STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself, Mr. FAIRCLOTH, Mr. BREAUX, Mr. PRESSLER, Mr. DORGAN, Mr. LOTT, Mr. DOLE, Mr. MURKOWSKI, and Mr. HEFLIN)

S. 851. A bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes; to the Committee on Environment and Public Works.

THE WETLANDS REGULATORY REFORM ACT OF 1995

Mr. JOHNSTON. Mr. President, I am pleased today to introduce, along with several of my colleagues, the Wetlands Regulatory Reform Act of 1995. I am particularly pleased to have as the lead cosponsor Senator FAIRCLOTH, the chairman of the subcommittee of the Environment and Public Works Committee that has jurisdiction over wetlands. Our bill will reform the section 404 ''wetlands'' permitting program under the Clean Water Act by introducing balance, common sense, and reason to a Federal program that is causing unnecessary problems for my constituents—and I believe for many of our citizens around the Nation.

In the closing days of the last Congress, I introduced a wetlands bill, S. 2506, so that my colleagues and other interested persons could review the legislation and recommend improvements prior to reintroduction in the 104th Congress. I appreciate the efforts of those who took the time over the last few months to provide suggestions, many of which are reflected in the current bill.

Mr. President, the current section 404 regulatory program has been designed less by the elected representatives of the people than by officials of the Corps of Engineers and the Environmental Protection Agency and by Federal judges. In 1972, the Congress enacted the Federal Water Pollution Control Act. Section 404 of that Act prohibited ''discharges of dredged or fill material'' into ''waters of the United States;'' without a permit from the Secretary of the Army. At the time of passage, ''waters of the United States'' was thought to be limited to the navigable waters of the Nation.

From this narrow beginning has come a rigid regulatory program that is devaluing property and preventing the construction of housing, the extension of airport runways, the construction of roads—often on lands that rarely, if ever, have water on the surface but which, nevertheless, are viewed as ''wetlands'' within the definition of ''waters of the United States''. And I might add, Mr. President, that 75 percent of the land that is being regulated through the Section 404 program as ''wetlands'' or ''waters of the United States'' is privately-owned property.

I do not believe that we, in Congress, intended for the Section 404 program to become a rigid, broad Federal land use program that affects primarily privately-owned property. Yet, the evidence is clear to me that the Section 404 program has become just that. Therefore, Mr. President, I believe that the time has come for the Congress to reform this program to focus Federal regulatory authority on those wetlands that are truly important functioning wetlands, to ensure that our citizens can obtain permits through a reasonable process within a reasonable period of time, and to ensure that this program is not denying people the use of their property unless there is an overriding reason to do so.

Mr. President, the Wetlands Regulatory Reform Act of 1995 proposes several key changes to the current 404 program:

First, the bill provides a statutory definition of a jurisdictional wetland. This is, of course, the crucial threshold question: what wetlands are subject to Federal regulation? And yet, one can read the entire Clean Water Act without finding the answer to this question. Instead, the answer currently lies only in a manual prepared by the Corps of Engineers in 1987. I think it is high time that Congress make an explicit judgment on this matter and set forth a definition in the statute itself.

The definition in our bill is essentially this: there must be water on or above the surface of the ground for at least 21 consecutive days during the growing season. This is virtually the same as the definition in H.R. 961, which passed the House last week.

During the debate in the House, it was claimed by opponent of the bill that this definition excludes a huge portion of the wetlands that are currently regulated. However, the claims varied widely, and did not appear to be based on solid evidence. Although I think that these claims are exaggerated I want to make sure that our definition does not exclude wetlands that are truly important. Therefore, I intend to write to the Clinton administration to ask them to provide the best evidence available regarding the effect of our definition on the amount and nature of wetland regulated, both nationwide and in Louisiana.

Second, this legislation will require that Federal jurisdictional wetlands be classified into three categories: high, medium, and low valued wetlands, based on the relative wetlands functions present. Today, the Section 404 program regulates all wetlands equally rigidly, whether the wetland is a pristine, high-value wetland, a wet spot in a field, or a ''wetland'' in the middle of an industrial area. This treatment of wetlands defies logic and common sense.

My legislation will require the Corps of Engineers to classify wetlands based on their functions, and then regulate them accordingly. Class A, high-value, wetlands will be regulated under the current ''sequencing'' methodology, which first seeks to avoid adverse effects on wetlands, then attempts to minimize those adverse effects that cannot be avoided, and finally calls for mitigation of any adverse effects that cannot be avoided or minimized. Class B, medium-value, wetlands will be regulated under a balancing test, which does not require the avoidance step. Finally, Class C, low-value, wetlands will not be regulated by the Federal Government, but may be regulated by the State if they so choose.

Third, this legislation removes the dual agency implementation of this program, an aspect of the program that is particularly confusing and troublesome to our constituents. Today, the Army Corps of Engineers issues Section 404 permits, but the Environmental Protection Agency may veto the decision of the Corps to issue the permit. Although EPA actually exercises its veto power infrequently, I understand that veto is threatened often, causing undue delays and repeated multi-agency consultations. My legislation removes the EPA veto, and instead simply requires the Corps to consult with EPA before acting.

Similarly, current law allows the EPA to veto permit decisions made by State that have assumed responsibility for the section 404 program. Our bill makes two changes to this regime. First, the Corps, instead of the EPA, becomes responsible for overseeing States that have assumed responsibility for the program. This is done in order to consolidate responsibility in a single Federal agency. Second, the bill deletes the veto authority as an unnecessary interference with State administration of the program. If the Corps determines that the State is not implementing the program appropriately, the Corps has the authority, which my bill does not change, to withdraw approval of the State program and return the program to Federal hands. But as long as the State is in charge, its individual permit decisions should not be subject to veto from Washington.

Fourth, mitigation banking is authorized and encouraged by the bill as a sound means to return wetlands functions to the environment. There are a number of mitigation banking projects now around the Nation. The experience with these projects is proving that mitigation banking holds great promise as a means of restoring, enhancing, reclaiming, and even creating wetlands to offset the wetlands disturbances that are permitted under the section 404 program. Mitigation banking is the type of market driven mechanism that I believe we must incorporate in our national environmental laws if we are to achieve our national environmental goals.

Finally, this legislation will require that steps be taken to provide notice to our citizens regarding the location of Federal jurisdictional wetlands. Remarkably, Mr. President, the Federal Government is regulating over 100 million acres of land, over 75 million acres of which is privately owned, yet there are no maps posted to inform citizens about the location of these lands. Perhaps this would not be a problem if

Federal jurisdictional wetlands were only swamps, marshes, bogs, and other such areas that are wet at the surface for a significant portion of the year, and therefore relatively easy for our citizens to identify. But land that is dry at the surface all year long can also be a Federal jurisdictional wetland.

Without maps and other notices, only the most highly trained technicians among our citizens can identify the subtle differences between lands that are not subject to the section 404 program and those that are. Thus, many people have bought land for home sites, only to find out later that they have bought a Federal jurisdictional wetland and cannot obtain a permit to build their house. We owe our citizens better than that.

My legislation will require the Corps of Engineers to immediately post notices about the section 404 program near the property records in the courthouses around the Nation, and to post maps of Federal jurisdictional wetlands as those maps become available, including the National Wetlands Inventory maps that are being developed by the National Biological Survey.

Mr. President, there are many other improvements of the current program in my legislation, including time limits on the issuance of section 404 permits, an administrative appeal process, and the designation of the Secretary of Agriculture to delineate wetlands on agricultural lands.

As I mentioned, our bill has virtually the same definition of wetland as the House-passed clean water bill, H.R. 961. Although there are several other comparable provisions in the two bills, our legislation varies from the House-passed bill in at least one important respect. Our legislation does not provide a mechanism for obtaining compensation from the Federal Government when private property is taken through the operation of the 404 program. I believe that the impact of the section 404 program on private property rights is a very important issue. However, I also believe that compensation is an extraordinarily complex and controversial issue that overarches all environmental regulations, not just those relating to wetlands. Thus, rather than attempting to resolve the compensation issue in this bill, we have chosen to include provisions in the legislation that will help ensure that the Section 404 Program does not result in takings of private property in the first place. Therefore, in addition to the many provisions of the bill that will make the wetlands program more balanced and rational, it also directs Federal officials to implement the program in a manner that minimizes the adverse effects on the use and value of privately-owned property.

I would be remiss if I did not comment on the recently-issued study of wetlands by the National Academy of Sciences. The report reaches several conclusions that are reflected in this legislation. Specifically, it recommends the consolidation of all wetlands regulatory functions into a single Federal agency, a change that is central to our legislation. It also recommends that regional variations in wetlands be taken into account, which our bill does.

Some have suggested that the NAS study recommends against a classification scheme such as is included in our bill, but I do not read it that way. The report states that:

> Some groups have suggested the creation of a national scheme that would designate wetlands of high, medium, or low value based on some general guidelines involving size, location, or some other factor *that does not require field evaluation*. It is not possible, however, to relate such categories in a reliable way to objective measures of wetlands functions, in part *because the relationships between categories and functions are variable* and in part because we still have insufficient knowledge of wetlands functions. (Emphasis added.)

I read the report to warn against nationwide classification schemes that do not take into account site-specific considerations, a point on which I heartily agree. That is why our classification process is initiated only in connection with the consideration of a permit application or upon a request for classification of a specific piece of property. The particular piece of property is classified after considering site-specific factors, such as the significance of the wetland ''to the long-term conservation of the aquatic system of which the wetland is a part,'' and the ''scarcity of functioning wetlands within the watershed or aquatic system.'' Thus, I do not see an inconsistency between the NAS report and our bill with respect to classification.

