

March 2, 2003

Madam President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 519

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. On page 1, line 13, after the semicolon insert "PROVIDING FOR APPEALS;".

2. On page 3, line 22, after the period insert "An order issued by the secretary shall take effect immediately. A person named in the order may request an administrative hearing before the secretary within ten days after receipt of the order. If a timely request for a hearing is made, the secretary shall conduct a hearing within thirty days after receipt of the request.".

3. On page 6, between lines 2 and 3, insert the following Section 5 to read:

"Section 5. A new section of the Radiation Protection Act is enacted to read:

"[NEW MATERIAL] ADMINISTRATIVE ACTION-- JUDICIAL REVIEW. --

A. A person who is or may be affected by a final administrative action of the secretary may appeal to the court of appeals for further relief within thirty days after the action. All appeals shall be upon the record before the secretary.

B. Upon appeal, the court of appeals shall set aside the action only if it is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or

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(3) otherwise not in accordance with law.

C. A stay of enforcement of the action being appealed may be granted after hearing and upon good cause shown by:

(1) the secretary; or

(2) the court of appeals, if the secretary denies a stay or fails to act upon an application for a stay within sixty days after receipt of the application. "".

4. Renumber the succeeding sections accordingly.

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Dede Feldman, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Hurt, Sanchez, M

Absent: None

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