative agreement with the State that sets forth a common regulatory framework consistent with the surface management requirements of this Act for the purposes of such plan of operations.

(3) The Secretary shall not enter into a cooperative agreement with any State under this section until after notice in the Federal Register and opportunity for public comment.

(d) PRIOR AGREEMENTS.—Any cooperative agreement or such other understanding between the Secretary and any State, or political subdivision thereof, relating to the surface management of mineral activities on lands subject to this Act that was in existence on the date of enactment of this Act may only continue in force until the effective date of this Act, after which time the terms and conditions of any such agreement or understanding shall only be applicable to plans of operations approved by the Secretary prior to the effective date of this Act except as provided under section 405.

(e) DELEGATION.—The Secretary shall not delegate to any State, or political subdivision thereof, the Secretary's authorities, duties and obligations under this Act, including with respect to any cooperative agreements entered into under this section.

SEC. 204. UNSUITABILITY REVIEW.

(a) IN GENERAL.—The Secretary of the Interior in preparing land use plans under the Federal Land Policy and Management Act of 1976, and the Secretary of Agriculture in preparing land use plans under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, shall each conduct a review of lands that are subject to this Act in order to determine whether there are any areas which are unsuitable for all or certain types of mineral activities pursuant to the standards set forth under subsection (e). In the event such a determination is made, the review shall be included in the applicable land use plan.

(b) SPECIFIC AREAS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, on the basis of any information available, shall each publish a notice in the FEDERAL REGISTER identifying and listing the lands subject to this Act which are or may be determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). After opportunity for public comment and proposals for modifications to such listing, but not later than the effective date of this Act, each Secretary shall begin to review the lands identified pursuant to this subsection to determine whether such lands are unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e).

(c) LAND USE PLANS.—(1) At such time as the Secretary revises or amends a land use plan pursuant to the provisions of law other than this Act, the Secretary shall identify lands determined to be unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall incorporate such determinations in the applicable land use plans.

(c) If lands covered by a proposed plan of operations have not been reviewed pursuant to this section at the time of submission of a plan of operations, the Secretary shall, prior to the consideration of the proposed plan of operations, review the areas that would be affected by the proposed mineral activities to determine whether the area is unsuitable for all or certain types of mineral activities according to the standards set forth in subsection (e). The Secretary shall use such review in the next revision or amendment to the applicable land use plan to the extent necessary to reflect the unsuitability of such lands for all or certain types of mineral activities according to the standards set forth in subsection (e).

(3) This section does not require land use plans to be amended until such plans are adopted, revised, or amended pursuant to provisions of law other than this Act.

(d) EFFECT OF DETERMINATION.—(1) If the Secretary determines an area to be unsuitable under this section for all or certain types of mineral activities, he shall do one of the following:

(A) In any instance where a determination is made that an area is unsuitable for all types of mineral activities, the Secretary of the Interior, with the consent of the Secretary of Agriculture for lands under the jurisdiction of the Secretary of Agriculture, shall withdraw such area pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(B) In any instance where a determination is made that an area is unsuitable for certain types of mineral activities, the Secretary shall take appropriate steps to limit or prohibit such types of mineral activities. (2) Nothing in this section may be construed as affecting lands where mineral activities under approved plans of operations or under notice (as provided for in the regulations of the Secretary of the Interior in effect prior to the effective date of this Act relating to

operations that cause a cumulative disturbance of five acres or less) were being conducted on the effective date of this Act, except as provided under subsection (g).

(3) Nothing in this section may be construed as prohibiting mineral activities not subject to paragraph (2) where substantial legal and financial commitments in such mineral activities were in existence on the effective date of this Act, but nothing in this section may be construed as limiting any existing authority of the Secretary to regulate such activities.

(4) Any unsuitability determination under this section shall not prevent the types of mineral activities referred to in section 201(b)(2)(A), but nothing in this section shall be construed as authorizing such activities in areas withdrawn pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714).

(e) REVIEW STANDARDS.—(1) An area containing lands that are subject to this Act shall be determined to be unsuitable for all or certain types of mineral activities if the Secretary determines, after notice and opportunity for public comment, that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities would substantially impair water quality or supplies within the area subject to the mining plan or adjacent lands, such as impacts on aquifers and aquifer recharge areas;

(B) such mineral activities would occur on areas of unstable geology that could if undertaken substantially endanger life and property;

(C) such mineral activities would adversely affect publicly-owned places which are listed on or are eligible for listing on the National Register of Historic Places, unless the Secretary and the State approve all or certain mineral activities, in which case the area shall not be determined to be unsuitable for such approved mineral activities;

(D) such mineral activities would cause loss of or damage to riparian areas;

(E) such mineral activities would impair the productivity of the land subject to such mineral activities;

(F) such mineral activities would adversely affect candidate species for threatened and endangered species status; or

(G) such mineral activities would adversely affect lands designated as National Wildlife Refuges.

(2) An area may be determined to be unsuitable for all or certain mineral activities if the Secretary, after notice and opportunity for public comment, determines that reclamation pursuant to the standards set forth in subsections (m) and (n) of section 201 would not be technologically and economically feasible for any such mineral activities in such area and where—

(A) such mineral activities could result in significant damage to important historic, cultural, scientific, and aesthetic values or to natural systems;

(B) such mineral activities could adversely affect lands of outstanding aesthetic qualities and scenic Federal lands designated as Class I under section 162 of the Clean Air Act (42 U.S.C. 7401 and following);

(C) such mineral activities could adversely affect lands which are high priority habitat for migratory bird species or other important fish and wildlife species as determined by the Secretary in consultation with the Director of the Fish and Wildlife Service and the appropriate agency head for the State in which the lands are located;

(D) such mineral activities could adversely affect lands which include wetlands if mineral activities would result in loss of wetland values;

(E) such mineral activities could adversely affect National Conservation System units; or

(F) such mineral activities could adversely affect lands containing other resource values as the Secretary may consider.

(f) WITHDRAWAL REVIEW.—In conjunction with conducting an unsuitability review under this section, the Secretary shall review all administrative withdrawals of land from the location of mining claims to determine whether the revocation or modification of such withdrawal for the purpose of allowing such lands to be opened to the location of mining claims under this Act would be appropriate as a result of any of the following:

(1) The imposition of any conditions referred to in subsection (d)(1)(B).

(2) The surface management requirements of section 201.(3) the limitation of section 107.

(g) CITIZEN PETITION.—(1) In any instance where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), any person having an interest that may be adversely affected by potential mineral activities on lands subject to this Act covered by such plan shall have the right to petition the Secretary to determine such lands to be unsuitable for all or certain types of mineral activities. Such petition shall contain allegations of fact with respect to potential mineral activities and with respect to the unsuitability of such lands for all or certain mineral activities according to the standards set forth in subsection (e) with supporting evidence that would tend to establish the allegations.

(2) Petitions received prior to the date of the submission of a proposed plan of operation under this Act, shall stay consideration of the proposed plan of operations pending review of the petition.

(3) Within 4 months after receipt of a petition to determine lands to be unsuitable for all or certain types of mining in areas where a land use plan has not been amended or completed to reflect the review referred to in subsection (a), the Secretary shall hold a public hearing on the petition in the locality of the area in question. After a petition has been filed and prior to the public hearing, any person may support or oppose the determination sought by the petition by filing written allegations of facts and supporting evidence.

(4) Within 60 days after a public hearing held pursuant to paragraph (3), the Secretary shall issue a written decision regarding the petition which shall state the reasons for granting or denying the requested determination.

(5) Reviews conducted pursuant to this subsection shall be consistent with paragraphs (3) and (4) of subsection (d) and with subsection (a).

SEC. 205. LANDS NOT OPEN TO LOCATION.

(a) LANDS.—Subject to valid existing rights, each of the following shall not be open to the location of mining claims under this Act on the date of enactment of this Act:

(1) Lands recommended for wilderness designation by the agency managing the surface, pending a final determination by the Congress of the status of such lands.

(2) Lands being managed by the Bureau of Land Management as wilderness study areas on the date of enactment of this Act except where the location of mining claims is specifically allowed to continue by the statute designating the study area, pending a final determination by the Congress of the status of such lands.

(3) Lands within Wild and Scenic River System and lands under study for inclusion in such system, pending a final determination by the Congress of the status of such lands.

(4) Lands identified by the Bureau of Land Management as Areas of Critical Environmental Concern.

(5) Lands identified by the Secretary of Agriculture as Research Natural Areas.

(6) Lands designated by the Fish and Wildlife Service as critical habitat for threatened or endangered species.

(7) Lands administered by the Fish and Wildlife Service.

(8) Lands which the Secretary shall designate for withdrawal under authority of other law, including lands which the Secretary of Agriculture may propose for withdrawal by the Secretary of the Interior under authority of other law.

(b) DEFINITION.—As used in this section, the term ''valid existing rights'' means that a mining claim located on lands referred to in subsection (a) was property located and maintained under the general mining laws prior to the date of enactment of this Act, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

SEC. 301. ABANDONED MINERALS MINE RECLAMATION FUND.

(a) ESTABLISHMENT.—(1) There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals Mine Reclamation Fund (hereinafter in this title referred to as the ''Fund''). The Fund shall be administered by the Secretary of the Interior acting through the Director, Bureau of Land Management.

(2) The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the Fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the Fund.

(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

(1) All moneys received from the collection of rental fees under section 104 of this Act.

(2) Amounts collected pursuant to sections 105 and 202(d) of this Act.

(3) All moneys received from the disposal of mineral materials pursuant to section 3 of the Materials Act of 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

(4) Donations by persons, corporations, associations, and foundations for the purposes of this title. (5) Amounts referred to in section 410(e)(1) of this Act.

SEC. 302. USE AND OBJECTIVES OF THE FUND.

(a) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral (other than coal and fluid minerals) and mineral material mining, including but not limited to, any of the following:

(1) Reclamation and restoration of abandoned surface mined areas.

(2) Reclamation and restoration of abandoned milling and processing areas.

(3) Sealing, filling, and grading abandoned deep mine entries.

(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

(5) Prevention, abatement, treatment and control of water pollution created by abandoned mine drainage.

(6) Control of surface subsidence due to abandoned deep mines.

(7) Such expenses as may be necessary to accomplish the purposes of this title.

(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

SEC. 303. ELIGIBLE AREAS.

(a) ELIGIBILITY.—Lands and waters eligible for reclamation expenditures under this Act shall be those within the boundaries of States that have lands subject to this Act and the Materials Act of 1947—

(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this title; and

(2) for which the Secretary makes a determination that there is no continuing reclamation responsibility under State or Federal laws; and

(3) for which it can be established that such lands do not contain minerals which could economically be extracted through the reprocessing or remining of such lands, unless such consideration are in conflict with the priorities set forth under paragraphs (1) and (2) of section 302(b).

In determining the eligibility under this subsection of Federal lands and waters under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this title.

SEC. 304. FUND ALLOCATION AND EXPENDITURES.

(a) ALLOCATIONS.—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this title.

(2) The Secretary shall distribute moneys from the Fund based on the greatest need for such moneys pursuant to the priorities stated in section 302(b).

(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the Secretary determines that the purposes of this title may best be accomplished otherwise, moneys available from the Fund may be expended directly by the Director, Bureau of Land Management. The Director may also make such money available through grants made to the Chief of the United States Forest Service, the Director of the National Park Service, and any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program, or through cooperative agreements between eligible States and the entities referred to in this subsection.

SEC. 305. STATE RECLAMATION PROGRAMS.

(a) ELIGIBLE STATES.—For the purposes of section 304(a), ''eligible States'' are those States for which the Secretary determines meets each of the following requirements:

(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 303.

(2) The State has developed an inventory of such areas following the priorities established under section 302(b).

(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle.

(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this title.

(c) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals mine reclamation program submitted to the Secretary by a State under this title if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this title and the regulations of the Secretary under this title.

(2) No State, or a contractor for such State engaged in approved reclamation work under this title, or a public entity referred to in section 304(b), shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

Amounts credited to the Fund are authorized to be appropriated for the purpose of this title without fiscal year limitation.

TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 401. POLICY FUNCTIONS.

(a) MINERALS POLICY.—The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by adding at the end thereof the following: ''It shall also be the responsibility of the Secretary of Agriculture to carry out the policy provisions of paragraphs (1) and (2) of this Act.''.

(b) MINERAL DATA.—Section 5(e)(3) of the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1604) is amended by inserting before the period the following: '', except that for National Forest System lands the Secretary of Agriculture shall promptly initiate actions to improve the availability and analysis of mineral data in Federal land use decisionmaking''.