Even if the NAS study could be interpreted as expressing concern about any classification scheme for wetlands, I would suggest that those concerns should not be dispositive. Scientists and lawmakers necessarily approach matters differently. Scientists are in the business of achieving a more perfect state of knowledge, while lawmakers are in the business of drawing regulatory lines and allocating societal resources based on the information available. While a scientist might prefer to wait for more information before distinguishing among wetlands, Congress cannot wait because the present regulatory scheme, which makes no distinctions among wetlands, is so clearly ineffective at balancing wetlands protection against other policy considerations.

Mr. President, reforming the wetlands regulatory program will be one of my highest priorities in this Congress. I look forward to working with my colleagues and others in an effort to make the program work both for the environment and for our constituents.

Mr. BREAUX. Mr. President, I join with my colleague from Louisiana, Senator J. BENNETT JOHNSTON, in introducing legislation today which makes major reforms in Sec. 404 of the Federal Water Pollution Control Act, also known a the Clean Water Act.

We all know Sec. 404 to be the wetlands regulatory program which has caused so much controversy and so many problems. I have heard countless complaints that the program has been implemented in an excessive and restrictive manner for years, imposing unfair hardship on landowners, businesses and local governments.

It is long overdue that the Sec. 404 program be reformed. It is long overdue that the program be balanced, reasonable and fair. This bill attempts to achieve those objectives.

One of the major features of the bill is its wetlands classification system. I wholeheartedly endorse classifying and regulating wetlands by the their value and function.

All wetlands are not equal in value and function, yet for years they have been regulated that way. That way is wrong and we intend to change it.

We do not have a wetlands classification system in current law. To be fair and to strike balance and reason in wetlands regulation we must identify and regulate according to the very real differences in wetlands value and function.

For the first time, wetlands would be divided into three classes of critical significance, Class A, significant, Class B, and marginal value, Class C. Each class is defined to distinguish the different values and functions found in wetlands.

Classes A and B wetlands would be regulated because they provide the most valuable functions. A public interest test would have to be met when regulating these two classes. Class C wetlands would not be regulated because they are of marginal value.

Other major provisions of the bill include a definition of jurisdictional wetlands, expansion of wetlands regulatory exemptions and an expansion of regulated activities. Single agency program jurisdiction and administration by the Corps of Engineers is established.

Also included in the bill are exclusion of prior converted cropland from Sec. 404 regulation, USDA delineation of wetlands on agricultural land, and authorization of State permitting programs, and administrative appeals program and a mitigation banking program. Public information is required to be published about wetlands and their regulation at the Federal and local levels.

The bill's policies attempt to strike a very simple and sound premise in regulatory policy, that is, balance, reason and, most importantly, fairness shall prevail.

These policies attempt to balance respect for the environment with respect for property owners, in whose possession lies an estimated 75 percent of our wetlands in the lower 48 states.

In all that we do with regard to wetlands policy, we must always be mindful and respectful of the fact that most

of our wetlands in the lower 48 States are privately owned.

Thank you, Mr. President, for this time to announce my support for and sponsorship of the Wetlands Regulatory Reform Act of 1995.

I hope the Senate can begin hearings on the legislation and hear solid testimony so that a final bill can be crafted.

Mr. PRESSLER. Mr. President, today I join Senator FAIRCLOTH and Senator JOHNSTON and others, in introducing legislation that addresses a major concern of landowners, farmers, businesses, and average citizens throughout the United States. The concern is wetlands.

Just last week, during consideration of the Clean Water Act, the House of Representatives passed major revisions to our Federal wetlands laws. It is now the Senate's turn to address this major issue. As Chairman of the Senate Subcommittee on Wetlands, Senator FAIRCLOTH will direct Senate efforts to bring much needed common sense to our Federal wetlands laws. Very few Federal issues are more critical to South Dakota property owners. Therefore, I look forward to working with Senator FAIRCLOTH in making sure reforms are adopted during this Congress.

Mr. President, current wetlands law is too broad. It is causing too many problems throughout the country. Congress has never passed a comprehensive law defining wetlands. Without such a definition, Federal agencies have been recklessly pursuing control over private property in the name of saving wetlands. The time to act has come.

Earlier this year, I introduced S. 352, The Comprehensive Wetlands Conservation and Management Act of 1995. A number of the provisions in my legislation already have been adopted by the House, as part of its reforms on wetlands. Also, I am pleased that most of S. 352 is incorporated in the bipartisan bill we are introducing today.

By introducing a bipartisan bill, one message is made clear: Meaningful wetlands reform must be adopted this year.

One issue I reserve the right to address during future Senate debate on wetlands reform is adequate compensation for private property owners. Whenever the Federal Government takes land away from private property owners, or significantly reduces the use of private property, compensation is in order. There is no compensation provision in the bill being introduced today. However, I intend to raise this issue during floor debate on this subject. Compensation to private property owners should be included in meaningful wetlands reform.

The primary purpose of today's legislation is to clearly define wetlands in law and regulation. What the Federal Government should, or should not be doing in this area needs to be clearly defined.

In addition, efforts must be made to ensure that any fine or penalty is in line with violations. Many violations are incidental and can be quickly repaired. Penalties should fit the crime. The bill we are introducing today would set that kind of standard.

The bill would require certain criteria to be met and verified before an area can be regulated as a wetland. Such an approach would be more reliable in identifying true wetlands. It would prevent field inspectors from mistakenly classifying as wetland dry, upland areas that drain effectively. It also would eliminate a major source of confusion and abuse caused by current regulations.

This bill also would give States and local governments the authority to tailor the wetlands regulatory program to their own special circumstances. This is greatly needed.

The bill also would clarify current agricultural exemptions and provide that the Secretary of Agriculture shall identify agricultural lands that are wetlands.

Mr. President, the time has come for the Senate to adopt wetlands reform. Only through the kind of commonsense and balanced approach proposed in this bill can the Nation's agricultural, business, environmental, and individual interests be properly addressed.

Mr. President, thousands of South Dakotans have written, called, or visited with me about the lack of definition of wetlands and the haphazard rules and regulatory overkill taken by the Federal Government. They rightly are concerned about the impact of the current system on their ability to run their farms and businesses. South Dakotans are law-abiding citizens who stand for fairness and balance in the enforcement of the law. South Dakotans are conscientious stewards of the land they have cared for and cultivated for generations. They believe the time has come for a fair, balanced approach that protests the environment as well as private property. I believe the bill we are introducing today responds to this call for fairness from South Dakota and across America.

Action on this issue is essential. I urge my colleagues to take a close look at this bill and join in supporting it.

By Mr. DOMENICI (for himself, Mr. CRAIG, Mr. BROWN, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. BURNS, Mr. SIMPSON, Mr. THOMAS, Mr. KYL, Mr. PRESSLER, Mr. KEMPTHORNE, Mr. CONRAD, Mr. DORGAN, Mr. DOLE, and Mr. GRAMM):

S. 852. A bill to provide for uniform management of livestock grazing on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

THE LIVESTOCK GRAZING ACT OF 1995

Mr. DOMENICI. Mr. President, over the past several years, a series of legislative and administrative actions have haunted the Federal lands ranchers. A cloud has been hanging over their livelihoods. Today, with the introduction of the Livestock Grazing Act of 1995 [LGA], we intend to roll back that cloud.

In the wings, however, there awaits an onerous proposal that will jeopardize the very fabric of the Federal lands rancher's livelihood. On August 21, 1995, Secretary Babbitt's Rangeland Reform '94 proposal becomes final. Earlier this year, the Secretary agreed to provide a 6-month window of opportunity for Congress to deliberate over the concerns raised during the 2-year debate on the proposed rule. LGA is the product of that temporary stay; it is a product that will provide stability for ranchers across the West.

Many issues have been addressed in our bill. For example, issues such as public input into the management of our Federal lands; standards and guidelines that will reflect the diversity of the western rangelands; and incentive for permitees to contribute private dollars to betterment of our Federal lands; a fair method in gaining ownership and control of water rights; a subleasing provision that will help the elderly and family ranchers; and, a grazing fee formula that will generate more revenue for the American taxpayers.

There are many more aspects of this legislation, nevertheless, I am going to focus on the new grazing fee and the formula that will generate an increase in revenue to the Treasury.

Although the grazing fee does not affect the condition of our rangelands, I did make a commitment to increase the grazing fee during the October debate on Rangeland Reform '94. Today, through this legislation that pledge has been honored. LGA includes a grazing formula that will provide for a fair return for the utilization of our Federal lands.

In the past, the Federal lands grazing fee was based on a formula that was too complex and subject to many interpretations. A simpler and more understandable fee formula will help ensure a greater amount of stability to the Federal lands ranchers.

The LGA fee establishes a fee formula that is based on the gross value of production for cattle. Although this formula is based solely on the value of production for cattle, an adjustment has been made to take into consideration the differential in the production value between a cow and animals that are not as large. This adjustment will not increase the numbers of sheep and goats on the Federal lands, but will merely take into account the considerable differences between the cattle prices and the other two commodities.

This Gross Return Fee formula is based on the premise that the western Federal lands rancher should pay a fair percentage of gross production value that is gained by use of the Federal lands. Two key features of this formula are that the fee approximates the value of the forage from the gain in production value, and that it provides a fair return to the Federal Government for that forage.

Mr. President, this formula is simple. As I explained earlier, the current fee is convoluted. Establishing the grazing fee as a percentage of return will assure that livestock ranchers are assessed on the same basis of many other public lands users.se

As you may know, forage has no readily identifiable market value until it is converted into beef, wool, mutton, or some other salable animal product. Federal lands ranchers will—and have—willingly pay for the opportunity to utilize this forage on Federal lands to attain a gross value of livestock grazing on those lands. The Gross Return Fee recognizes the value of the end product by establishing the grazing fee as a percentage of this value.

The Gross Return Fee is critical to the continued viability of the western livestock industry. Ranchers are the family farmers of the West. The establishment of a fair and equitable grazing fee formula is critical to their survival.

Additionally, the rancher is key to the rural western economy. Every dollar a rancher spends yields an estimated $5 in economic activity throughout the West. This economic activity is critical to social fabric west, old or new.

In closing, Mr. President, the fee is only one component of this legislation. The other aspects of this bill will be addressed by the cosponsors of this legislation. Furthermore, a companion measure is currently ready for introduction in the House of Representatives. This will allow the Livestock Grazing Act of 1995 to be examined in full by both bodies of Congress. I look forward to moving this legislation through both Houses of Congress and removing the cloud that has been hanging over the Federal lands rancher.

Mr. CRAIG. Mr. President, I along with 14 of my colleagues am introducing the Livestock Grazing Act. This bill is intended to establish the policy guidelines for grazing of livestock on Federal lands in the Western States.

This bill is needed to resolve the ongoing debate over rangeland reform and the establishment of fees. I strongly believe the Congress must address this issue and resolve the ongoing debate over western rangeland management. We must assure that the extensive Federal lands in the West have a grazing policy that allows the families who depend on these lands to continue to use these lands to make their livelihoods.

We have crafted a bill that addresses the numerous issues that have arisen on grazing on the public lands. This bill is a product of extensive discussions with members of the grazing and academic community. It addresses both rangeland reform and the fee issue.

It is my intention to hold hearings in the Senate Energy and Natural Resources Subcommittee that I chair in the early summer and then to promptly move a bill. I am pleased that the other body has a similar schedule.

It is my intention to resolve this long-standing issue in a way that strengthens the economic base of the rural ranching West. I will work with my colleagues to assure that such a bill is passed into law.

Mr. BURNS. Mr. President, I rise today to support the introduction of the livestock grazing bill offered by Senator DOMENICI, myself, and others. This is a bill that will allow us to set the stage for the future grazing and land use access of the livestock industry. This is extremely important in the West, and in particular my State of Montana. This is a bill that will provide security and stability to the livestock producers—those people who live, and work 365 days a year, on or near the public lands.

For years there has been debate on the purpose and scope of the intent of the language that a grazing bill would offer. Many people have attempted to make this a single issue bill. This attempt may be the case, to those who, do nothing more than depend upon the farmer and rancher for the food and fiber they enjoy in their daily lives. But to the rancher, or anybody or any group this is the first step to creating some sense of stability for them on public lands. For the rancher, this is the first step they have seen, that will provide them with the security they need to operate their grazing permits with the sense of purpose and a future. The purpose of this bill is to provide a future for those hard-working men and women that provide the best and least expensive food supply to this Nation and the world.

Too many times the ability of these people to use the public lands has been threatened by forces who neither care about the vitality and well-being of the communities. People who have no idea of what the issue is. This is an issue of allowing producers and permit holders to use the land. For it is in this use that the land is made healthy, that our country thrives, and the public is provided an opportunity to put back something into the land.

In the recent past in my State of Montana this land use has been threatened by special interests. Interest groups with no understanding of what grazing and the livestock industry are all about. In a little known area, called the Bitterroot Forest, history was made by the stand that the permit holders made in defending their rights to use and graze public lands. However, this action cost the Federal Government thousands of dollars and strained the relations between the land use groups and the Government. All this action was brought on, due to the requirements of the land managers to complete certain environmental requirements. Requirements set forth under the provisions in the National Environmental Policy Act of 1969.

This case was developed as a result of the failure of the Federal Government of complete NEPA compliance on permit holders allotments. As a result, it threatened the ability of this particular group of ranchers to work, to graze cattle, and provide for their families. The permit holders, in this example and many more like it, were held hostage to the whims and of the special interest groups and the Federal courts. Held hostage by the very laws that were designed to protect them and their way of living. I find it ironic that those permit holders suffered financial loss and mental anguish. They were the only ones who did. All other interests including the Forest Service personnel who were charged to do the required work, did not lose a pay check.

Under the language in this bill we have provided for the security of the permit holders, and the health and future of the land. In this bill we continue to use the land management plans as a way to protect the land, and at the same time give the permit holders an opportunity to have access to the land for their use.

Mr. President, this bill is the first step to developing working arrangements between the Government and the people on the land. It is an opportunity to have all parties working together to set the standards for what is best for the land and the people of this country.

Mr. SIMPSON. Mr. President, I rise to express my support for the Livestock Grazing Act introduced by my colleague and good friend, Senator DOMENICI. He and his staff—especially Marron Lee—have done an outstanding job leading the charge for responsible grazing fee reform. I commend them for working so doggedly to produce the best bill possible.

Mr. President, I say ''best bill possible'' because there cannot be a perfect bill. With the number of diverse interests represented throughout our great American West, no legislation in this area will satisfy everyone. But truly, the widespread support for this bill has been impressive.

Of course, I have heard some rumblings of discontent from those wishing to modify specific portions of this legislation. I ask those individuals to work with us, to let us know your thoughts as this bill moves through the committee process. We will do our best to attend to your concerns. There are, however, certain things we must all bear in mind. First, this bill is by far better than the alternative of having no bill, and second, we must not turn this bill into a ''Christmas wish list.'' Doing so could spell defeat for this legislation and, in turn, subject our western livestock industry to an uncertain future.

I am most pleased by a number of provisions contained in this legislation that will benefit the Wyoming ranching industry. I would like to quickly address a few of these.

First, the bill will allow ranchers to own, in proportion to their investment in the overall cost, title to improvements located on Federal lands. This is far more fair than the administration's regulations requiring ranchers to pay for the improvement, while cedingownership with the Government. Mr.

President, that alternative is wrongly conceived. It amounts simply to a form of tax on our ranchers, taking their scarce assets and transferring them to the Federal Government.

We also address the critical issue of water rights. The Western States are not blessed with the almost unlimited supply of water that our Eastern neighbors enjoy. Western water law was created to manage this precious resource. Much of this law predates the birth of many of our Western States and works very well without the help of the Federal Government, thank you. This legislation directs Federal agencies to respect established State water law.

This legislation, unlike the administration's regulations, will leave certain aspects of rangeland management in the hands of those who have been responsible stewards of the public lands for over 100 years—the permittees, lessees, and landowners. Additionally, the new resource and grazing advisory council structure will allow other interests representing recreation and the environment to be adequately represented in the management process.

Finally, this legislation addresses the ever-contentious fee issue. Recall that not too long ago, many in this distinguished body were concerned that the ranching community was not paying a fair price for the opportunity to graze livestock on the public lands. This legislation will fairly increase that fee but keep it short of levels that would quickly bankrupt many hard-working families.

Mr. President, our American ranching industry has been a unique way of life for well over 100 years. Through the enactment of responsible legislation we can ensure that this industry, while still facing a number of significant challenges, will at least have a chance to remain viable well into the next century.

Mr. DASCHLE. Mr. President, Americans rely on Federal lands for a wide variety of purposes. Among them is rangeland for livestock grazing. As we look to the future use of these lands, it is incumbent upon us to implement commonsense policies that allow ranchers to graze livestock on these public rangelands while managing them in a manner that is consistent with long-term, sustainable use.

During the last 2 years, debate has raged over the appropriate regulation of Federal grazing lands. Environmentalists and those ranchers who graze on private land have argued for a more realistic fee system, one that links the grazing fee to the private land lease rate. Some have advocated stronger stewardship requirements. Meanwhile, as grazing policy remains unresolved, we have seen cattle prices drop and too many ranchers teetering on the edge of financial viability.

There needs to be some fair and reasonable ground upon which agreement can be reached that ensures public confidence in the management and use of the Federal lands, while allowing ranchers the certainty that, by working hard and playing by the rules, the Federal lands will provide an opportunity to earn a decent living. In short, the time has come to conclude this long debate and establish realistic grazing standards once and for all.

Secretary Babbit's Rangeland Reform proposals have called attention to this important issue and, at the same time, generated considerable controversy. While an open discussion of grazing reform is needed, a rising tide of misunderstanding and distrust has hampered the development of a broadly supportable solution.

Today, Senator DOMENICI is introducing the Livestock Grazing Act, which is intended to provide much needed closure to this debate as well as certainty for the many ranchers who rely on the Federal lands for grazing. I commend Senator DOMENICI for investing the hard work and energy in meeting with the ranching community and fashioning a bill that enjoys their support. His bill represents an essential step in moving grazing reform to closure.

I support much of the Domenici bill. It provides a valuable framework for addressing the critical issues of the fee, range management, and oversight, and, ultimately, I expect it to provide the foundation for the development of a balanced and reasonable approach to stewardship that addresses legitimate concerns of all interested groups.

For example, I call attention to the provision in the bill that establishes separate management of the national grasslands under the Department of Agriculture. This initiative will help ensure that management of those lands is as sensitive as possible to the unique needs of ranchers.

Currently, grasslands are subjected to rules and procedures that make sense for large expanses of national forests but not necessarily for grazing. In South Dakota, most ranchers who graze cattle on Federal lands do so on Forest Service lands. Ranchers in my home State feel a separate management unit for grasslands will allow them to ranch better. This legislation will accomplish that important objective.

Congress' challenge is to strike a balance between the recognition of regional environmental differences and the need to ensure a basic level of environmental protection. It is to reform the grazing fee, without putting an untenable financial squeeze on hard-working ranchers. And it is to strike a balance between the desire to provide an opportunity for input into range management decisions from the general public and the recognition that these decision have special ramifications for the economic security of those using the land.