SEC. 402. USER FEES.

The Secretaries of Interior and Agriculture are authorized to establish and collect from persons subject to the requirements of this Act such user fees as may be necessary to reimburse the United States for a portion of the expenses incurred in administering such requirements. Fees may be assessed and collected under this section only in such manner as may reasonably be expected to result in an aggregate amount of the fees collected during any fiscal year which does not exceed the aggregate amount of administrative expenses referred to in this section.

SEC. 403. REGULATIONS; EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act shall take effect 1 year after the date of enactment of this Act, except as otherwise provided in this Act.

(b) REGULATIONS.—(1) The Secretary of the Interior shall issue final regulations to implement title I, such requirements of section 402 and 409 as may be applicable to such title, title III and sections 404, 406, and 407 not later than the effective date of this Act specified in subsection (a).

(2) The Secretary of the Interior and the Secretary of Agriculture shall each issue final regulations to implement their respective responsibilities under title II, such requirements of section 402 as may be applicable to such title, and sections 405 and 409 not later than the effective date of this Act referred to in subsection (a). The Secretary of the Interior and the Secretary of Agriculture shall coordinate the promulgation of such regulations.

(3) Failure to promulgate the regulations specified in this subsection by the effective date of this Act by reason of any appeal or judicial review shall not delay the effective date of this Act as specified in subsection (a).

(c) NOTICE.—Within 60 days after the publication of regulations referred to in subsection (b)(1), the Secretary of the Interior shall give notice to holders of mining claims and mill sites maintained under the general mining laws as to the requirements of section 404. Procedures for providing such notice shall be established as part of the regulations.

(d) NEW MINING CLAIMS.—Notwithstanding any other provision of law, after the effective date of this Act, a mining claim for a locatable mineral on lands subject to this Act—

(1) may be located only in accordance with this Act,

(2) may be maintained only as provided in this Act, and

(3) shall be subject to the requirements of this Act.

SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL SITES.

(a) CLAIMS UNDER THE GENERAL MINING LAWS.—(1) CONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mining claim which was located under the general mining laws before the effective date of this Act may elect to convert the claim under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that claim in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), (f), and (h) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). Once a mining claim has been converted, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(2) UNCONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, any claim referred to in paragraph (1) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(3) CONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, within the 3-year period after the effective date of this Act, the holder of any unpatented mill site which was located under the general mining laws before the effective date of this Act may elect to convert the site under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that mill site in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), and (f) of the section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). A mill site converted under this paragraph shall be deemed a mining claim under this Act.

(4) UNCONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, any mill site referred to in paragraph (3) that has not converted within the 3-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(5) TUNNEL SITES.—Any tunnel site located under the general mining laws on or before the effective date of this Act shall not be recognized as valid unless converted pursuant to paragraph (1). No tunnel sites may be located under the general mining laws after the effective date of this Act.

(b) SPECIAL APPLICATION OF REQUIREMENTS.—For mining claims and mill sites converted under this section each of the following shall apply:

(1) For the purposes of complying with the requirements of section 103(d)(2), whenever the Secretary receives an election under paragraphs (1) or (3) of subsection (a), as the case maybe, he shall provide the certificate referenced in section 103(d)(2) to the holder of the mining claim or mill site.

(2) The first diligence year applicable to mining claims and mill sites converted under this section shall commence on the first day of the first month following the date the holder of such claim or mill site files an election to convert with the Secretary under paragraphs (1) or (3) of subsection (a), as the case may be, and subsequent diligence years shall commence on the first day of that month each year thereafter.

(3) For the purposes of determining the boundaries of a mining claim to which the rental requirements of section 104 apply for a mining claim or mill site converted under this section, the rental fee shall be paid on the basis of land within the boundaries of the converted mining claim or mill site as described in the notice of location or certificate of location filed under section 314 of the Federal Land Policy and Management Act of 1976.

(c) PRECONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) during the 3-year period referred to in subsections (a)(1) or (a)(3).

(d) POSTCONVERSION.—Any unpatented mining claim or mill site located under the general mining laws shall be deemed to be a prior claim for the purposes of section 103(e) if converted pursuant to subsections (a)(1) or (a)(3).

(e) DISPOSITION OF LAND.—In the event a mining claim is located under this Act for lands encumbered by a prior mining claim or mill site located under the general mining laws, such lands shall become part of the claim located under this Act if the claim or mill site located under the general mining laws is declared null and void under this section or otherwise becomes null and void thereafter.

(f) PREACT CONFLICTS.—(1) Any conflicts in existence on or before the date of enactment of this Act between holders of mining claims located under the general mining laws may be resolved in accordance with applicable laws governing such conflicts in effect on the date of enactment of this Act in a court with proper jurisdiction.

(2) Any conflicts not relating to matters provided for under section 103(g) between the holders of a mining claim located under this Act and a mining claim or mill located under the general mining laws arising either before or after the conversion of any such claim or site under this section shall be resolved in a court with proper jurisdiction.

SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT REQUIREMENTS.

(a) NEW CLAIMS.—Notwithstanding any other provision of law, any mining claim for a locatable mineral on lands subject to this Act located after the date of enactment of this Act, but prior to the effective date of this Act, shall be subject to such surface management requirements as may be applicable to the mining claim in effect prior to the date of enactment of this Act until the effective date of this Act, at which time such claim shall be subject to the requirements of title II.

(b) PREEXISTING CLAIMS.—Notwithstanding any other provision of law, any unpatented mining claim or mill site located under the general mining laws shall be subject to the requirements of title II as follows:

(1) In the event a plan of operations had not been approved for mineral activities on any such claim or site prior to the effective date of this Act, the claim or site shall be subject to the requirements of title II upon the effective date of this Act.

(2) In the event a plan of operations had been approved for mineral activities on any such claim or site prior to the effective date of this Act, such plan of operations shall continue in force for a period of 5 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such plan of operations shall apply for a modification under section 201(i). During such 5-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such plans of operations prior to the effective date of this Act.

(3) In the event a notice had been filed with the authorized officer in the applicable district office of the Bureau of Land Management (as provided for in the regulations of the Secretary of the Interior in effect prior to the date of enactment of this Act relating to operations that cause a cumulative disturbance of five acres or less) prior to the date of enactment of this Act, mineral activities may continue under such notice for a period of 2 years after the effective date of this Act, after which time the requirements of title II shall apply, except as provided under subsection (c), subject to the limitations of section 204(d)(2). In order to meet the requirements of section 201, the person conducting mineral activities under such notice must apply for a modification under section 201(i) unless such mineral activities are conducted pursuant to section 201(b)(2). During such 2-year period the provisions of section 202 shall apply on the basis of the surface management requirements applicable to such notices prior to the effective date of this Act.

(4) In the event a notice (as described in paragraph (3)) had not been filed with the authorized officer in the applicable district office of the Bureau of Land Management prior to the date of enactment of this Act, the claim or site shall be subject to the surface management requirements in effect prior to the effective date of this Act at which time such claims shall be subject to the requirements of title II.

SEC. 406. BASIS FOR CONTEST.

(a) DISCOVERY.—After the effective date of this Act, a mining claim may not be contested or challenged on the basis of discovery under the general mining laws, except as follows:

(1) Any claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim is located within units of the National Park System, National Wildlife Refuge System, National Wilderness Preservation System, Wild and Scenic Rivers System, National Trails System, or National Recreation Areas designated by an Act of Congress, or within an area referred to in section 205 pending a final determination referenced in such section.

(2) Any mining claim located on or before the effective date of this Act may be contested by the United States on the basis of discovery under the general mining laws as in effect prior to the effective date of this Act if such claim was located for a mineral material that purportedly has a property giving it distinct and special value within the meaning of section 3(a) of the Act of July 23, 1955, or if such claim was located for a mineral that was not locatable under the general mining laws on or before the effective date of this Act.

(b) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may initiate contest proceedings against those mining claims referred to in subsection (a) at any time, except that nothing in this section may be construed as requiring the Secretary to inquire into or contest the validity of a mining claim for the purpose of the conversion referred to in section 404.

(c) Nothing in this section may be construed as limiting any contest proceedings initiated by the United States under this section on issues other than discovery.

SEC. 407. SAVINGS CLAUSE CLAIMS.

(a) Notwithstanding any other provision of law, except as provided under subsection (b), an unpatented mining claim referred to in section 37 of the Mineral Leasing Act (30 U.S.C. 193) may not be converted under section 404 until the Secretary of the Interior determines the claim was valid on the date of enactment of the Mineral Leasing Act and has been maintained in compliance with the general mining laws.

(b) Immediately after the date of enactment of this Act, the Secretary of the Interior shall initiate contest proceedings challenging the validity of all unpatented claims referred to in subsection (a), including those claims for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void.

(c) No claim referred to in subsection (a) shall be declared null and void under section 404 during the period such claim is subject to a proceeding under subsection (b). If, as a result of such proceeding, a claim is determined valid, the holder of such claim may comply with the requirements of section 404(a)(1), except that the 3-year period referred to in such section shall commence with the date of the completion of the contest proceeding.

SEC. 408. SEVERABILITY.

If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and

the application of such provisions to other persons or circumstances shall not be affected thereby.

SEC. 409. PURCHASING POWER ADJUSTMENT.

The Secretary shall adjust all rental rates, penalty amounts, and other dollar amounts established in this Act for changes in the purchasing power of the dollar every 10 years following the date of enactment of this Act, employing the Consumer Price Index for all urban consumers published by the Department of Labor as the basis for adjustment, and rounding according to the adjustment process of conditions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (104 Stat. 890).

SEC. 410. ROYALTY.

(a) RESERVATION OF ROYALTY.—Production of locatable minerals (including associated minerals) from any mining claim located or converted under this Act, or mineral concentrates derived from locatable minerals produced from any mining claim located or converted under this Act, as the case may be, shall be subject to a royalty of not less than 8 percent of the gross income from the production of such locatable minerals or concentrates, as the case may be.

(b) ROYALTY PAYMENTS.—Royalty payments shall be made to the United States not later than 30 days after the end of the month in which the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry.

(c) REPORTING REQUIREMENTS.—All persons holding claims under this Act shall be required to provide such information as determined necessary by the Secretary to ensure compliance with this section, including, but not limited to, quarterly reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating the quantity, quality, and amount of all minerals extracted from the mining claim.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all persons holding claims under this Act as he deems necessary for the purposes of ensuring compliance with the requirements of this section.

(e) DISPOSITION OF RECEIPTS.—All receipts from royalties collected pursuant to this section shall be distributed as follows—

(1) 50 percent shall be deposited into the Fund referred to in title III;

(2) 25 percent collected in any State shall be paid to the State in the same manner as are payments to States under section 35 of the Mineral Leasing Act; and (3) 25 percent shall be deposited into the Treasury of the United States.

(f) COMPLIANCE.—Any person holding claims under this Act who knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading information required by this section, or fails or refuses to submit such information, shall be subject to the enforcement provisions of section 202 of this Act and forfeiture of the claim.

(g) REGULATIONS.—The Secretary shall promulgate regulations to establish gross income for royalty purposes under subsection (a) and to ensure compliance with this section.

(h) REPORT.—The Secretary shall submit to the Congress an annual report on the implementation of this section. The information to be included in the report shall include, but not be limited to, aggregate and State-by-State production data, and projections of mid-term and long-term hard rock mineral production and trends on public lands.

SEC. 411. SAVINGS CLAUSE

(a) SPECIAL APPLICATION OF MINING LAWS.—Nothing in this Act shall be construed as repealing or modifying any Federal law, regulation, order or land use plan, in effect prior to the effective date of this Act that prohibits or restricts the application of the general mining laws, including such laws that provide for special management criteria for operations under the general mining laws as in effect prior to the effective date of this Act, to the extent such laws provide environmental protection greater than required under this title.

(b) OTHER FEDERAL LAWS.—Nothing in this Act shall be construed as superseding, modifying, amending or repealing any provision of Federal law not expressly superseded, modified, amended or repealed by this Act, including but not necessarily limited to, all of the following laws—

(1) the Clean Water Act (33 U.S.C. 1251 and following);

(2) the Clean Air Act (42 U.S.C. 7401 and following);

(3) title IX of the Public Health Service Act (the Safe Drinking Water Act (42 U.S.C. 300f and following));

(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 and following);

(5) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following);

(6) the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(7) The Uranium Mill Tailing Radiation Control Act (42 U.S.C. 7901 to 7942);

(8) the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 and following);

(9) the Solid Waste Disposal Act (42 U.S.C. 6901 and following);

(10) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following);

(11) the Act commonly known as the False Claims Act (31 U.S.C. 3729 to 3731);

(12) the National Historic Preservation Act (16 U.S.C. 470 and following);

(13) the Migratory Bird Treaty Act (16 U.S.C. 706 and following); and

(14) the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976.

(c) PROTECTION OF CONSERVATION AREAS.—In order to protect the resources and values of Denali National Park and Preserve, and all other National Conservation System units, the Secretary of the Interior or other appropriate Secretary shall utilize authority under this Act and other applicable law to the fullest extent necessary to prevent mineral activities within the boundaries of such units that could have an adverse impact on the resources of values of such units.

SEC. 412. AVAILABILITY OF PUBLIC RECORDS.

Copies of records, reports, inspection materials or information obtained by the Secretary under this Act shall be made immediately available to the public, consistent with section 552 of title 5 of the United States Code, in central and sufficient locations in the county, multicounty, and State area of mineral activity or reclamation so that such items are conveniently available to residents in the area proposed or approved for mineral activities or reclamation.

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

Mr. BENNETT. Mr. President, I come to the floor to talk about another matter, but I must respond to my friend from Arkansas—and he is, indeed, my friend—and say to him that I would be happy to cosponsor with him a bill that will call for royalty on mining claims. However, we have one slight disagreement about the definition of royalty. My friend from Arkansas wants a royalty on gross revenues, where I am willing to give him a royalty on net revenues.

I know the arguments about that and the answers about that. People say, ''Oh, the bookkeepers will juggle the books in such a way as to guarantee there are no net revenues; therefore, royalty on net will not produce anything of value.''

Royalty on gross, however, has the same impact as a decrease in price. Coming from the State of Utah, where we have had direct experience with what happens when there is a decrease in price in hardrock mining minerals, I know how devastating that can be to the economy.

One of the largest employers in my State is Kennecott, with the largest open-pit copper mine in the world. When the price of copper fell below a certain level—and I will be happy to supply that for the RECORD later on if Senators are interested—Kennecott continued to produce even though they were producing at a loss. They did this because they wanted to maintain their position in the world and maintain their market share.

After awhile, however, they could not continue to do that, and ultimately they shut down. The impact on the economy of the State of Utah, and particularly of the Salt Lake area, was devastating. Kennecott was employing about 5,000 people. Kennecott was buying equipment from suppliers all over the valley that were employing thousands more. Kennecott no longer paid any State income taxes. Certainly, they were not paying any Federal income taxes. And their employees who were out of work were not paying State or Federal income taxes, but many of them were drawing unemployment compensation.

Kennecott was idle for several years until the price of copper went back up. And when the price of copper went back up, Kennecott said we are going to reopen the Kennecott mine. It was a great day for the State of Utah and for the city of Salt Lake when Kennecott reopened. They started rehiring again. They did not hire all 5,000 back; they had modern mining techniques, and they only hired 2,500. Even so, 2,500 good-paying jobs in Utah were most welcome. As long as the price of copper stays up, those jobs will be there and Kennecott will continue to supply that which we need in the economy there.

A gross royalty, as I said, Mr. President, is exactly the same thing as a price cut. If you put a gross royalty of 6 percent on the price of copper, that is exactly the same thing as cutting the price of copper 6 percent. If you say, no, we will do a 3-percent royalty, that is exactly the same thing as cutting the price of copper 3 percent. Can the company afford to pay it? If the price of copper is sufficiently high on the world market, absolutely, no problem. But what happens if the price of copper starts to fall and that margin is the difference, that gross royalty is the difference between a price the company

can survive at and a price the company has to close down at? The end result you know, Mr. President; the company shuts down.

So I am willing to endorse the idea of changing the 1872 mining law. I am willing to join with my friend from Arkansas in writing a change to that law and putting in a royalty for the Federal Government on these minerals. But I want it to be a net royalty rather than a gross royalty so that it does not produce the result of lowering the world price of the commodity for that particular producer.

Let us take two mines, both of them mythical, but they will illustrate the point. In mine A, they are mining gold with a bulldozer. That is how we mine copper, by the way, at the Kennecott copper mine. We mine it with a bulldozer. It is an open pit copper mine, and they just bulldoze the material into the crushers and ultimately into the separators, and ultimately they get the copper.

In mine B, they have to build shafts. They are mining with all kinds of challenges and difficulties finding the vein of gold. In mine A, the cost of mining the gold —again, picking a number out of the air, but these are theoretical mines—in mine A, the gold is selling for $380 an ounce. Their cost of producing it is about $100 an ounce. They have a gross margin of $280 an ounce on that gold. Mine B gold is selling for $380 an ounce. Their cost of producing it is $350 an ounce. They have a margin of $30.

If you come along and put a gross royalty on gold, mine A is not going to pay any attention to that cost at all. Good Heavens, they are earning $230 an ounce. An extra $30 off of that, they are still going to earn $200 an ounce. No problem. They can pay the royalty, not be concerned about it, go on their way, produce gold. But in mine B, $30 an ounce gross royalty means they have to shut down. And when you go into a mining situation, you have to look at not only the price that is being earned on the world market, but you have to look at your cost of production. So if you had a net royalty, the kind that I am willing to support, you would say, in mine A, if the royalty, to pick a number to keep it easy for those of us who cannot calculate too fast, is 10 percent, mine A is going to pay you on that $230 gross margin $23 an ounce. Mine B is going to pay you $3 an ounce. But both mine A and mine B are going to be in business, and both of them are going to be hiring people, and both of them are going to be maintaining payrolls, and both of them are going to be generating income to the Federal Government.

This brings me to the second point where I have a disagreement with my friend from Arkansas when he says these fabulous finds that he describes produce not one penny to the Federal taxpayer. That is simply not so. If the mine is as productive as the Senator indicates that it will be, it produces income taxes from the profits of the company that gets the gold. It produces income taxes from the employees who are working there. It produces income taxes from the profits of the suppliers who produce the machinery and the power, the utilities, the rest of the things that go into making the mine work, and it produces income taxes from the wages of the employees of the suppliers. Indeed, the Federal Government gets an enormous amount of money out of a profitable business operation like a profitable gold mine, a profitable copper mine, a profitable palladium mine, whatever it is.

He wants to add to the amount of money the Federal Government is getting from that operation some more money in the form of a royalty. And as I say, I am willing to support that. The place where I part company with him is on whether the royalty should be on the gross or on the net.

As I have said, if it is on the gross, it represents a unilateral price cut for American operators that foreign operators do not have to absorb. If it is on the net, it represents an additional income tax, if you will, but I am perfectly willing to grant that additional income tax on the grounds that the land they are using is Federal land and there perhaps should be that additional tax.

As I talk to the miners in my State, they are willing to do that, too. There is no opposition now in the mining industry that I am aware of to a Federal royalty on Federal lands as long as it is a net royalty rather than a gross royalty.

As I said, Mr. President, I had not intended to speak about that when I came to the floor, but I always enjoy my friend from Arkansas. It comes as no surprise to him to know that I have heard this speech before, so I have thought some of these things through from previous recitations, and I am sure we will have the debate again as the Congress goes on. I commend him for his diligence. I commend him for his determination to see this thing through, and I hope that in the course of things maybe we can come to an agreement and ultimately resolve this because I am not one who insists we cannot ever, ever change the 1872 mining act.

I see the Senator is on his feet.

Mr. President, I ask unanimous consent that he be allowed to comment without my losing my right to the floor.

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

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. First of all, I wish to say that it is not just me saying it, and perhaps the Senator from Utah would not wish to have commendations from this side of the aisle, but I do want to say that my opinion of him is shared by my colleagues. It developed almost immediately when he came here. He is really one of the fine additions to the Senate. He came here in 1992, was elected in the same year I was reelected. I found him to be an extremely thoughtful, compassionate, truly dedicated public servant. We have worked together on two or three issues, most notably concessions contracts in the national parks. We have gotten along beautifully. He does not vote the way I tell him to all the time, that is my only objection. But I can tell you, he is a man of integrity and a man of intellect, and it pains me that we are on opposite sides of this issue.

I do want to make two or three points in partial rebuttal to what my good friend from Utah has just said.

First, upon the completion of exploration, mining companies generally have a good idea about the amount and type of minerals located at a particular site.

They make big investments to mine, nobody denies that. And they provide a lot of jobs. But let me tell you, looking for oil can be a lot riskier than looking for minerals. Oftentimes, oil companies will spend, in deep sea water, almost $1 billion to drill a well and sometimes hit a duster. Yet, we charge them, if they do happen to hit oil, 12.5 percent of the gross value of the oil they produce. And we charge nothing to the mining industry.

Second, the Senator said that he objected to gross royalties, which I am strongly supportive of. But the Senator's own home State of Utah charges a 4-percent gross royalty on any nonfissionable minerals taken from lands that belong to the State of Utah. And virtually every mining contractor in this country on private lands provides for either a gross royalty or a net smelter return, which is close to a gross royalty. So there is nothing new or unique about that. I would rather take a percentage point or two less in royalties then to go through all those convoluted methods that I have heard discussed in the Energy Committee.

Finally, while I am reluctant to use a personal analogy, my son and a partner went into the baking business approximately 12 years ago. They worked, I would say, 2 or 3 nights a week trying to perfect different recipes, different cooking times, different temperatures, everything—to make what they thought was a perfect product. Then they rented a restaurant that closed at 9 o'clock, and they baked until 1 o'clock in the morning and would go out the next day and sell the product on the streets.

Then they leased a little spot, and then they leased a bigger spot, and they leased a bigger spot, and 2 years ago they bought a big building. It has been growing by leaps and bounds. I guess they would normally have about 20 employees—during the Christmas season, maybe 30 to 35.

I guess that is just about the most graphic case I can think of, because it happens to be in the family, of somebody who went out and started a business, just as the Senator from Utah has

done. Nobody gave him a nickel to do anything. He took a big risk. And it looks as though it is going to be a very successful business.

My point is, nobody gets up on the floor of the Senate to defend the thousands and thousands of people like my son who never asked for anything and built a business. Do you know something else? He pays taxes. Do you know something else? His employees pay taxes. And nobody gets up on the floor of the Senate and says, ''Ain't this wonderful?'' It is only the mining industry, only the mining industry that you hear that argument made for.

Mr. President, I yield the floor.

Mr. BENNETT. I thank my friend. I remind him—remind is the wrong term—I tell him that I did stand on the floor and defend exactly the kind of businesses he just described during the debate last year over the President's economic package, and told stories similar to the one he has told, and demonstrated, I thought, how the devastation of the ''S'' corporation procedure that was contained in the President's plan would damage businesses like that.

I did not prevail on that occasion but I assure my colleague those kinds of presentations in defense of those businesses have been made. I have great admiration for his son. I also happen to like his son's cookies, which the Senator is kind enough to share with me from time to time. They are, indeed, a good product.

We can have this debate, and we will. My point is that there is more to this than simply the question of whether or not the taxpayers are being ripped off by giving away land. It is not that there are bars of gold sitting on the ground, waiting to be picked up and taken to Fort Knox and turned into cash. There are all kinds of processes that must be performed before the gold can be refined, before it can be sold. I say to the Senator, as he talks about the oil industry that faces exactly the same thing, I think his analogy is well taken. The oil industry faces the risk of exploration, the costs of refining, and all of the rest of that.

We have in the State of Utah enough oil, according to the geologists, to dwarf and eclipse the oil in Saudi Arabia. We have trillions and trillions and trillions of barrels of oil in the State of Utah. Why, therefore, are we not producing oil? For the simple reason that in Utah the oil is trapped in what is called oil shale. It is not down beneath the sand, to be pumped out simply by, in the language of the oil industry, sticking a straw in and sipping it up. And the oil shale does not become commercially viable until the world price of oil goes somewhere in the neighborhood of $50 to $60 a barrel.

If we were going to get $60 a barrel for oil, you would see Utah take over for Saudi Arabia, and Utah be the oil center of the universe. But the world price is not at $60 a barrel; the world price is nowhere near $60 a barrel.

Let us say that the world price was close to making shale oil commercially viable but the 12.5-percent increase in the world price represented by the U.S. royalty was the knife edge between its being profitable and not profitable. If that were to be the case and we were facing a serious energy crisis, I would come to the floor and say let us repeal the 12.5-percent royalty. Let us go to a net royalty on oil companies. Indeed, I am willing to talk about that as a possibility here.