We have not yet achieved that balance. But I am optimistic that we can, and I will devote my energies to working with Senator DOMENICI and others toward that goal.

This is one of the reasons I have invited Secretary of Agriculture Dan Glickman to visit with South Dakota ranchers next week in Rapid City. I want Secretary Glickman to hear first hand how those whose livelihoods are affected by Federal land management policies feel about the grazing issue. Their experience must be part of the solution sought in this debate.

Senator DOMENICI has expressed a desire to move grazing reform legislation with bipartisan support. While some initial concern has been raised that the Livestock Grazing Act, as currently drafted, may not yet achieve the balance needed to ensure consideration of all legitimate interests in the management of the range, he has given Congress a solid place to start. I hope that, in the weeks to come, any contentious issues can be worked out to the mutual satisfaction of all interested parties, and that we can move to enact legislation with broad-based support.

My goal is to pass Federal grazing reform. I am confident this Congress can achieve that goal.

Mr. THOMAS. Mr. President, I rise today in strong support of the legislation introduced by Senator DOMENICI, the Livestock Grazing Act. This bill is a reasonable proposal that will allow livestock producers in the West to continue to operate on public lands and will protect the public range for multiple-use purposes.

Today, western livestock producers are encountering many challenges. In addition to struggling because of low market prices for many products and fighting losses from predators, livestock producers in the West are now faced with regulations proposed by Interior Secretary Bruce Babbitt that will put them out of business. Secretary Babbitt's so-called ''Rangeland Reform '94'' proposal to reform public land grazing practices is nothing but a thinly veiled attempt to end livestock grazing on these areas.

The people of Wyoming and the West rely on having access to public lands for their livelihood. Over the last 100 years, this process has worked well. Westerners were able to use these lands for multiple uses such as grazing, oil and gas exploration, and recreation and in turn provided the rest of the Nation with high quality food products and other commodities. Unfortunately, the Department of the Interior has now taken a number of actions that will destroy the concept of multiple use of public lands and will cost jobs and harm local economies across Wyoming and the West.

The Livestock Grazing Act is designed to reverse this disturbing trend. This legislation will provide western livestock producers with a lifeline to survive the Clinton administration's efforts to destroy their way of life. The measure is a reasonable attempt to solve the long-standing dispute over grazing fees on public lands and many other issues which have caused great discontent in Congress and across the country.

Let me focus on a few provisions in the bill which are particularly important to the people of my State. First, the legislation establishes a grazing fee formula that will be tied to market values. This is a fair and equitable approach to resolving the fee formula dispute and will end the unfair comparison between private and public fee rates on Federal lands.

Second, the legislation will provide permittees with the assurance that they will be allowed to graze a certain number of livestock on their allotment. For over 50 years, BLM grazing permittees have known they had a priority position for a specific number of Federal animal unit months [AUM's] on their allotments. These so-called preference levels are attached to the private lands of the lessee and influence the value of the privately owned base property. Preference levels are particularly important to folks in my State where there is a large amount of checkerboard land, which is commingled Federal and private property.

Unfortunately, Secretary Babbitt's ''Rangeland Reform '94'' proposal attempts to radically revised the concept of grazing preference by giving Federal agents the authority to determine the appropriate number of AUM's attached to a lease. The Secretary wants to set AUM's for permittees on an arbitrary basis at the whim of the local Federal officials. This would cause instability throughout western livestock communities and threaten the economic value of western family ranches. The Livestock Grazing Act would stop the Secretary's misguided efforts by codifying the concept of grazing preference and giving western ranchers the surety they need to continue operating on Federal lands.

Mr. President, these are just two examples of the important actions taken by Senator DOMENICI in this bill that support western livestock producers. The time has come for Congress to assert itself regarding the issue of grazing on public lands in the West and stop Secretary Babbitt's unending assault on western communities and our western way of life. Although the Clinton administration and Secretary Babbitt would like folks to believe ranchers in the West are simply welfare cowboys, nothing could be further from the truth. These people are not taking advantage of the Government, but simply trying to make a reasonable living and raise their families.

I strongly support the Livestock Grazing Act and hope that we can take quick action on this measure in order to allow western livestock producers to continue their important work.

Mr. DORGAN. Mr. President, the sponsor of this bill, the Senator from New Mexico, has made a sincere attempt to draft a good management plan for our western public lands, and I have agreed to cosponsor it.

Although I want to see changes in several areas of this bill, overall it is a good plan for responsible management of our huge public trust in the West, imposing reasonable rules for the grazing of livestock and rangeland improvement while safeguarding the natural environment.

Senator DOMENICI has indicated his intent to work with Senators of both parties toward a consensus on this legislation. I appreciate his flexibility, but I particularly appreciate the Senator's addition to his bill of title II, provisions I and others from the Northern Plains have submitted dealing specifically with the national grasslands.

In fact, the Grasslands provisions are the primary reason that I am cosponsoring this bill.

Let me explain. Except for the grasslands provisions, this bill deals exclusively with lands supervised by the Department of the Interior. In North Dakota, however, land managed by Interior amounts to about two townships out of a State of 46 million acres. On the other land, North Dakota is host to 1.2 million acres of the national grasslands, which are managed by the U.S. Forest Service of USDA.

The main purpose of the grasslands provisions is to give the Secretary of Agriculture more flexibility in shaping the administration of the Grasslands.

I have worked with the ranchers in North Dakota and with the Forest Service in recent years, searching for ways the Secretary of Agriculture and the Forest Service could reorder the bureaucratic framework under which the Grasslands are managed. The Forest Service has been cooperative in that search, but I finally had to conclude that the Forest Service and USDA are legally prevented from the kind of change I believe is needed.

In the 1970's the grasslands were joined by statute to the entire National Forest System, managed by the Forest Service. That means the grasslands are enmeshed in the mounds and reams of paper that prescribe the layers of procedure, planning, management, and so forth, for the national forests.

Let me note here that land ownership in the grasslands areas of my state is much different than what you find among most of the great expanses of Federal lands in the West.

Most of the grasslands were owned earlier in this century by private farmers and ranchers, but were abandoned or lost to debt, and taken over by the Federal Government. Today this is not a region of big ranches. It is an area of small, and mid-sized ranchers where land ownership is extensively interspersed among individual families, the Forest Service, the State of North Dakota, and the Bureau of Land Management.

The proper approach in management of such rangeland, it seems to me, must be a cooperative venture between the ranchers and the Forest Service, drawing upon the best expertise of range scientists, wildlife specialists, and others who can help maintain and improve conditions in the grasslands.

The main focus of such a cooperative venture must be how to best manage and nurture the grasslands so they remain healthy and productive for the benefit of future generations of people and wildlife.

Somehow, that focus is lost in the reams of Forest System rules and regulations and planning documents that are supposed to address the grasslands. In reading those documents you would hardly know that there are cows on the grasslands when, in fact, ranching is the main human activity there by a long shot.

So, the grasslands provisions of this bill give the Secretary important latitude in changing the administrative structure under which the grasslands are managed. The provisions essentially restate the intent of the 1937 Federal act that set aside the grasslands: A call for conscientious range management that would build and preserve a healthy grassland resource.

And, where soil conservation and general range health are considered, title II also tries to return grasslands management to a more cooperative venture between the Forest Service and our State-chartered grazing associations.

The grasslands provisions do not dictate a specific administrative structure the Secretary must adopt for the grasslands. So, to a large extent, those provisions of the bill speak mostly to what can happen for the grasslands under a new design of Forest Service management, and do not say specifically what must happen.

The grasslands provisions will, I believe, help harvest the expertise and enthusiasm of grasslands area residents, including ranchers, for better local input into managing this critical natural area in my State.

The provisions are certainly not a step back from responsible management and protection of the natural resources. All Federal environmental laws, including the National Environmental Protection Act, Endangered Species Act, Clean Water Act, still apply. If anything, the grasslands provisions will encourage better attention to the spirit of our environmental laws because more people who live in the grasslands region, particularly those with expertise in areas of conservation and grassland agriculture, will be participating in how the lands are managed.

This is the kind of approach to public lands management that the people of North Dakota want. I should note that the 1995 North Dakota Legislature unanimously recommended the change we have proposed in the grasslands law.

Finally, I ask unanimous consent to print the proposed grassland provisions here in the RECORD as a means of distributing them for comment and discussion.

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

TITLE II—GRASSLANDS

SEC. 201 REMOVAL OF GRASSLANDS FROM NATIONAL FOREST SYSTEM

(a) FINDINGS.—Congress finds that the inclusion of the national grasslands (and land utilization projects administered under Title III of the Bankhead Jones Farm Tenant Act) within the Forest System contrains the Secretary in managing the national grasslands as intended under the Bankhead-Jones Farm Tenant Act.

(b) AMENDMENT OF THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974.—Section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) is amended in the second sentence by striking ''the national grasslands and land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012)''.

(c) AMENDMENT OF THE BANKHEAD-JONES FARM TENANT ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended by designating current §31 as subsection (a) to read as follows:

§1010. Land conservation and land utilization

To accomplish the purposes stated in the preamble of this act, the Secretary is authorized and directed to develop a program of land conservation and utilization as a basis for grassland agriculture, to promote secure occupancy and economic stability of farms, and thus assist in controlling soil erosion, preserving natural resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating flood damages, preventing impairment of dams and reservoirs, developing energy resources, protecting the watersheds of navigable streams, conserving surface and subsurface moisture, and protecting the public lands, health, safety, and welfare, but is not authorized to build industrial parks or establish private industrial or commercial enterprises. The Secretary, in cooperation and partnership with grazing associations, is authorized and directed to issue renewable livestock grazing leases to achieve the land conservation and utilization goals of this section.