You know the gold is there. Yes. When you buy the land, when you patent the land, you know the gold is there. The thing you do not know and cannot predict, cannot be sure of, is the world price of the gold. That is where you are taking a gamble. If the world price of the metal falls below a certain level, you have just lost your money, which is what happened, as I said, in the State of Utah where we lost 5,000 jobs, not because people did not know the copper was there. The copper was still there. The difference is that the world price fell, and when the world price fell below that level, we shut down and we lost all the jobs. And we lost all the employment. When the world price came back up, the jobs came back up.

My concern is not to bail out the rich mining companies. My concern is to hang onto those jobs if I can and say let us put the royalties in such a fashion that we do not cut the price for U.S. producers by an amount that their foreign competitors do not have.

By Mr. HARKIN:

S. 505. A bill to direct the Administrator of the Environmental Protection Agency not to act under section 6 of the Toxic Substances Control Act to prohibit the manufacturing, processing, or distribution of certain fishing sinkers or lures; to the Committee on Environment and Public Works.

COMMON SENSE IN FISHING REGULATIONS ACT

• Mr. HARKIN. Mr. President, today I am introducing the Common Sense In Fishing Regulations Act. This bill limits government regulation run amok, its approval would put a little common sense into an area of extreme overregulation.

In March of last year the Environmental Protection Agency [EPA] proposed a rule that would ban the manufacture and sale of lead fishing sinkers—the weights most anglers use to get their baits and lures down to where the fish are. As an angler myself, I see this as a clear example of overzealous regulators acting far outside the realm of the reasonable and into the ridiculous.

In 1992 the Environmental Defense Fund, a fine organization with highly laudable goals, and several other organizations petitioned EPA under the Toxic Substances Control Act to issue a regulation that would require labels on lead fishing sinkers stating that lead is toxic to wildlife. In a few rare cases it has been shown that waterfowl will ingest sinkers improperly discarded at the water's edge, using them in their digestive tract to help grind their food. Because the sinkers can stay in the birds for an extended time, lead poisoning can develop. The petitioners felt that if anglers were made more aware of the possible dangers of improperly discarding used sinkers they would be even more conscientious with their use. However, EPA went far beyond the scope of the petition and I believe in fact the law and proposed a total ban on the sale and manufacture of lead sinkers.

In their research EPA could document fewer than 50 cases, nationwide, over a period of 16 years in which waterfowl had died of lead poisoning likely due to the ingestion of lead sinkers. Across this entire Nation over a period of 16 years, they could only document a few possible cases and yet they want to stop millions of American anglers from using devices that have been in use on this continent for centuries! If this is not a case of extreme overregulation and micromanagement by a Federal bureaucracy, I don't know what is. EPA has based their actions on speculation and anecdotal information, not on hard scientific research. It is incomprehensible that EPA would base such a far reaching regulation on such a statistically insignificant number of incidents out of a bird population that numbers in the hundreds of millions. No one would dispute that lead in the bloodstream is toxic and that waterfowl could die from using lead in their digestive system. But EPA has clearly not established that lead sinkers ''present or will present an unreasonable risk of injury to human health or the environment'' as is clearly required for such action under the Toxic Substances Control Act. In fact, they clearly state that they cannot establish any threat to human health through the home manufacture of lead sinkers.

And that is where a great many lead sinkers are made. In the basements and garages across this country, many anglers have a side hobby, making sinkers, jigs, and other lead based fishing tackle. They make different types, test their effectiveness, and make modifications on their designs as needed. This adds greatly to the fishing experience and angling challenge through more complete involvement in all aspects of the sport. Yet EPA wants to prohibit this type of activity without any scientific basis whatsoever. The proposed rule even states that the possible risk to human health through home manufacture is impossible to evaluate.

When lead shot for waterfowl hunting was banned several years ago, hundreds of thousands of waterfowl gizzards were examined. There was clear evidence that lead shotgun shell pellets did pose a very real threat to ducks and geese. That is just not the case in this instance. As I stated, there is not enough evidence to warrant such a sweeping regulation.

This ban would also force many small manufacturers out of business. While it can be feasible for a large company to retool and develop alternatives to lead, the costs to a small business in terms of the research and equipment needed to convert their operation is prohibitive and would force many small businesses to close their doors, leaving many individuals without livelihoods. While the larger companies reap the benefits of deeper pockets, the small business is squeezed out.

One of the true ironies in EPA's proposed rule is that it does not ban the use of lead sinkers, or ban the sale of current stocks. It seems strange to me that if these sinkers are so bad for the environment that they must be banned that EPA would allow their continued use in any instance. Anglers can continue to use the sinkers they have on hand after the ban becomes effective, and stores are given time in the proposed rule to sell out whatever stock they have on hand. This proposal thus would create an enforcement nightmare. It might take years, sinkers are pretty durable and often a small number will last an angler for quite some time, to use all the lead sinkers in existence should the ban become effective. In the meantime, will EPA enforcement officers be checking people's garages and basements to ensure that new sinkers are not being made? Will a black market in lead sinkers develop? And what would this regulation require of State fish and game enforcement officers?

Mr. President, a regulation such as this could greatly add to the burden on a State's game wardens. These individuals are some of the hardest working and most efficient law enforcement officials in the country and in an increasingly hostile environment we want to require them to determine the age of every sinker used. This regulation could force law abiding anglers—and most are extremely careful when it comes to game laws—to prove where and when they got any sinkers they are using or face criminal charges. Will anglers be required to keep the receipts for all of their tackle in their tackle boxes to prove purchase dates? All this because EPA has gone wild with regulations.

No group is more widely supportive of environmentally sound regulation than America's anglers. They see the very direct correlation between sound, sane environmental regulations and the benefits gained from them. Without environmental protections, the hobby and industry that is fishing in America would not be viable. Anglers understand all too well that without appropriate protections and regulations one of America's most widely enjoyed outdoor sports would cease to exist. Without sound policies America's water would soon be devoid of fish and most anglers are extremely cognizant of that and act accordingly when in the pursuit of their hobby. But this regulation is far beyond any reasonable and sound environmental policy. It is based on guesswork and supposition, not sound science. It oversteps the bounds of common sense.

Mr. President, before EPA proposes such a rule that will create untold headaches for State enforcement officials, anglers and many small business, it should be ready to provide much more complete proof that it is necessary and would be effective.

Finally, this amendment does not preclude future EPA action on this issue. EPA should take appropriate steps to protect waterfowl, no one is arguing that point. The bill I am introducing today specifies that should more substantial evidence or risk to either human health or wildlife become available then the Administrator is directed to report that information to Congress and make suggestions regarding possible legislative action.

Mr. President, I want to be clear that there are many critically important rules and regulations in place and being drafted on things from protecting worker rights and worker safety to making sure our air is clean. Some are proposing to freeze all regulations and gut many others. That is clearly not the right approach. We need reforms, but we need common sense reforms. We need to be very selective to assure that critical protections are not discarded as we act to block the ridiculous.

Having said that, it is important that this bill be passed as soon as possible as EPA is actively pursuing its course of action on this proposed rule. They have held hearings and the comment period has closed. EPA will soon be coming out with the final rule on this subject and millions of anglers will be seriously affected by the finalization of this ridiculous rule.

I ask my colleagues to support this measure and to help bring a little more common sense to our Government. I ask unanimous consent that a copy of the bill be included in the RECORD.

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

S. 505

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 ''Common Sense in Fishing Regulations Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) millions of Americans of all ages enjoy recreational fishing; fishing is one of the most popular sports;

(2) lead and other types of metal sinkers and fishing lures have been used by Americans fishing for hundreds of years;

(3) the Administrator of the Environmental Protection Agency has proposed to issue a rule under section 6 of the Toxic Substances Control Act, to prohibit the manufacturing, processing, and distribution in commerce in the United States, of certain smaller size fishing sinkers containing lead and zinc, and mixed with other substances, including those made of brass;

(4) the Environmental Protection Agency has based its conclusions that lead fishing sinkers of a certain size present an unreasonable risk of injury to human health or the environment on less than definitive scientific data, conjecture and anecdotal information;

(5) alternative forms of sinkers and fishing lures are considerably more expensive than those made of lead; consequently, a ban on lead sinkers would impose additional costs on millions of Americans who fish;

(6) in the absence of more definitive evidence of harm to the environment, the Federal Government should not take steps to restrict the use of lead sinkers; and

(7) alternative measures to protect waterfowl from lead exposure should be carefully reviewed.

SEC. 3. FISHING SINKERS AND LURES.

(a) DIRECTIVE.—The Administrator of the Environmental Protection Agency shall not, under purported authority of section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), take action to prohibit or otherwise restrict the manufacturing, processing, distributing, or use of any fishing sinkers or lures containing lead, zinc, or brass.

(b) FURTHER ACTION.—If the Administrator obtains a substantially greater amount of evidence of risk of injury to health or the environment than that which was adduced in the rulemaking proceedings described in the proposed rule dated February 28, 1994 (59 Fed. Reg. 11122 (March 9, 1994)), the Administrator shall report those findings to Congress, with any recommendation that the Administrator may have for legislative action.●

ADDITIONAL COSPONSORS

S. 34

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 34, a bill to amend the Internal Revenue Code of 1986 to treat geological, geophysical, and surface casing costs like intangible drilling and development costs, and for other purposes.

S. 200

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 200, a bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of any projectile that may be used in a handgun and is capable of penetrating police body armor.

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 244

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 244, a bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

At the request of Mr. NUNN, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. AKAKA], the Senator from

Iowa [Mr. GRASSLEY], the Senator from Wyoming [Mr. THOMAS], the Senator from Maine [Mr. COHEN], the Senator from Tennessee [Mr. THOMPSON], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 244, supra.

S. 476

At the request of Mr. NICKLES, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 476, a bill to amend title 23, United States Code, to eliminate the national maximum speed limit, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Montana [Mr. BURNS], the Senator from Georgia [Mr. COVERDELL], the Senator from Idaho [Mr. CRAIG], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from New Hampshire [Mr. GREGG], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Arizona [Mr. KYL], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

SENATE CONCURRENT RESOLUTION 9—RELATING TO A VISIT BY PRESIDENT LEE TENG-HUI OF THE REPUBLIC OF CHINA ON TAIWAN TO THE UNITED STATES

By Mr. MURKOWSKI (for himself, Mr. LIEBERMAN, Mr. BROWN, Mr. ROBB, Mr. D'AMATO, Mr. SIMON, Mr. THOMAS, Mr. HELMS, Mr. COATS, Mr. PELL, Mr. WARNER, Mr. AKAKA, Mr. GRAMS, Mr. DOLE, Mr. KEMPTHORNE, Mr. DORGAN, Mr. SPECTER, Mr. HATFIELD, Mr. LUGAR, Mr. FEINGOLD, Mr. ROTH, Mr. THURMOND, Mr. HATCH, Mr. GORTON, Mr. CAMPBELL, Mr. MACK, Mr. INOUYE, Mr. ASHCROFT, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. SIMPSON, Mr. COCHRAN, Mr. CONRAD, Mr. DEWINE, Mr. GREGG, and Mr. CRAIG) submitted the following concurrent resolution which was referred to the Committee on Foreign Relations:

S. CON. RES. 9

Whereas United States diplomatic and economic security interests in East Asia have caused the United States to maintain a policy of recognizing the People's Republic of China while maintaining solidarity with the democratic aspirations of the people of Taiwan;

Whereas the Republic of China on Taiwan (known as Taiwan) is the United States' sixth largest trading partner and an economic powerhouse buying more than twice as much annually from the United States as do the 1,200,000,000 Chinese of the People's Republic of China;

Whereas the American people are eager for expanded trade opportunities with Taiwan, the sixth largest trading partner of the United States and the possessor of the world's second largest foreign exchange reserves;

Whereas the United States interests are served by supporting democracy and human rights abroad;

Whereas Taiwan is a model emerging democracy, with a free press, free elections, stable democratic institutions, and human rights protections;

Whereas vigorously contested elections conducted on Taiwan in December 1994 were extraordinarily free and fair;

Whereas United States interests are best served by policies that treat Taiwan's leaders with respect and dignity;

Whereas President Lee, a Ph.D. graduate of Cornell University, has been invited to pay a private visit to his alma mater and to attend the annual USA-ROC Economic Council Conference in Anchorage, Alaska;

Whereas there is no legitimate policy grounds for excluding the democratic leader of Asia's oldest republic from paying private visits;

Whereas the Senate of the United States voted several times in 1994 to welcome President Lee to visit the United States; and

Whereas Public Law 103–416 provides that the President of Taiwan shall be welcome in the United States at any time to discuss a host of important bilateral issues: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should promptly indicate that the United States will welcome a private visit by President Lee Teng-hui to his alma mater, Cornell University, and will welcome a transit stop by President Lee in Anchorage, Alaska, to attend the USA-ROC Economic Council Conference.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. MURKOWSKI. Mr. President, I am introducing today, on behalf of myself and 35 colleagues, a resolution calling on President Clinton to allow his excellency Lee Teng-hui, President of the Republic of China on Taiwan, to come to the United States for a private visit. A nearly identical resolution is also being introduced today by my colleagues in the House of Representatives, Congressmen LANTOS, SOLOMON, and TORRICELLI.

This is not the first time this issue has come before this body. The last Congress spoke very clearly on the question of a visit by President Lee. The Senate approved unanimously a resolution offered by myself and Senator ROBB calling on the administration to make several changes to United States-Taiwan policy, including allowing President Lee to visit the United States. Then, under Senator BROWN's leadership, the Senate agreed by a vote of 94–0 to amend United States immigration laws to add a provision specifically welcoming the leader of the Taiwanese people to enter the United States at any time to discuss issues of mutual concern. This amendment was eventually adopted by the Congress and signed into law.

Unfortunately, up to now, the Clinton Administration has chosen to ignore Congress and yield to the People's Republic of China on this issue. In the last several months, various State Department officials have indicated in public forums that they do not intend to allow President Lee to make a private visit. Mr. President, this State Department policy allows the People's Republic of China to dictate who can and cannot enter the United States—and that offends this Senator and many others.

For many years, Congress and the executive branch have prodded the people of Taiwan to make greater strides toward democracy. Taiwan has responded: Over the last decade, Taiwan has ended martial law, allowed the development of a free and vigorous press, and legalized opposition political parties. Last December, people throughout Taiwan went to the polls in a free and fair election, which was vigorously contested by all parties.

I remind my colleagues that Taiwan is the world's 13th largest trading partner and the United States' 5th largest trading partner. With $17 billion in United States exports to Taiwan in 1994, it purchased twice as many United States products as the People's Republic of China. It holds the world's largest foreign reserves. Taiwan is also friendly, democratic, stable, and prosperous. Its human rights record has steadily improved.

Yet, rather than rewarding Taiwan for these great strides, it remains the policy of the Clinton administration to deny entry into the United States to the democratic leader of Asia's oldest republic; in effect, treating Taiwan like an international pariah. Many of us were outraged last May when the administration refused to allow President Lee to overnight in Hawaii en route to a presidential inauguration in Central America. While we are aware of the need to maintain a productive relationship with the People's Republic of China, there is no defensible argument for allowing Communist bureaucrats in Beijing to block a private visit to the United States by the elected leader of the Taiwanese people.

President Lee, a Ph.D. graduate of Cornell University in New York, has expressed a desire to visit his alma mater. In addition, President Lee has been invited to attend the annual USA–ROC Economic Council Conference in Anchorage, AK. Other Senators and Representatives have invited him to visit their respective States. It would be entirely appropriate to allow one or more of these private visits.

The attached resolution demonstrates the support of the new Congress for democracy movements around the world and our commitment to increased economic ties and people-to-people contacts between the American people and the people of Taiwan. If the administration continues to ignore the voice of Congress, it may be necessary to move further legislation amending United States immigration laws or reopening the 1979 Taiwan Relations Act in order to facilitate these changes.

I urge the administration to reconsider its current position on a visit by President Lee. Certainly, there is ample precedent for allowing a private visit. After all, the administration has

seen the benefit of having Yasser Arafat, leader of the PLO, attend a White House ceremony. Gerry Adams, head of Sinn Fein, the political wing of the Irish Republican Army, has been granted travel visas. Tibet's exile leader, the Dalai Lama, called on Vice President GORE over the strong objections of the People's Republic of China. Each of these men represent unofficial entities with which the United States does not have official ties. Similarly, in each case, other countries with whom we maintain diplomatic relations objected. yet, the administration rightly chose to allow visits to advance other policy goals. A similar rationale should be applied to President Lee.

AMENDMENTS SUBMITTED

PAPERWORK REDUCTION ACT

ROTH (AND NUNN) AMENDMENT NO. 317

Mr. ROTH (for himself and Mr. NUNN) proposed an amendment to the bill (S. 244) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes; as follows:

On page 8, lines 19 and 20, strike out ''and processes, automated or manual,''.

On page 8, line 25, beginning with ''section'' strike out all through line 2 on page 9 and insert in lieu thereof ''section 111(a)(2) and (3)(C)(i) through (v) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2) and (3)(C)(i) through (v));''.

On page 22, line 24, strike out ''a senior official'' and insert in lieu thereof ''senior officials''.

On page 23, line 2, strike out ''for the military departments''.

On page 46, lines 8 and 9, strike out ''collection of information prior to expiration of time periods established under this chapter'' and insert in lieu thereof ''a collection of information''.

On page 46, line 13, strike out ''such time periods'' and insert in lieu thereof ''time periods established under this chapter''.

On page 46, lines 17 and 18, strike out ''within such time periods because'' and insert in lieu thereof ''because''.

On page 46, line 21, strike out ''or''.

On page 46, beginning with line 22, strike out all through line 2 on page 47 and insert in lieu thereof the following:

''(ii) an unanticipated event has occurred; or

''(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.''

On page 49, line 14, insert ''(a)'' before ''In order''.

On page 50, insert between lines 22 and 23 the following new subsection:

''(b) This section shall not apply to operational files as defined by the Central Intelligence Agency Information Act (50 U.S.C. 431 et seq.).''

On page 56, lines 4 and 5, strike out ''section 4–206 of Executive Order No. 12036, issued January 24, 1978,'' and insert in lieu thereof ''section 3.4(e) of Executive Order No. 12333, issued December 4, 1981,''.

On page 58, insert between lines 2 and 3 the following new section:

SEC. 3. PAPERWORK BURDEN REDUCTION INITIATIVE REGARDING THE QUARTERLY FINANCIAL REPORT PROGRAM AT THE BUREAU OF THE CENSUS.

(a) PAPERWORK BURDEN REDUCTION INITIATIVE REQUIRED.—As described in subsection (b), the Bureau of the Census within the Department of Commerce shall undertake a demonstration program to reduce the burden imposed on firms, especially small businesses, required to participate in the survey used to prepare the publication entitled ''Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations''.

(b) BURDEN REDUCTION INITIATIVES TO BE INCLUDED IN THE DEMONSTRATION PROGRAM.—The demonstration program required by subsection (a) shall include the following paperwork burden reduction initiatives:

(1) FURNISHING ASSISTANCE TO SMALL BUSINESS CONCERNS.—

(A) The Bureau of the Census shall furnish advice and similar assistance to ease the burden of a small business concern which is attempting to compile and furnish the business information required of firms participating in the survey.

(B) To facilitate the provision of the assistance described in subparagraph (A), a toll-free telephone number shall be established by the Bureau of the Census.

(2) VOLUNTARY PARTICIPATION BY CERTAIN BUSINESS CONCERNS.—

(A) A business concern may decline to participate in the survey, if the firm has—

(i) participated in the survey during the period of the demonstration program described under subsection (c) or has participated in the survey during any of the 24 calendar quarters previous to such period; and

(ii) assets of $50,000,000 or less at the time of being selected to participate in the survey for a subsequent time.

(B) A business concern may decline to participate in the survey, if the firm—

(i) has assets of greater than $50,000,000 but less than $100,000,000 at the time of selection; and

(ii) participated in the survey during the 8 calendar quarters immediately preceding the firm's selection to participate in the survey for an additional 8 calendar quarters.

(3) EXPANDED USE OF SAMPLING TECHNIQUES.—The Bureau of the Census shall use statistical sampling techniques to select firms having assets of $100,000,000 or less to participate in the survey.

(4) ADDITIONAL BURDEN REDUCTION TECHNIQUES.—The Director of the Bureau of the Budget may undertake such additional paperwork burden reduction initiatives with respect to the conduct of the survey as may be deemed appropriate by such officer.

(c) DURATION OF THE DEMONSTRATION PROGRAM.—The demonstration program required by subsection (a) shall commence on October 1, 1995, and terminate on the later of—

(1) September 30, 1998; or

(2) the date in the Act of Congress providing for authorization of appropriations for section 91 of title 13, United States Code, first enacted following the date of the enactment of this Act, that is September 30, of the last fiscal year providing such an authorization under such Act of Congress.

(d) DEFINITIONS.—For purposes of this section:

(1) The term ''burden'' shall have the meaning given that term by section 3502(2) of title 44, United States Code.

(2) The term ''collection of information'' shall have the meaning given that term by section 3502(3) of title 44, United States Code.

(3) The term ''small business concern'' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant thereto.

(4) The term ''survey'' means the collection of information by the Bureau of the Census at the Department of Commerce pursuant to section 91 of title 13, United States Code, for the purpose of preparing the publication entitled ''Quarterly Financial Report for Manufacturing, Mining, and Trade Corporations''.

On page 58, insert between lines 2 and 3 the following new section:

SEC. 4. OREGON OPTION PROPOSAL.

(a) FINDINGS.—The Senate finds that—

(1) Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

(2) historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed requirements relating to the use of funds which are often delivered by State and local governments;

(3) although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

(4) it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's Federal, State and local governments to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national goals, and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

(5) the State and local governments of Oregon have begun a pilot project, called the Oregon Option, that will utilize strategic planning and performance-based management that may provide new models for intergovernmental social service delivery;

(6) the Oregon Option is a prototype of a new intergovernmental relations system, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a system of intergovernmental service delivery and funding that is based on measurable performance, customer satisfaction, prevention, flexibility, and service integration; and

(7) the Oregon Option has the potential to dramatically improve the quality of Federal, State and local services to Oregonians.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Oregon Option project has the potential to improve intergovernmental service delivery by shifting accountability from compliance to performance results and that the Federal Government should continue in its partnership with the State and local governments of Oregon to fully implement the Oregon Option.

On page 58, line 3, strike out **"SEC. 3."** and insert in lieu thereof **"SEC. 5."**.

McCAIN AMENDMENT NO. 318

Mr. MCCAIN proposed an amendment to the bill, S. 244, supra; as follows:

At the end of the pending measure, add the following new section:

SEC. . TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 5 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95–452); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101–576).

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Tuesday, March 7, 1995, beginning at 10 a.m., in room 485 of the Russell Senate Office Building on Federal programs authorized to address the challenges facing Indian youth.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Wednesday, March 8, 1995, beginning at 2:30 p.m., in room 485 of the Russell Senate Office Building on reforming and downsizing of the Bureau of Indian Affairs.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Monday, March 6, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 2 p.m. The purpose of the hearing is to consider S. 333, the Department of Energy Risk Management Act of 1995.

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

ADDITIONAL STATEMENTS

GIRL SCOUTS AND BOY SCOUTS OF RHODE ISLAND

• Mr. CHAFEE. Mr. President, I am pleased to recognize two outstanding groups of young leaders in the State of Rhode Island. These individuals of the Girl Scouts and Boy Scouts have exhibited great qualities such as leadership and hard work.

Since the beginning of the century, Girl Scouts and Boy Scouts have developed leadership skills in their members through determination, self-reliance, and teamwork.

The Silver and Gold Awards are the two highest honors that can be received by any Girl Scout. Those who have received these awards have demonstrated excellence, hard work, and the desire to help in their community. Likewise, the Eagle Scout is the highest award given to a Boy Scout. Candidates must display leadership in outdoor skills and service projects helpful to their communities and religious and school institutions.

I am proud to congratulate these recipients of these distinguished awards. The young leaders pose as role models to their fellow peers. Their skills learned through Girl and Boy Scouts will serve them well.

I would also like to acknowledge the recipient's parents, their Scout leaders, and Scouting organizations. These selfless people have contributed their time and energy to the Girl and Boy Scouts.

Therefore, with great honor I submit the list of young women and men who have earned these awards.

The list follows:

CLASS OF 1994 EAGLE SCOUTS, NARRAGANSETT COUNCIL, BOY SCOUTS OF AMERICA

ASHAWAY, RI

Robert J. Brown.

BARRINGTON, RI

Daniel G. Decelles, Christopher A. Story, Timothy S. Tehan, Stephen Powers, Robert Andrew Mueller, Scott R. Goff, and Brendan S. Mara.