And adding a new subsection (b) as follows:

NATIONAL GRASSLANDS FEE ADJUSTMENTS FOR CONSERVATION PRACTICES TO BE RETAINED AS IMPLEMENTED BY THE SECRETARY.—A reduction in grazing fees for national grasslands will be allowed for conservation practices and administrative duties performed by grazing associations.

By Mr. GORTON (for himself, Mr. BURNS, Mr. MURKOWSKI, Mr. STEVENS, Mr. KEMPTHORNE, Mr. CRAIG, Mr. BAUCUS, Mr. PACKWOOD, and Mr. HATFIELD):

S. 853. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

THE NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1995

Mr. GORTON. Mr. President, my purpose today is to introduce the Ninth Circuit Court of Appeals Reorganization Act of 1995, which is similar to measures I introduced in 1983, 1989, and 1991. This measure has the cosponsorship of Senators BURNS, MURKOWSKI, STEVENS, KEMPTHORNE, CRAIG, BAUCUS, PACKWOOD, and HATFIELD, who represent all the States forming the new proposed circuit. This proposal will divide the ninth circuit, the largest circuit in the country, into two separate circuits of more manageable size and responsibility. This division would leave the ninth circuit composed of Arizona, California, Hawaii, Nevada, Guam, and the Northern Mariana Islands, and would create a new twelfth circuit composed of Alaska, Idaho, Montana, Oregon, and Washington. Personally, I believe that the ninth circuit should be divided into three new circuits, but the composition for the two southern circuits should be determined by the elected representatives of those States, to whose judgment I will defer.

Today the ninth circuit is by far the largest of the thirteen judicial circuits, measured both by number of judges and by caseload. It has 28 active judges, 11 more than any other. Last year it had an astounding 8,092 new filings, almost 2,000 more than the next busiest circuit. It serves over 45 million people, almost 60 percent more than are served by the next largest circuit. Moreover, the population in the States and territories that comprise the ninth circuit is the fastest-growing in the Nation.

Mr. President, the deplorable consequence of the massive size of this circuit is a marked decrease in the consistency of justice provided by ninth circuit courts. Judges are unable to keep abreast of legal developments even within their own jurisdiction—to say nothing of lay citizens' inability to keep abreast. The large number of judges scattered over a large area inevitably results in difficulty in reaching consistent circuit decisions. These judges have nearly unmanageable caseloads with little time to review the voluminous case law within the jurisdiction or to consult with their fellow circuit colleagues. As a result, legal opinions tend to be very narrow with little precedential value, merely exacerbating the problem. As a former attorney general for the State of Washington, I personally have experienced the unique frustrations and difficulties of practicing before the ninth circuit.

Compounding the problem for the Northwest is that 55 percent of the case filings in the ninth circuit are from California alone. Consequently, the remaining States in the ninth circuit, including my State of Washington and our Northwest neighbors, are dominated by California judges and California judicial philosophy. That trend cannot help but persist as the number of cases filed by California's litigious and exploding population continues to rise. The Northwestern States confront issues that are fundamentally unique to that region, issues that are central to the lives of citizens in the Northwest, but which are little more than one of many newspaper articles in California. In sum, the interests of the Northwest cannot be fully appreciated or addressed from a California perspective.

This initiative, Mr. President, is long overdue. As early as 1973, the Congressional Commission on the Revision of the Federal Court Appellate System recommended that the ninth circuit be divided. In addition, the U.S. Judicial Conference found that increasing the number of judges in any circuit court beyond 15 would create an unworkable situation. The American Bar Association also adopted a resolution expressing the desirability of dividing the ninth circuit to help realign the U.S. appellate courts. Earlier bills on the ninth circuit reorganization that I introduced during the 101st and 102d Congresses—and which were virtually identical to this bill—earned the support of practitioners and judges in the ninth circuit, attorneys general of the western States, the Department of Justice, and the former Chief Justice of the U.S. Supreme Court, Warren E. Burger.

The leadership of the ninth circuit has not donned blinders to the difficulties inherent in a circuit court of this size and workload. It has responded, however, by adopting a number of innovative but ultimately ineffectual approaches to these problems. For example the ninth circuit has divided itself into three administrative divisions: the northern unit consists of the five Northwestern States that would comprise the proposed twelfth circuit, and the combined middle and southern units is identical to the restructured ninth circuit. This method, however, does little more than recognize the problem without solving it.

Another innovation of the ninth circuit is the limited en banc court, for which a panel of 11 of the 28 judges will be chosen by lot to hear an individual case. Such panels, however, further contribute to the inherent unpredictability of a jurisdiction as large as the ninth circuit. Lawyers often must tell their clients that they cannot begin to predict the likely outcome of an appeal until the panel has been identified. Mr. President, justice should not be determined by lot. Moreover, I have serious reservations about any method which would permit a small minority—as few as six of the sitting judges—to dictate the outcome of a case contrary to the judgment of a large majority, solely depending on the luck of the draw.

Despite these attempts to solve the problem, the performance of the ninth circuit has gotten worse, not better. Its judges are falling further and further behind. Despite only a moderate increase in new filings for appeal, the number of pending cases swelled by almost 20 percent in the last year. The ninth circuit now is the slowest of 12 regional circuits in hearing and deciding appeals, on average taking a full 16 months. Mr. President, justice delayed is justice denied.

The 45 million residents within the ninth circuit continue to pay the high costs of an unpredictable body of case law and an overburdened court system. They wait years before cases are heard and decided, prompting many to forego their rights to judicial redress. Residents in the Northwest, in particular,

are concerned about the growing inability of the ninth circuit to handle the boom in criminal cases stemming from stepped-up enforcement of our drug laws.

The swift and sure administration of justice is a right that should no longer be compromised in the ninth circuit. I urge my colleagues to support this important legislation. Mr. President, I ask unanimous consent that the complete text of my bill be printed in the RECORD.

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

S. 853

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 ''Ninth Circuit Court of Appeals Reorganization Act of 1995''.

SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out ''thirteen'' and inserting in lieu thereof ''fourteen'';

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

''Ninth ..... Arizona, California, Hawaii, Nevada, Guam, Northern Mariana Islands.'';

and

(3) between the last 2 items of the table, by inserting the following new item:

''Twelfth ..... Alaska, Idaho, Montana, Oregon, Washington.''.

SEC. 3. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

''Ninth ..... 19'';

and

(2) by inserting between the last 2 items at the end thereof the following new item:

''Twelfth ..... 7''.

SEC. 4. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting between the last 2 items at the end thereof the following new item:

''Twelfth ..... Portland, Seattle.''.

SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge in regular active service of the former ninth circuit whose official station on the day before the effective date of this Act—

(1) is in Arizona, California, Hawaii, Nevada, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit; and

(2) is in Alaska, Idaho, Montana, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. DEFINITIONS.

For purposes of this Act, the term—

(1) ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

SEC. 10. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1997.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1995.

Mr. BURNS. Mr. President, I am pleased to join the Senator from Washington, Senator GORTON, as an original cosponsor of the legislation to split the 9th Circuit Court of Appeals and create a new 12th Circuit. This legislation is long overdue in my opinion. It is my hope that we can act to create a new 12th circuit court this Congress.

The ninth circuit court is by far the largest of all the circuit courts, both in terms of the number of judges and caseload. In fact, the Judicial Conference of the United States stated in 1971 that ''to increase the number of judges in a circuit beyond 15 would create an unworkable situation.''

The ninth circuit court currently has 28 judges. That is nearly twice the maximum workable number in the opinion of the Judicial Conference, 12 more than the next largest circuit court and 16 more than the average circuit court.

In terms of caseload, the 9th circuit had 7,597 appeals pending at the end of fiscal year 1993. In 1988 when I was first elected to the U.S. Senate, there were 6,342 appeals pending. That is an increase of nearly 20 percent in just 5 years.

No other circuit court carries a heavier caseload. In fact, no other circuit even comes close. Each year, the ninth circuit has approximately twice as many appeals pending as the next largest circuit. It only makes sense that a Federal appeals court with a caseload that heavy should be split up.

The prospect for relief is not promising, either. In fact, the Committee on Long Range Planning for the Judicial Conference of the United States has projected that by the year 2000, over 15,000 petitions and appeals will be filed annually. and by the year 2020, over 60,000 will be filed annually.

What does all this mean in terms of our judicial process? It means that a case is pending in the ninth circuit for an average of 14½ months. That means some cases may be there 29 months while others whiz through in 7 or 8 months. The costs to those in Montana or Washington who are victims of this backlog continues to accrue. Not only are they continuing to pay their legal counsel during that time, but in the case of suits against economic activities such as timbering, mining, and water developments, employment is jeopardized, seriously threatening local economic stability.

It is also disturbing to me to see convicted murderers bringing lawsuits against the State claiming cruel and unusual punishment because they've been sitting on death row for a number of years. What is cruel and usual punishment is that families of victims have to wait such a long time to see justice finally carried out.

One such Montana family is State Senator Ethel Harding of Polson. Senator Harding's daughter, Lana, was brutally murdered by Duncan McKenzie over 20 years ago. It was not until 2 weeks ago that McKenzie was finally put to death and the Harding family could finally put this horrendous chapter of their lives behind them.

McKenzie's appeals ended up at the 9th Circuit 3 times over this 20 year period. Certainly part of the delay of justice may be attributed to the heavy caseload of the circuit and the inefficient system that the burdensome caseload has created.

Senator Harding has written a very moving letter to me and I would ask that it be submitted into the record in its entirety immediately following my remarks. ''Justice delayed is justice denied,'' writes Senator Harding, and I could not agree more.

As a result of her own ordeal, Senator Harding has been a strong advocate of splitting the Ninth Circuit. During the 1995 Montana State Legislature, she introduced Senate Joint Resolution No. 10, calling upon Congress to divide the Ninth Circuit court. The resolution passed overwhelmingly and is an accurate reflection on the wishes of Montanans.

Perhaps the most compelling argument for splitting the Ninth Circuit is precedent. The division of the 8th Circuit creating the 10th Circuit took place in 1929. In addition, the Fifth Circuit was also divided in 1981, creating the 11th Circuit. In fact, a commission which studied the revision of the Federal appellate court system recommended in 1973 that both the Fifth Circuit and the Ninth Circuit courts be split.

Those involved with the Fifth Circuit had the sense to make the division. Unfortunately, the division of the Ninth Circuit has been held up to be political maneuvering. So now we have to be here arguing for something that should have been done 14 years ago.

Granted, the division of the Ninth Circuit is more complicated since one State, California, generates a majority of the cases in that circuit. However, I think it is in the best interest of California, Montana, and the other States under the court's jurisdiction to make the split. The caseload for the Ninth Circuit will remain high no matter what, due to the population dynamics in a State like California. Thus, the split will bring much needed caseload relief to the Ninth Circuit while providing overall relief to States like my own Montana.

I just do not think it is fair, or in the best interest of the judicial process, that Montana businesses and individual citizens suffer because California continues to experience an economic and population boom. I find myself arguing this case everyday—the case of middle America battling to hold its own against the population centers on both coasts. There is a bias in the legislative branch, the executive branch, and now in the judicial branch.

I am here to see that States like Montana, Idaho, Washington, Oregon, and Alaska get a fair shake. I think that splitting the Ninth Circuit is a good place to start and I intend to see that it happens. Until it does, it is my intention to prevent any future nominations to the Ninth Circuit court of Appeals from going through the Senate for it makes no sense to continue to perpetuate a system that is not working.

I hope that my colleagues from all nine States currently under the jurisdiction of the Ninth Circuit court will join us in our efforts to quickly pass this legislation so that we can put justice back into our judicial system.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

THE BIG SKY COUNTRY,
May 17, 1995.

Hon. CONRAD BURNS,
U.S. Senate, Washington, DC.

DEAR SENATOR BURNS: I am enclosing a copy of Senate Joint Resolution No. 10 which passed in the 1995 session in Montana. I am also enclosing a copy of the 9th judicial circuit map and workload for your perusal.

The 9th Circuit covers nine states and two territories, totaling approximately 14 million square miles; serves a population of almost 44 million people 15 million more than the next largest circuit court and about 20 million more than all other courts of appeals; has 28 judges, 12 more than the next largest circuit court and 16 more than the average circuit court; and has a caseload of more than 6,000 appeals, 2,000 larger than the next largest court of appeals and nearly one-sixth of the total appeals in all the 12 regional courts of appeals; and projections are, that at the current rate of growth, the 9th Circuit's 1980 docket of cases will double before the year 2000.

The enclosed statistics on U.S. Court of Appeals—Judicial work load profile shows Montana is last or 12th in numerical standing from filing Notice of Appeal to Disposition. That is top long. Montana deserves better than that. We should not have to wait until California or any other state is served in in the judicial process but at least we should not have to be considered last. If the Circuit is divided and we were last it could at least cut the time in half.

I am also enclosing a copy of the History of Appeals in the McKenzie case which has haunted me personally for 20 years because he killed my daughter on January 21, 1974. It is for this reason I sponsored SJR 10 and why I am urging you to work in behalf of Montana having a quicker response and turn around on these criminal appeals. The families of victims should not have to suffer 20 years while the system works. ''JUSTICE DELAYED IS JUSTICE DENIED''.

I am enclosing an excerpt from ''Rationing Justice on Appeal'' by Thomas E. Baker, Justice Research Institute which clearly presents the problem and urges Congress to do something about it besides study. I also urge Congress to act now and to prevent the misuse of the judicial system as my family has personally experienced for twenty years.

Thank you, Senator Burns, for your help in this most important matter of dividing the 9th Circuit to a better advantage for Montana and the other smaller populated states and territories in the 9th circuit.

I will be anxiously watching for a good report.

Sincerely,

ETHEL M. HARDING,
State Senator, District 37.

SENATE JOINT RESOLUTION NO. 10

Whereas, under Article III, section 1, of the United States Constitution, the Congress of the United States has plenary power to ordain and establish the federal courts below the Supreme Court level; and

Whereas, in 1988, the 100th Congress created the Federal Courts Study Committee as an ad hoc committee within the Judicial Conference of the United States to examine the problems facing the federal courts and to develop a long-term plan for the Judiciary; and

Whereas, the Study Committee found that the federal appellate courts are faced with a crisis of volume that will continue into the future and that the structure of these courts will require some fundamental changes; and

Whereas, the Study Committee did not endorse any one solution but served only to draw attention to the serious problems of the courts of appeals; and

Whereas, the Study Committee recommended that fundamental structural alternatives deserve the careful attention of Congress and of the courts, bar associations, and scholars over the next 5 years; and

Whereas, the problems of the circuit court system and the alternatives for revising the system represent a policy choice that requires Congress to weigh costs and benefits and to seek the solution that best serves the judicial needs of the nation; and

Whereas, there are 13 judicial circuits of the United States courts of appeals; and

Whereas, Montana is in the Ninth Circuit, which consists of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington, Guam, and the Northern Mariana Islands; and

Whereas, in 1990, it was estimated that the Ninth Circuit: covers nine states and two territories, totaling approximately 14 million square miles; serves a population of almost 44 million people, 15 million more than the next largest circuit court and about 20 million more than all other courts of appeals; has 28 judges, 12 more than the next largest circuit court and 16 more than the average circuit court; and has a caseload of more than 6,000 appeals, 2,000 larger than the next largest court of appeals and nearly one-sixth of the total appeals in all the 12 regional courts of appeals; and

Whereas, projections are that at the current rate of growth, the Ninth Circuit's 1980 docket of cases will double before the year 2000; and

Whereas, statistics reveal that, because of the number of judges in the Ninth Circuit, there are numerous opportunities for conflicting holdings—one legal scholar has estimated that on a 28-judge court there are over 3,000 combinations of panels that may decide an issue, without counting senior judges, district judges, and judges sitting by designation; and

Whereas, legal scholars have suggested that because the United States Supreme Court reviews less than 1% of appellate decisions, the concept of regional state decisis, or adherence to decided cases, results, in effect, in each court of appeals becoming a junior supreme court with final decision power over all issues of federal law in each circuit (unless and until reviewed by the Supreme Court); and

Whereas, the Ninth Circuit has been described as an experiment in judicial administration and a laboratory in which to test whether the values of a large circuit can be preserved; and

Whereas, some legal scholars have opposed its division on the grounds that to divide the Ninth Circuit would be to lose the benefit of an experiment in judicial administration that has not yet run its course; and

Whereas, the problems of the Ninth Circuit are immediate and growing and maintaining the court in its present state is a disservice to the citizens of Montana and other Ninth Circuit states and territories; and

Whereas, it is generally understood that an essential element of a federal appellate system must include guaranteeing regionalized and decentralized review when regional concerns are strongest; and

Whereas, because of the problems of the Ninth Circuit related to its dimensions of geography, population, judgeships, docket, and

costs, it is desirable for the Northwest states to be placed in a separate circuit, consisting mainly of contiguous states which common interests; and

Whereas, the existing circuit boundary lines have been called arbitrary products of history; and

Whereas, Congress at least twice divided circuits: in 1929, to separate the new Tenth Circuit from the Eighth Circuit, and in 1981, to separate the new Eleventh Circuit from the Fifth Circuit; and

Whereas, Congress, in 1989, considered and is expected, in 1995, to again consider a bill to divide the Ninth Judicial Circuit of the United States Court of Appeals into two circuits—a new Ninth Circuit, composed of Arizona, California, and Nevada, and a new Twelfth Circuit, composed of Alaska, Hawaii, Idaho, Montana, Oregon, Washington, Guam, and the Northern Mariana Islands; and

Whereas, it is the proper function of Congress to determine circuit boundaries and it is desirable that Montana be included in a regional circuit that will allow relief for its citizens from the problems occasioned by its inclusion in the present Ninth Circuit: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the State of Montana:

That the Legislature of the State of Montana urge Congress to turn its thoughtful attention to the passage of legislation that will split the existing Ninth Judicial Circuit of the United States Court of Appeals into two circuits and that will include Montana in a circuit composed in large part of other Northwest states with similar regional interests.

Be it further resolved, that *the President of the United States* be urged to place a Montana judge on the *Federal Circuit* court *for Montana*.

Be it further resolved, that Congress grant this relief and pass this legislation immediately, regardless of considerations of long-term changes to the appellate system in general.

Be it further resolved, that the Secretary of State send copies of this resolution to the Secretary of the United States Senate, the Clerk of the United States House of Representatives, *the President of the United States,* and the members of Montana's Congressional Delegation.

By Mr. LUGAR (for himself and Mr. LEAHY):

S. 854. A bill to amend the Food Security Act of 1985 to improve the agricultural resources conservation program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL RESOURCES CONSERVATION ACT OF 1995

Mr. LUGAR. Mr. President, I am proud to introduce today the Agricultural Resources Conservation Act of 1995. In this bill, Senator LEAHY and I have developed the boldest concepts for protecting our agricultural resource base and the environment since the 1985 farm bill.