BRISTOL, RI

Frank J. Parenti, John B. Brogan, Jean-Paul Arsenault, Peter Karl Sanders, and Nicholas P. Boisvert.

CHARLESTOWN, RI

John MacCoy, Jr.

CHEPACHET, RI

John J. Dumas, Jr., Gregory F. Coupe, Ian Arthur Hopkins, Matthew Raymond Siedzik, Robert D. Silva, and Thomas A. Guilbault.

COVENTRY, RI

Jason Clark, Benjamin Mark Estock, Mark E. Randolph, Michael T. Saccoccia, Mark A. Tondreau, Jason R. Cyr, John Henry Potvin, Kyle Gerard Bear, Frank A. Denette, IV, and Daniel M. Wolf.

CRANSTON, RI

Matthew P. Brown, Stephen J. Puerini, Michael Peter Joubert, Andy Guglielmo, Michael A. Aiello, Christopher Petteruti, Louis W. Turchetta, David Pedroso, John Gaccione, Gregory E. Baker, Brian J. Neri, and Jonathan A. Watterson.

CUMBERLAND, RI

David J. Gnatek, Todd Andrew Eckhardt, Jonathan M. Dziok, Matthew J. Turner, and Mark K. O'Neill.

EAST GREENWICH, RI

Jonathan Hecker, Kevin Kazlauskas, and Chris Lundsten.

EAST PROVIDENCE, RI

Caleb Cabral, Francisco Ripley and Michael Frederick Eastwood.

FOSTER, RI

Nicholas T. DiVozzi, Daniel J. Hopkins, Archibald L. Jackson, IV, Craig Jackson, William Rhodes, IV, and Benjamin J. Sinwell.

GLOCESTER, RI

Michael N. Cost.

HOPE VALLEY, RI

Jason M. McClure.

JOHNSTON, RI

Michael Dennehy, Timothy Forsberg, John Arcand Billy S. Rotondo, and Nicholas L. Marsella.

LINCOLN, RI

Ritesh Radadia.

MANVILLE, RI

James P. Cournoyer.

MIDDLETOWN, RI

Timothy J. Davis, Thomas A. Paull, Brian W. Gabriel, and James Adrian Butler.

NEWPORT, RI

Taylor K. Ackman, Peter Michael Fucito, Eric L. Hauquitz, and Stephen C. Grimes.

NORTH KINGSTOWN, RI

John Mainor, Matthew Vanasse, Stephen D. Mosca, Robert A. Russell, III, James R. Fogarty, and Keith E. Piehler.

NORTH PROVIDENCE, RI

Jason A. Parker, Donald E. Almonte, Jr., and Filipe Botelho Correia.

NORTH SCITUATE, RI

Charles B. Cost and Eric Scott Anderson.

NORTH SMITHFIELD, RI

Michael M. Borek, Patrick M. Neville, Eric Andrew George, and Michael G. Hemond.

PASCOAG, RI

Gregg Kwider.

PAWTUCKET, RI

Robert F. Brown, III, David Machowski, Jeff R. LeClair, and Jorge Manuel Correia.

PORTSMOUTH, RI

Jonathan L. Perry, Christopher Hitchcock, and David Eric Johnson.

PROVIDENCE, RI

Dennis L. Arnold, Manny Mederiors, Raymond A. Pagliarini, Christopher P. Spadazzi, and Andrew B. Qualls.

RIVERSIDE, RI

John Midgley, Russell S. Horsman, and Marc Carlson.

SMITHFIELD, RI

Marc P. Cardin, Todd S. Manni, Michael R. Guilmain, Timothy Guilmain, Douglas T. McElroy, William B. Ross, III, Steve A. Marcaccio, Jr., Andrews J. Bailey, Adam Aquilante, and Matthew Cole.

WAKEFIELD, RI

Michael J. Mulhearn.

WARREN, RI

Geoffrey Avila.

WARWICK, RI

Justin J. Hart, Morgan A.L. Goulet, Edward F. Doonan, III, Thomas R. Bushell, Brian C. Stowe, Michael Luszcz, Jeremy M. Kubics, J. Nicholas Betley, and Joseph A. Chappelle.

Jared Fogel, Jacob Thompson, Andrew Gil, Christopher J. Dimase, and David W. Lowell.

WEST KINGSTON, RI

Daniel Jospeh Dorson.

WEST WARWICK, RI

Christopher R. Phillips, David M. Durand, Roger Alan Bonin, Eric David Fields, and Christopher J. Cardillo.

WYOMING, RI

Romeo P. Gervais, III and Christopher Ayotte.

PAWCATUCK, CT

Douglas Gladue, and Michael A. Slater.

BELLINGHAM, MA

Eric Twardzicki.

BLACKSTONE, MA

Bryan Lee White, Jason V. Cardone, Craig R. Cousineau, Jeremy Pontes, and Bryan Lee White.

NORTON, MA

Valerien Joseph Pina, Jr.

REHOBOTH, MA

Michael S. Baker, James D. Paschecco, and Michael Darowski.

SEEKONK, MA

Michael J. Lund, Michael J. Euell, Christopher N. Abell, Aaron C. Shumate, Greg M. Rebello, and Jeffrey A. Benoit.

HACKETTSTOWN, NJ

Brian E. Fox.

MONTAGUE, NJ

Craig E. Scorpio.

GIRL SCOUT SILVER AWARD RECIPIENTS

BARRINGTON, RI

Amanda Macomber and Heidi Scheumann.

BRISTOL, RI

Tanya Karsch, Bethany Manchester, and Patricia Vedro.

CAROLINA, RI

Melissa Reynolds.

COVENTRY, RI

Lisa Brennan, Lisa Charland, Margaret Dunning, and Kristina Triggs.

CRANSTON, RI

Pamela Rhynard.

CUMBERLAND, RI

Gina Antoni, Kerri Ayo, Sarah Billington, Jennifer Bonner, Amanda Condon, Emily Conway, Kyla Gomes, Shannon Goodwillie, Jennifer Gray, Catherine Jones, Allison Manley, Kelly McElroy, Sharon Nahas, Kristen O'Neill, Nikki Parness, Vanessa Sealey, Rebecca Silverman, Nicole Tetreault, Marcy Trocina, and Gina Zollo.

EAST GREENWHICH, RI

Amy Krasner and Catherine Truslow.

EAST PROVIDENCE, RI

Katie Armstrong and Brandi Blakely.

HOPE VALLEY, RI

Megan Olean.

JOHNSTON, RI

Kelli Eramian, Heather Fagan, and Shannon Quigley.

MIDDLETOWN, RI

Mary Chase, Jennifer McCleary, and Mandi Klotz.

PAWTUCKET, RI

Christal Desmarais.

PEACE DALE, RI

Beth Lardaro.

PORTSMOUTH, RI

Maureen Blau, Shana Brady, Adrianne Henderson, Janessa LeComte, and Tiffany Major.

PROVIDENCE, RI

Jennifer Pettis.

RIVERSIDE, RI

Rebecca Fisher, Stephanie Santos, Catherine Sorrentino, and Shannon Tompkins.

RUMFORD, RI

Erin Kelly.

SEEKONK, MASS.

Laurel Durkey, and Kerri Skurka.

WAKEFIELD, RI

Leah Collins, Aimee Lamothe, Pam Lord, Sasha Marge, and Melissa Richmond.

WARREN, RI

Jessica Rogers.

WARWICK, RI

Andrea Agajanian, Kerri Boisvert, Carrie Diaz, Katie Merithew, Andrea Parenteau, Kathleen Rassler, Jessica Shea, and Jessica Tanner.

WEST KINGSTON, RI

Jennifer Perkins.

WICKFORD, RI

Tivia Berman.

COVENTRY, RI

Jaclyn Sheppard and Jessica Stone.

CRANSTON, RI

Chrystal Toppa and Melissa Maynard.

EAST GREENWICH, RI

Kristen Gaffney.

PORTSMOUTH, RI

Kathleen Magrath, Deborah E. Gabriel, and Elizabeth S. Holman.

WARWICK, RI

Tracey Ursillo, Helen Sullivan, and Stephanie Ogarek.

WEST WARWICK, RI

Jennifer Goldberg.●

COMMENDING THE ANTI-DEFAMATION LEAGUE FOR THEIR EFFORTS TO COMBAT HATE CRIMES

● Mr. SIMON. Mr. President, I rise today to applaud the Anti-Defamation League [ADL] for their continuing work to expose and combat hate crimes, and to bring your attention to their most recent ''Audit of Anti-Semitic Incidents.'' For the past 16 years, the ADL has compiled data about anti-Jewish attacks. Their efforts in the collection of data and the development of programs regarding anti-Semitic acts increase public awareness of this problem, and help generate constructive solutions. I commend ADL for continuing this important endeavor, and would like to share with you some of their recent findings.

Unfortunately, the ADL's 1994 survey indicates that the number and severity of anti-Semitic hate crimes has worsened nationwide. There were 2,066 incidents reported to ADL from 46 States, the District of Columbia, and Puerto Rico in 1994 alone. This represents an overall increase of more than 10 percent from 1993, and constitutes the first time the audit total has gone over 2,000. I was particularly troubled by the dramatic rise in the number of violent, destructive, and, in one case, deadly assaults against Jews. For the fourth year, the number of anti-Semitic acts against individuals outnumber the incidents of vandalism against institutions and other property. The number of reported incidents of assault, threat, and harassment totaled 1,197. This represents almost an 11-percent increase from 1993. In fact, acts of harassment and personal assault have risen 291 percent in a 10-year span. Shootings, arsons, and firebombings were also far more prevalent than in previous years. In 1994, there were 25 arsons and 10 arson attempts, compared with the total of 41 arsons in the 5 previous years combined.

While these numbers make a dramatic statement about the magnitude of anti-Semitic hate crime, some specific examples more graphically illustrate the sad story of hatred present in our society today. The most violent incident occurred in New York City, where, on March 1, a lone gunman opened fire on a van filled with Hasidic students crossing the Brooklyn Bridge. One student died in the attack and three other students were seriously wounded. The ADL reports that in Memphis, two older teenagers attacked two 13-year-old Jewish boys with a sword while yelling anti-Semitic epithets.

In February, in Eureka, CA, a bedroom of a Jewish family's home was set afire and a message was left: ''I got a Jew.'' In Michigan, in November, a Jewish couple received a package in the mail containing a severed dog's head wrapped in a plastic bag, on which was written ''Dirty Jew'' and swastikas.

Tragically, anti-Semitic incidents on college campuses continued to rise and increased by 17 percent from 1993. At South Alabama University, a Jewish faculty member found a note in his campus mailbox reading, ''Death to Jews—That means you* * *'' At Northwestern University, ''Kill all the Jews'' was written on a residence hall adviser's memo board in response to the question, ''What do you think of race relations at NU?'' At Temple Law School, a student was harassed by a member of the Western Heritage Society who said, ''I heard you discussing cross burnings and I'd like to arrange one for you.'' From February through April, nearly 300 books in the library of Cleveland State University in Ohio were defaced with hate stickers incorporating Nazi themes.

The ADL's report did contain some positive information, however. The number of arrests made in connection with anti-Semitic crimes more than doubled from the 1993 total. This may be attributable in part to the growing impact of State and Federal hate crime legislation and improved hate crime training programs for law enforcement officials. For example, Colorado law enforcement agencies recently brought charges, resulting from an 8-month investigation into Denver-area hate groups, against 21 young adults, ages ranging from 19 to 26, who were members of white supremist and skinhead organizations.

In closing, I again want to commend the ADL for its outstanding and important work.●

ABOLISH METROPOLITAN WASHINGTON AIRPORTS AUTHORITY—S. 496

● Mr. ROBB. Mr. President, I am pleased to join Senator WARNER in introducing legislation removing congressional oversight from the operations at Washington National and Dulles Airports.

Quick passage of legislation removing congressional oversight is imperative. The Supreme Court recently upheld a lower court's ruling that the congressional review board violates the constitutional separation of executive and legislative powers. Under the lower court's order, Congress must reach a solution to the separation of powers issue by March 31 or the Washington Metropolitan Airports Authority will be unable to complete actions which require the approval of the review board.

Although there are proposals under consideration in the House and Senate relating to the congressional review board, most of the other proposed legislation also addresses matters such as the perimeter rule which limits flights to and from Washington National Airport to 1,250 miles, reconstituting the review board under another name, and the slot rule which limits the number of flights and hours of operation at National Airport. These contentious issues are unrelated to the problem at hand and will delay passage of legislation needed to keep the airports operating.

With a court-imposed deadline fast approaching, it is imperative that we enact this clean bill in an expeditious matter, and I urge quick consideration and passage of this measure.●

CARDINAL JOSEPH BERNARDIN ON HEALTH CARE

● Mr. SIMON. Mr. President, when I think of individuals who speak for our societal conscience from a spiritual perspective, I know of no other more qualified or appropriate than my good friend Cardinal Joseph Bernardin, the Archbishop of Chicago. He recently addressed the Harvard Business School Club of Chicago regarding his concerns with the rapid commercialization of our health care delivery system. I ask that his speech be printed in the RECORD at the end of my remarks.

Whether we agree with it or not, there is a wave of fundamental change underway in our health delivery system. It is the transformation or assimilation of nonprofit hospitals and health providers into for-profit health delivery systems. Almost every day, you will read in the business section about how many hospitals are being purchased by large investor-owned companies.

Let me be clear, I am not opposed to the idea of encouraging private enterprise and industry innovation in our health care system. Indeed, our health care system, which is the best in the world for those who have access to it, was largely built on the foundation of cutting-edge medical technology and research conducted by for-profit pharmaceutical and medial equipment companies.

What I would like for us to reflect upon, however, is whether the rapid unrestrained commercialization of the health care delivery system is in the best long-term interests of our country. Cardinal Bernardin wisely states in his speech that, ''* * * there is a fundamental difference between the provision of medical care and the production and distribution of commodities * * *'' and that ''* * * the primary * * * purpose of medical care delivery should be a cured patient * * * and a healthier community, not to earn a profit * * *.''

As we work together toward reforming portions of our health care system this year, I hope all of us will take some time out to reflect upon the fundamental changes that are taking place in the health care system today and ask whether they are in the best interests of our society tomorrow. As you do so, I hope that you will have Cardinal Bernardin's advice in mind.

The speech follows:

MAKING THE CASE FOR NOT-FOR-PROFIT HEALTHCARE

Good afternoon. It is a privilege to address the Harvard Business School Club of Chicago on the critical, but often conflicted issue of healthcare. Because of its central importance to human dignity, to the quality of our community life, and to the Church's mission in the world, I have felt a special responsibility to devote a considerable amount of attention to healthcare at both the local and national levels.

In the last year, I have spoken at the National Press Club on the need to ensure access to adequate healthcare for all; I have issued a Protocol to help ensure the future presence of a strong, institutional healthcare ministry in the Archdiocese of Chicago; and in order to be more in touch with ongoing developments in the field, I have joined the Board of Trustees of the Catholic Health Association of the United States—the national organization that represents more than 900 Catholic acute and long-term care facilities.

In the interest of full disclosure, I must warn you that this considerable activity does not qualify me as a healthcare expert. Healthcare policy is challenging and extraordinarily complicated, and in this area I am every bit the layman. But because of its central importance in our lives—socially, economically, ethically, and personally—we ''non-experts'' avoid the healthcare challenge at our peril.

I come before you today in several capacities. First, as the Catholic Archbishop of Chicago who has pastoral responsibility for numerous Catholic healthcare institutions in the archdiocese—though each is legally and financially independent. Second, as a community leader who cares deeply about the quality and availability of healthcare services throughout metropolitan Chicago and the United States. And third, as an individual who, like you, will undoubtedly one day become sick and vulnerable and require the services of competent and caring medical professionals and hospitals.

THE GROWING THREAT TO NOT-FOR-PROFIT HEALTHCARE

In each role I am becoming increasingly concerned that our healthcare delivery system is rapidly commercializing itself, and in the process is abandoning core values that should always be at the heart of healthcare. These developments have potentially deleterious consequences for patients and society as a whole. This afternoon, I will focus on one important aspect of this problem: the future vitality and integrity of not-for-profit hospitals.

Not-for-profit hospitals constitute the overwhelming majority of Chicagoland hospitals. They represent more than three quarters of the nonpublic acute-care general hospitals in the country. Not-for-profit hospitals are the core of this nation's private, voluntary healthcare delivery system, but are in jeopardy of becoming for-profit enterprises.

Not-for-profit hospitals began as philanthropic social institutions, with the primary purpose of serving the healthcare needs of their communities. In recent decades, they have become important non-governmental ''safety net'' institutions, taking care of the growing numbers of uninsured and underinsured persons. Indeed, most not-for-profit hospitals regard the provisions of community benefit as their principal mission. Unfortunately, this historic and still necessary role is being compromised by changing economic circumstances in healthcare, and by an ideological challenge to the very notion of not-for-profit healthcare.

Both an excess supply of hospital beds and cost-conscious choices by employers, insurers, and government have forced not-for-profits into new levels of competition for paying patients. They are competing with one another, with investor-owned hospitals, and with for-profit ambulatory facilities. In their struggle for economic survival, a growing number of not-for-profits are sacrificing altruistic concerns for the bottom line.

The not-for-profit presence in healthcare delivery is also threatened by a body of opinion that contends there is no fundamental distinction between medical care and a commodity exchanged for profit. It is argued that healthcare delivery is like other necessary economic goods such as food, clothing, and shelter and should be subject to unbridled market competition.

According to this view, economic competition in healthcare delivery is proposed as a welcome development with claims that it is the surest way to eliminate excess hospital and physician capacity, reduce healthcare prices, and assure the ''industry's'' long-term efficiency. Many proponents of this view question the need for not-for-profit hospitals since they believe investor-owned institutions operate more efficiently than their not-for-profit counterparts and can better attract needed capital. Thus, they attack the not-for-profit hospital tax exemption as an archaic and unwarranted subsidy that distorts the healthcare market by providing exempt institutions an unfair competitive advantage.

This afternoon, I will make three arguments: First, that there is a fundamental difference between the provision of medical care and the production and distribution of commodities; second, that the not-for-profit structure is better aligned with the essential mission of healthcare delivery than is the investor-owned model; and third, that leaders in both the private and public sector have a responsibility to find ways to preserve and strengthen the not-for-profit hospital and healthcare delivery system in the United

States. Before making these arguments I need to clarify an important point.

THE ADVANTAGES OF CAPITALISM AND FREE ENTERPRISE

In drawing the distinction between medical care and other commodities on the one hand, and not-for-profit and investor-owned institutions on the other, I am not expressing any general bias against capitalism or the American free enterprise system. We are all beneficiaries of the genius of that system. To paraphrase Pope John Paul II: If by capitalism is meant an economic system that recognizes the fundamental and positive role of business, the market, private property, and the resulting responsibility for the means for production—as well as free human creativity in the economic sector—then its contribution to American society has been most beneficial.

As a key element of the free enterprise system, the American business corporation has proved itself to be an efficient mechanism for encouraging and minimizing commercial risk. It has enabled individuals to engage in commercial activities that none of them could manage alone. In this regard, the purpose of the business corporation is specific: to earn a growing profit and a reasonable rate of return for the individuals who have created it. The essential element here is a reasonable rate of return, for without it the commercial corporation cannot exist.

SOCIETY'S NON-ECONOMIC GOODS

That being said, it is important to recognize that not all of society's institutions have as their essential purpose earning a reasonable rate of return on capital. For example, the purpose of the family is to provide a protective and nurturing environment in which to raise children. The purpose of education at all levels is to produce knowledgeable and productive citizens. And the primary purpose of social services is to produce shelter, counseling, food, and other programs for people and communities in need. Generally speaking, each of these organizations has as its essential purpose a non-economic goal: the advancement of human dignity.

And this is as it should be. While economics is indeed important, most of us would agree that the value of human life and the quality of the human condition are seriously diminished when reduced to purely economic considerations. Again, to quote Pope John Paul II, the idea that the entirety of social life is to be determined by market exchanges is to run ''the risk of an 'idolatry' of the market, an idolatry which ignores the existence of *goods which by their nature are not and cannot be mere commodities*.'' (Emphasis added.)

This understanding is consistent with the American experience. In the belief that the non-economic ends of the family, social services, and education are essential to the advancement of human dignity and to the quality of our social and economic life, we have treated them quite differently from most other goods and services. Specifically, we have not made their allocation dependent solely on a person's ability to afford them. For example, we recognize that individual human dignity is enhanced through a good education, and that we all benefit by having an educated society; so we make an elementary and secondary education available to everyone, and heavily subsidize it thereafter. By contrast, we think it quite appropriate that hair spray, compact disks, and automobiles be allocated entirely by their affordability.

HEALTHCARE: NOT SIMPLY A COMMODITY

Now it is my contention that healthcare delivery is one of those ''goods which by their nature are not and cannot be mere commodities.'' I say this because healthcare involves one of the most intimate aspects of our lives—our bodies and, in many ways, our minds and spirits as well. The quality of our life, our capacity to participate in social and economic activities, and very often life itself are at stake in each serious encounter with the medical care system. This is why we expect healthcare delivery to be a competent and a caring response to the broken human condition—to human vulnerability.

To be sure, we expect our physician to earn a good living and our hospital to be economically viable, but when it comes to our case we do not expect them to be motivated mainly by economic self-interest. When it comes to our coronary bypass or our hip replacement or our child's cancer treatment, we expect them to be professional in the original sense of that term—motivated primarily by patient need, not economic self-interest. We have no comparable expectation—nor should we—of General Motors of Wal-Mart. When we are sick, vulnerable, and preoccupied with worry we depend on our physician to be our confidant, our advocate, our guide and agent in an environment that is bewildering for most of us, and where matters of great importance are at stake.

The availability of good healthcare is also vital to the character of community life. We would not think well of ourselves if we permitted healthcare institutions to let the uninsured sick and injured go untreated. We endeavor to take care of the poor and the sick as much for our benefit as for theirs. Accordingly, most Americans believe society should provide everyone access to adequate healthcare services just as it ensures everyone an education through grade twelve. There is a practical aspect to this aspiration as well because, like education, healthcare entails community-wide needs which it impacts in various ways: We all benefit from a healthy community; and we all suffer from a lack of health, especially with respect to communicable disease.

Finally, healthcare is particularly subject to what economists call market failure. Most healthcare ''purchases'' are not predictable, nor do medical services come in standardized packages and different grades, suitable to comparison shopping and selection—most are specific to individual need. Moreover, it would be wrong to suggest that seriously ill patients defer their healthcare purchases while they shop around for the best price. Nor do we expect people to pay the full cost of catastrophic, financially devastating illnesses. This is why most developed nations spread the risk of these high-cost episodes through public and/or private health insurance. And due to the prevalence of health insurance, or third-party payment, most of us do not pay for our healthcare at the time it is delivered. Thus, we are inclined to demand an infinite amount of the very best care available. In short, healthcare does not lend itself to market discipline in the same way as most other goods and services.

So healthcare—like the family, education, and social services—is special. It is fundamentally different from most other goods because it is essential to human dignity and the character of our communities. It is, to repeat, one of those ''goods which by their nature are not and cannot be mere commodities.'' Given this special status, the primary end or essential purpose of medical care delivery should be a cured patient, a comforted patient, and a healthier community, not to earn a profit or a return on capital for shareholders. This understanding has long been a central ethical tenet of medicine. The International Code of the World Health Organization, for example, states that doctors must practice their profession ''uninfluenced by motives of profit.''

THE ADVANTAGES OF NOT-FOR-PROFIT INSTITUTIONS

This leads me to my second point, that the primary non-economic ends of healthcare delivery are best advanced in a predominantly not-for-profit delivery system.

Before making this argument, however, I need to be very clear about what I am not saying: I am not saying that not-for-profit healthcare organizations and systems should be shielded from all competition. I believe properly structured competition is good for most not-for-profits. For example, I have long contended that the quality of elementary and secondary education would benefit greatly from the use of vouchers and expanded parental choice in the selection of schools; similarly, the Catholic Health Association's proposal for healthcare reform envisions organized, economically disciplined healthcare systems competing with one another for enrollees.

Second, I am not saying that all not-for-profit hospitals and healthcare systems act appropriately, some do not. But the answer to this problem is greater accountability in their governance and operation, not the extreme measure of abandoning the not-for-profit structure in healthcare.

What I am saying is that the not-for-profit structure is the preferred model for delivering healthcare services. This is so because the not-for-profit institution is uniquely designed to provide essential human services. Management expert Peter Drucker reminds us that the distinguishing feature of not-for-profit organizations is not that they are nonprofit, but that they do something very different from either business or government. He notes that a business has ''discharged its task when the customer buys the product, pays for it, and is satisfied with it,'' and that government has done so when its ''policies are effective.'' On the other hand, he writes:

''The 'non-profit' institution neither supplies goods or services nor controls (through regulation). Its 'product' is neither a pair of shoes nor an effective regulation. Its product is a changed human being. The non-profit institutions are human change agents. Their 'product' is a cured patient, a child that learns, a young man or woman grown into a self-respecting adult; a changed human life altogether.''