This legislation is based on simple but pivotal principles:

First, we need to preserve stable funding to help farmers and ranchers meet environmental challenges.

Second, the initiatives must be voluntary for producers and simple for them to participate in.

Third, we must maximize the environmental benefits produced by each federal dollar expended.

Fourth, conservation programs must be consistent with a more market-oriented farm economy. Specifically, we prefer land management options over land retirement. And within our land retirement initiative, the Conservation Reserve Program, we want to stress more tactical partial-field enrollments.

Fifth, we need to address the breadth of contemporary environmental challenges—such as water quality—in addition to soil erosion.

Our bill advances each of these principles. It will be the foundation of the conservation title of the 1995 farm bill.

Let me address some specifics, beginning with the question of funding. Our bill calls for substantial, stable funding for conservation programs into the next century. We take the current funding levels for the Conservation Reserve Program, the Wetlands Reserve Program and the various conservation incentive and cost-share initiatives—about $2.1 billion—and extend it annually through 2005. We also would make these programs mandatory in a budget sense and fund them through the Commodity Credit Corporation with strict annual caps. To ensure budget neutrality, we make offsetting reductions in discretionary accounts.

Maintaining the conservation fund throughout the next 10 years will require a shift in budget priorities. My preference is to preserve conservation assistance while reducing costs of crop subsidy programs in order to meet our deficit reduction requirement.

The Conservation Reserve Program has been successful and this bill would continue and improve it over the next 10 years. We allocate the entire Congressional Budget Office baseline, which declines from the current level of $1.8 to $1.2 billion in 2000, for the CRP.

Successful as it is, the CRP has several shortcomings. Too much land that can be farmed without harming the environment is currently idled. Annual payments too often exceed local rental rates. And the CRP can be utilized much more fully to improve water quality. Our bill corrects these weaknesses.

We direct the Secretary of Agriculture to enroll at least 4 million acres of land—primarily buffer strips along permanent water bodies and intermittent streams—for water quality purposes. We target only the most highly erodible land that cannot be farmed profitably using necessary management practices and is not eligible for incentive or cost-share assistance. And we impose new discipline on rental rates.

Much has been made of the significant wildlife benefits of the CRP. While the CBO baseline and our stricter enrollment standards points to a small CRP in the future, I believe our bill will result in a program that, acre for acre, is actually more beneficial for wildlife. Among equivalent eligible offers to enroll land under the soil erosion and water quality criteria, preference will be given to offers that give greater wildlife benefits. And all CRP contract holders will receive guidance on management methods to promote beneficial stands of cover.

I mentioned earlier that our conservation strategies must stress land management as opposed to land retirement. This legislation takes the best of our existing cost-share and incentive programs and combines them into a new, strengthened effort: The Environmental Quality Incentives Program, or EQIP. This will streamline the process for farmers and ranchers to apply for assistance. It will eliminate overlaps between our current hodgepodge of assistance programs. And by making EQIP a mandatory budget initiative, it will end the year-to-year uncertainly that producers must face under the current discretionary funding process.

The EQIP Program will also offer new incentives to livestock producers. Currently, less than a quarter of our conservation spending goes for livestock, even though there is a high correlation between agriculturally sourced water quality impairments and livestock operations. A 1993 report of the Environmental Protection Agency's Feedlot Workgroup indicates that feedlots are a more significant source of river impairments than storm sewers or industrial sources. Under EQIP, assistance for both crop and livestock producers would increase significantly and livestock would be eligible for half of the total funding. This is sound environmental policy that benefits all of agriculture.

Let me list a few things we do not do in this bill. First, we create no new environmental mandates for farmers. It is very important that, as crop support levels decline, we not add any more compliance provisions to the commodity programs. In fact, farmers and ranchers need not participate in the programs to be eligible for our conservation programs.

In addition, we do not permit any new economic use of Conservation Reserve Program lands. We can enroll all the land that truly deserves to be in the CRP with the budget baseline we have. As a result, we can avoid adverse effects to the cattle and forage industries that might result from expanded haying and grazing of CRP acres.

Finally, this initial proposal does not make changes to our current wetland compliance provisions. Although Senator LEAHY and I were able to agree on an overwhelming majority of conservation issues, we were unable to reach consensus on this front. I am fully aware of the controversy surrounding the swampbuster program and I recognize the need to improve it. I am committed to working with members of the Agriculture Committee to make wetlands regulation less burdensome. We must make swampbuster a fair and flexible program that can be described the same way as conservation compliance: A program that works and is supported by farmers.

Mr. President, I am proud to introduce this bill today. It makes winners of both agriculture and the environment. I hope all Senators will agree that it builds on the substantial conservation gains made by farmers and ranchers in the last decade and helps them answer the environmental challenges of the new millennium.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section summary be printed in the RECORD.

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

S. 854

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 ''Agricultural Resources Conservation Act of 1995''.

SEC. 2. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

''SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2005 calendar years, the Secretary shall establish an environmental conservation acreage reserve program to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat.

''(2) MEANS.—The Secretary shall carry out the environmental conservation acreage reserve program by—

''(A) providing for the long-term protection of environmentally sensitive lands; and

''(B) providing technical and financial assistance to farmers and ranchers to—

''(i) improve the management of the operations of the farmers and ranchers; and

''(ii) reconcile productivity and profitability with protection and enhancement of the environment.

''(3) PROGRAMS.—The environmental conservation acreage reserve program shall consist of—

''(A) the conservation reserve program established under subchapter B;

''(B) the wetlands reserve program established under subchapter C; and

''(C) the environmental quality incentives program established under chapter 2.

''(b) ADMINISTRATION.—

''(1) IN GENERAL.—In carrying out the environmental conservation acreage reserve program, the Secretary shall enter into contracts with owners and operators and acquire interests in lands through easements from owners, as provided in this chapter and chapter 2.

''(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve program or wetlands reserve program prior to the effective date of this paragraph shall be considered to be placed in the environmental conservation acreage reserve program.

''(c) CONSERVATION PRIORITY AREAS.—

''(1) DESIGNATION.—

''(A) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, and the Long Island Sound region, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 2. A designation shall be made under this subparagraph if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

''(B) ASSISTANCE.—To the extent practicable, the Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area to assist agricultural producers within the watershed or region to comply with nonpoint source pollution requirements established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws.

''(2) APPLICABILITY.—The Secretary shall, to the maximum extent practicable, designate a watershed or region as a conservation priority area that conforms to the functions and purposes of the conservation reserve program established under subchapter B, the wetlands reserve program established under subchapter C, or the environmental quality incentives program established under chapter 2, as applicable, if participation in the program is likely to result in the resolution or amelioration of significant soil, water, and related natural resource problems related to agricultural production activities within the watershed or region.

''(3) EXPIRATION.—A conservation priority area designation shall expire on the date that is 5 years after the date of the designation, except that the Secretary may—

''(A) redesignate the area as a conservation priority area; or

''(B) withdraw the designation of a watershed or region as a conservation priority area if the Secretary finds that the area is no longer affected by significant soil, water, and related natural resource problems related to agricultural production activities.''.

SEC. 3. CONSERVATION RESERVE.

Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended to read as follows:

''Subchapter B—Conservation Reserve

''SEC. 1231. CONSERVATION RESERVE.

''(a) IN GENERAL.—During the 1996 through 2005 calendar years, the Secretary shall carry out the enrollment of lands in a conservation reserve program through the use of contracts to assist owners and operators of lands specified in subsection (b) to conserve and improve soil, water, and related natural resources, by taking environmentally sensitive lands out of production.

''(b) ELIGIBLE LANDS.—The Secretary may include in the program established under this subchapter—

''(1) highly erodible cropland that—

''(A) if permitted to remain untreated could substantially impair soil, water, or related natural resources; and

''(B) cannot be farmed in accordance with a conservation plan implemented under section 1212;

''(2) marginal pasture land converted to a wetland or established as wildlife habitat;

''(3) marginal pasture land in or near riparian areas that could enhance water quality;

''(4) cropland or pasture land to be devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors; and

''(5) cropland that is otherwise not eligible for inclusion in the program—

''(A) if the Secretary determines that—

''(i) the land contributes to the degradation of water quality or soil erosion, or would cause on-site or off-site environmental degradation if permitted to remain in agricultural production; and

''(ii) water quality, soil erosion, or environmental objectives with respect to the land cannot be achieved under the environmental quality incentives program established under chapter 2;

''(B) if the cropland is newly created, permanent grass sod waterways, or are contour grass sod strips established and maintained as part of an approved conservation plan under this subchapter;

''(C) if the cropland will be devoted to newly established living snow fences, permanent wildlife habitat, windbreaks, or shelterbelts;

''(D) if the land will be devoted to filterstrips that are contiguous to permanent bodies of water or intermittent streams;

''(E) if the Secretary determines that the land poses an off-farm environmental threat, or pose a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production; or

''(F) if the land is highly erodible cropland that will be used to restore wetlands and—

''(i) the land is prior converted wetland;

''(ii) the owners or operators of the land agree to provide the Secretary with a long-term or permanent easement under subchapter C;

''(iii) there is a high probability that the prior converted wetland can be successfully restored to wetland status; and

''(iv) the restoration of the areas otherwise meets the requirements of subchapter C.

''(c) CERTAIN LAND AFFECTED BY SECRETARIAL ACTION.—For the purpose of determining the eligibility of land to be placed in the conservation reserve established under this subchapter, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented the land from being planted to the commodity during the crop year.

''(d) ENROLLMENT.—

''(1) LIMITATION.—Not more than 36,400,000 acres (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)) may be enrolled in the conservation reserve in any of the 1996 through 2005 calendar years.