In other words, the purpose of not-for-profit organizations is to improve the human condition, that is, to advance important non-economic, non-regulatory functions that cannot be as well served by either the business corporation or government. Business corporations describe success as consistently providing shareholders with a reasonable return on equity. Not-for-profit organizations never properly define their success in terms of profit; those that do have lost their sense of purpose.

This difference between not-for-profits and businesses is most clearly seen in the organizations' different approaches to decision making. The primary question in an investor-owned organization is: ''How do we ensure a reasonable return to our shareholders?'' Other questions may be asked about quality and the impact on the community, but always in the context of their effect on profit. A properly focused not-for-profit always begins with a different set of questions:

What is best for the person who is served?

What is best for the community?

How can the organization ensure a prudent use of resources for the whole community, as well as for its immediate customers?

HEALTHCARE'S ESSENTIAL CHARACTERISTICS

I believe there are four essential characteristics of healthcare delivery that are especially compatible with the non-for-profit structure, but much less likely to occur

when healthcare decision making is driven predominantly by the need to provide a return on equity. These four essential characteristics are:

Access.
Medicine's patient-first ethic.
Attention to community-wide needs.
Volunteerism.
Let me discuss each.

First, there is the need for access. Given healthcare's essential relationship to human dignity, society should ensure everyone access to an adequate level of healthcare services. This is why the United States Catholic Conference and I argued strongly last year for universal insurance coverage. This element of healthcare reform remains a moral imperative.

But even if this nation had universal insurance, I would maintain that a strong not-for-profit sector is still critical to access. With primary accountability to shareholders, investor-owned organizations have a powerful incentive to avoid not only the uninsured and underinsured, but also vulnerable and hard-to-serve populations, high-cost populations, undesirable geographic areas, and many low-density rural areas. To be sure, not-for-profits also face pressure to avoid these groups, but not with the added requirement of generating a return of equity.

Second, not-for-profit healthcare organizations are better suited than their investor-owned counterparts to support the patient-first ethic in medicine. This is all the more important as society moves away from fee-for-service medicine and cost-based reimbursement toward capitation. (By ''capitation'' I mean paying providers in advance a fixed amount per person regardless of the services required by any specific individual.)

Whatever their economic disadvantages, fee-for-service medicine and cost-based reimbursement shielded the physician and the hospital from the economic consequences of patient-first ethic in American medicine. Few insured patients were ever undertreated, though some were inevitably overtreated. Now we face a movement to a fully capitated healthcare system that shifts the financial risk in healthcare from the payers of care to the providers.

This development raises a critically important question: ''When the providers is at financial risk for treatment decisions who is the patient's advocate?'' How can we continue to put the patient first in this new arrangement? This challenge will become especially daunting as we move into an intensely price competitive market where provider economic survival is on the line every day. In such an environment the temptation to undertreat could be significant. Again, not-for-profits will face similar economic pressure but not with the added requirement of producing a reasonable return on shareholder equity. Part of the answer here, I believe, is to ensure that the nation not convert to a predominantly investor-owned delivery system.

Third, in healthcare there are a host of community-wide needs that are generally unprofitable, and therefore unlikely to be addressed by investor-owned organizations. In some cases, this entails particular services needed by the community but unlikely to earn a return on investment, such as expensive burn units, neonatal intensive care, or immunization programs for economically deprived populations. Also important are the teaching and research functions needed to renew and advance healthcare.

The community also has a need for continuity and stability of health services. Because the primary purpose of not-for-profits is to serve patients and communities, they tend to be deeply rooted in the fabric of the community and are more likely to remain—if they are needed—during periods of economic stagnation and loss. Investor-owned organizations must, on the other hand, either leave the community or change their product line when return-on-equity becomes inadequate.

Fourth, volunteerism and philanthropy are important components of healthcare that thrives best in a non-for-profit setting. As Peter Drucker has noted, volunteerism in not-for-profit organizations is capable of generating a powerful countercurrent to the contemporary dissolution of families and loss of community values. At a time in our history when it is absolutely necessary to strengthen our sense of civic responsibility, volunteerism in healthcare is more important than ever. From the boards of trustees of our premier healthcare organizations to the hands-on delivery of services, volunteers in healthcare can make a difference in peoples' lives and ''forge new bonds to community, a new commitment to active citizenship, to social responsibility, to values.''

ROLE OF MEDIATING INSTITUTIONS

In addition to my belief that the not-for-profit structure is especially well aligned with the central purpose of healthcare, let me suggest one more reason why each of us should be concerned that not-for-profits remain a vibrant part of the nation's healthcare delivery system: They are important mediating institutions.

The notion of mediating structures is deeply rooted in the American experience: On the one hand, these institutions stand between the individual and the state; on the other, they mediate against the rougher edges of capitalism's inclination toward excessive individualism. Mediating structures such as family, church, education, and healthcare are the institutions closest to the control and aspirations of most Americans.

The need for mediating institutions in healthcare is great. Private sector failure to provide adequately for essential human services such as healthcare invites government intervention. While government has an obligation to ensure the availability of and access to essential services, it generally does a poor job of delivering them. Wherever possible we prefer that government work through and with institutions that are closer and more responsive to the people and communities being served. This role is best played by not-for-profit hospitals. Neither public nor private, they are the heart of the voluntary sector in healthcare.

Earlier, I identified several reasons why I believe investor-owned organizations are not well suited to meeting all of society's needs and expectations regarding healthcare. Should the investor-owned entity ever become the predominant form of healthcare delivery, I believe that our country will inevitably experience a sizeable and substantial growth in government intervention and control.

Until now, I have made two arguments: first, that healthcare is more than a commodity—it is a service essential to human dignity and to the quality of community life; and second, that the not-for- profit structure is best aligned with this understanding of healthcare's primary mission. My concluding argument is that private and public sector leaders have an urgent civic responsibility to preserve and strengthen our nation's predominantly not-for-profit healthcare delivery system.

This is a pressing obligation because the not-for-profit sector in healthcare may already be eroding as a result of today's extremely turbulent competitive environment in healthcare. The problem, let me be clear, is not competition per se, but the kind of competition that undermines healthcare's essential mission and violates the very character of the not-for-profit organization by encouraging it—even requiring it—to behave like a commercial enterprise.

Contemporary healthcare markets are characterized by hospital overcapacity and competition for scare primary care physicians, but also, and more ominously, by shrinking health insurance coverage and growing risk selection in private health insurance markets. These latter two features encourage healthcare providers to compete by becoming very efficient at avoiding the uninsured and high risk populations, and by reducing necessary but unprofitable community services—behavior that strikes at the heart of the not-for-profit mission in healthcare. Moreover, the environment leads some healthcare leaders to conclude that the best way to survive is to become for-profit or to create for-profit subsidiaries. The existence of not-for-profits is further threatened by the aggressive efforts of some investor-owned chains to expand their market share by purchasing not-for-profit hospitals and by publicly challenging the continuing need for not-for-profit organizations in healthcare.

ADVANCING THE NOT-FOR-PROFIT HEALTHCARE MISSION

Each of us and our communities have much to lose if we allow unstructured market forces to continue to erode the necessary and valuable presence of not-for-profit healthcare organizations. It is imperative, therefore, that we immediately begin to find ways to protect and strengthen them.

How can we do this? Without going into specifics, I believe it will require a combination of private sector and governmental initiatives. Voluntary hospital board members and executives must renew their institutions' commitment to the essential mission of not-for-profit healthcare. Simultaneously, government must reform health insurance markets to prevent ''redlining'' and assure everyone reasonable access to adequate healthcare services. Finally, government should review its tax policies to ensure that existing laws and regulations are not putting not-for-profits at an inappropriate competitive disadvantage, but are holding them strictly accountable for their tax exempt status.

Let me conclude by simply reiterating the thesis I made at the beginning of this talk. Healthcare is fundamentally different from most other goods and services. It is about the most human and intimate needs of people, their families, and communities. It is because of this critical difference that each of us should work to preserve the predominantly not-for-profit character of our healthcare delivery in Chicago and throughout the country.●

ORDERS FOR TUESDAY, MARCH 7, 1995

Mr. ROTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:30 a.m., on Tuesday, March 7, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then immediately begin consideration of S. 244, the Paperwork Reduction Act, and, further, that no rollcall votes occur prior to 2:15 p.m. on Tuesday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I now ask unanimous consent that following the disposition of S. 244, the Paperwork Reduction Act, the Senate proceed to the consideration of H.R. 889, the supplemental appropriations bill.

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

Mr. ROTH. Mr. President, I further ask that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m., in order for the weekly party caucuses to meet.

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

PROGRAM

Mr. ROTH. Mr. President, for the information of all of my colleagues, under the previous order there are four remaining amendments in order to the Paperwork Reduction Act. Therefore, rollcall votes are expected throughout the day on Tuesday, although no votes will occur prior to 2:15 p.m.

Senators should also be aware that following the paperwork reduction bill, the Senate will begin consideration of the supplemental appropriations bill.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. ROTH. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:12 p.m., recessed until Tuesday, March 7, 1995, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 6, 1995:

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN GOGLIA, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1998, VICE SUSAN M. COUGHLIN, RESIGNED.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CLIFFORD GREGORY STEWART, OF NEW JERSEY, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF 4 YEARS, VICE DONALD R. LIVINGSTON, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE RESTRICTED LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

BARTON D. STRONG, 000–00–0000

SPECIAL DUTY OFFICER (CRYPTROLOGY)

To be rear admiral

THOMAS F. STEVENS, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

To be lieutenant colonel

DAVID C. CHUBER, 000–00–0000

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL SERVICE CORPS

To be lieutenant colonel

CARL M. ALLEY, 000–00–0000
ROBERT W. BLUM, 000–00–0000
BRUCE R. BROWN, 000–00–0000
DONALD L. BULLARD, 000–00–0000
JAMES L. BYERS, 000–00–0000
STEVEN L. CARDENAS, 000–00–0000
CHI CHIANG, 000–00–0000
LARRY L. COBLER, 000–00–0000
ADANTO R. DAMORE, 000–00–0000
ROBERT L. DITCH, 000–00–0000
FREDA L. FACEY, 000–00–0000
MICHAEL T. FEESER, 000–00–0000
CHESTER A. GOODING, JR., 000–00–0000
SCOTT R. GRAHAM, 000–00–0000
FRED M. HANNAN, JR., 000–00–0000
BRUCE A. HARMA, 000–00–0000
WILFRID J. HILL, 000–00–0000
SUSAN L. HUFSMITH, 000–00–0000
KAREN E. JONES, 000–00–0000
MICHAEL S. JONES, 000–00–0000
PARTICK G. KANE, 000–00–0000
COREY A. KIRSCHNER, 000–00–0000
JOHN R. LAKE, 000–00–0000
SCOTT E. LAWRENCE, 000–00–0000
JODY B. LEJA, 5 000–00–0000
DORON N. MANIECE, 000–00–0000
GARY D. MC MANN, 000–00–0000
BENNY C. MERKEL, 000–00–0000
WILLIAM J. MITCHELL, 000–00–0000
MARYANN MORREALE, 000–00–0000
MILTON T. OBENOSKEY, 000–00–0000
KEVIN P.N. OSHEA, 000–00–0000
LEOARD A. OSTERMANN, 000–00–0000
GARY N. OVERALL, 000–00–0000
KEVIN A. POLLARD, 000–00–0000
MARK A. PRESSON, 000–00–0000
ROBERT G. QUINN, 000–00–0000
REYES P. RAMIREZ, 000–00–0000
ROBERT J. RENNIE, 000–00–0000
RONALD C. RETZER, 000–00–0000
RICHARD D. ROGNEHAUGH, 000–00–0000
SUZANNE M. SILVER, 000–00–0000
DONALD E. TAYLOR, 000–00–0000
MICHAEL D. THORNTON, 000–00–0000
DONALD B. TREMBLEY, 000–00–0000
NANCY A. WAITE, 000–00–0000
CHARLES D. WALLER,, 000–00–0000
DAVID M. WILMOT, 000–00–0000
DAVID E. WOMACK, 000–00–0000
FREDERICK L. WOODS, 000–00–0000
JOHN H. YANCEY, 000–00–0000
ROBERTA L. YOUNG, 000–00–0000