''(2) PRIORITIES.—The Secretary shall, to the maximum extent practicable, with each periodic enrollment of acreage (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)), enroll acreage in the conservation reserve that meets the priority criteria for water quality, soil erosion, and wildlife habitat provided in subsection (e), and, to the maximum extent practicable, maximize multiple environmental benefits.

''(e) PRIORITY FUNCTIONS.—

''(1) IN GENERAL.—During all periodic enrollments of acreage (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)), the Secretary shall evaluate all offers to enter into contracts under this subchapter in light of the priority criteria stated in paragraphs (2), (3), and (4), and accept only the offers that meet the criteria stated in paragraph (2) or (3), maximize the benefits stated in paragraph (4), and maximize environmental benefits per dollar expended. If an offer meets the criteria stated in paragraph (4) and paragraph (2) or (3), the offer shall receive higher priority, as determined by the Secretary.

''(2) WATER QUALITY.—

''(A) TARGETED LANDS.—Not later than December 31, 2000, the Secretary shall enroll in

the conservation reserve narrow strips of cropland or pasture, as filterstrips that are contiguous to—

''(i) permanent bodies of water;

''(ii) tributaries or smaller streams; or

''(iii) intermittent streams that the Secretary determines significantly contribute to downstream water quality degradation.

''(B) PURPOSES.—The lands may be enrolled by the Secretary in the conservation reserve to establish—

''(i) contour grass strips;

''(ii) grassed waterways; and

''(iii) other equivalent conservation measures that have a high potential to ameliorate pollution from crop and livestock production.

''(C) REQUIRED ENROLLMENT.—Not later than December 31, 2000, the Secretary shall enroll in the conservation reserve at least 4,000,000 acres under this paragraph.

''(D) PARTIAL AND WHOLE FIELDS.—Enrollments under this paragraph may include partial and whole fields, except that the Secretary shall accord a higher priority to partial field enrollments.

''(3) SOIL EROSION.—

''(A) IN GENERAL.—The Secretary shall accept offers to enroll highly erodible land only on fields that cannot be farmed by using the best economically attainable conservation system without high potential for degradation of soil or water quality, and such potential degradation cannot be alleviated through other Federal or State conservation assistance programs.

''(B) BEST ECONOMICALLY ATTAINABLE CONSERVATION SYSTEM.—In this paragraph, the term 'best economically attainable conservation system' means a practice or practices designed to significantly reduce soil erosion on highly erodible fields in a cost-effective manner, as specified by the Secretary.

''(C) PARTIAL FIELD ENROLLMENTS.—A portion of a highly erodible field is eligible for enrollment if the partial field segment would provide a significant reduction in soil erosion.

''(4) WILDLIFE HABITAT BENEFITS.—

''(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, ensure that offers to enroll acreage under paragraphs (2) and (3) are accepted so as to maximize wildlife habitat benefits.

''(B) MAXIMIZING BENEFITS.—An offer that satisfies paragraph (2) or (3) shall be accepted by the Secretary if the offer also maximizes wildlife habitat benefits, as determined by the Secretary. For purposes of this paragraph, the Secretary shall, to the maximum extent practicable, maximize wildlife habitat benefits through—

''(i) consultation with State technical committees established under section 1261(a) as to the relative habitat benefits of each offer, and accepting the offers that maximize benefits; and

''(ii) providing higher priority to offers that would be contiguous to—

''(I) other enrolled acreage;

''(II) a designated wildlife habitat; or

''(III) a wetland.

''(C) COVER CROP INFORMATION.—The Secretary shall provide information to owners or operators about cover crops that are best suited for area wildlife.

''(f) DURATION OF CONTRACT.—For the purpose of carrying out this subchapter, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

''(g) MULTIYEAR GRASSES AND LEGUMES.—For the purpose of this subchapter, alfalfa and other multiyear grasses and legumes planted in a rotation practice approved by the Secretary, shall be considered agricultural commodities.

''SEC. 1232. DUTIES OF OWNERS AND OPERATORS.

''(a) IN GENERAL.—If required by the Secretary as a term of a contract under this chapter, an owner or operator of a farm or ranch shall agree—

''(1) to implement a conservation plan approved by the local conservation district (or in an area not located within a conservation district, a conservation plan approved by the Secretary) for converting eligible lands normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes, forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the conservation plan;

''(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subchapter;

''(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

''(4) to establish approved vegetative cover, or water cover for the enhancement of wildlife, on the land, except that the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes;

''(5) in addition to the remedies provided under section 1236(d), on the violation of a term or condition of the contract at any time the owner or operator has control of the land—

''(A) to forfeit all rights to receive rental payments and cost-sharing payments under the contract and to refund to the Secretary any rental payments and cost-sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Secretary, if the Secretary determines that the violation is sufficient to warrant termination of the contract; or

''(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost-sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

''(6) on the transfer of the right and interest of the owner or operator in land subject to the contract—

''(A) to forfeit all rights to rental payments and cost-sharing payments under the contract; and

''(B) to refund to the United States all rental payments and cost-sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subchapter, unless—

''(i) the transferee of the land agrees with the Secretary to assume all obligations of the contract; or

''(ii) the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree to modifications to the contract, if the modifications are consistent with the objectives of this subchapter as determined by the Secretary;

''(7) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit—

''(A) harvesting or grazing or other commercial use of the forage on land that is subject to the contract in response to a drought or other similar emergency; and

''(B) limited grazing on the land if the grazing is incidental to the gleaning of crop residues on the fields in which the land is located and occurs—

''(i) during the 7-month period during which grazing of conserving use acreage is allowed in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

''(ii) after the producer harvests the grain crop of the surrounding field for a reduction in rental payment commensurate with the limited economic value of the incidental grazing;

''(8) not to harvest or make commercial use of trees on land that is subject to the contract unless expressly permitted in the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

''(9) not to adopt any practice that would tend to defeat the objectives of this subchapter;

''(10) with respect to any contract entered into after the effective date of section 3 of the Agricultural Resources Conservation Act of 1995, concerning highly erodible land in a county that has not reached the limitation established by section 1242(c)—

''(A) not to produce an agricultural commodity for the duration of the contract on any other highly erodible land that the owner or operator has purchased after the effective date of section 3 of the Agricultural Resources Conservation Act of 1995, and that does not have a history of being used to produce an agricultural commodity other than forage crops; and

''(B) on the violation of subparagraph (A), to be subject to the sanctions described in paragraph (5); and

''(11) to comply with such additional provisions as the Secretary determines are necessary.

''(b) CONSERVATION PLAN.—The conservation plan required under subsection (a)(1)—

''(1) shall set forth—

''(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

''(B) the commercial use, if any, to be permitted on the land during the term; and

''(2) may provide for the permanent retirement of any cropland base and allotment history for the land.

''(c) ENVIRONMENTAL USE.—To the maximum extent practicable, not less than ⅛ of land that is placed in the conservation reserve shall be devoted to hardwood trees.

''(d) FORECLOSURE.—

''(1) IN GENERAL.—Notwithstanding any other law, an owner or operator of land who is a party to a contract entered into under this subchapter may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

''(2) RESUMPTION OF CONTROL.—This subsection shall not void the responsibilities of the owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the term of the contract. On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

''SEC. 1233. DUTIES OF THE SECRETARY.

''In return for a contract entered into by an owner or operator under section 1232, the Secretary shall—

''(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest;

''(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in an amount necessary to compensate for—

''(A) the conversion of cropland normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use, consistent with section 1231(e); and

''(B) the retirement of any cropland base and allotment history that the owner or operator agrees to retire permanently; and

''(3) provide conservation technical assistance, as determined necessary by the Secretary, to assist the owner or operator in carrying out the contract.

''SEC. 1234. PAYMENTS.

''(a) TIME OF COST-SHARING AND ANNUAL RENTAL PAYMENTS.—The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subchapter—

''(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

''(2) with respect to any annual rental payment obligation incurred by the Secretary—

''(A) as soon as practicable after October 1 of each calendar year; or

''(B) at the discretion of the Secretary, at any time prior to October 1 during the year that the obligation is incurred.

''(b) FEDERAL PERCENTAGE OF COST-SHARING PAYMENTS.—

''(1) IN GENERAL.—In making cost-sharing payments to an owner or operator under a contract entered into under this subchapter, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under the contracts for which the Secretary determines that cost sharing is appropriate and in the public interest.

''(2) LIMITATION.—The Secretary shall not make any payment to an owner or operator under this subchapter to the extent that the total amount of cost-sharing payments provided to the owner or operator from all sources would exceed 100 percent of the total actual costs.

''(3) HARDWOOD TREES.—The Secretary may permit an owner or operator who contracts to devote at least 10 acres of land to the production of hardwood trees under this subchapter to extend the planting of the trees over a 3-year period if at least ⅓ of the trees are planted in each of the first 2 years.

''(4) OTHER FEDERAL COST-SHARING ASSISTANCE.—An owner or operator shall not be eligible to receive or retain cost-sharing assistance under this subchapter if the owner or operator receives any other Federal cost-sharing assistance with respect to the land under any other law.

''(c) ANNUAL RENTAL PAYMENTS.—

''(1) ENCOURAGING PARTICIPATION.—In determining the amount of annual rental payments to be paid to owners and operators for converting eligible cropland normally devoted to the production of an agricultural commodity to a less intensive use, the Secretary may consider, among other factors, the amount necessary to encourage owners or operators of eligible cropland to participate in the program established by this subchapter.

''(2) AMOUNT.—

''(A) IN GENERAL.—The amounts payable to owners or operators as rental payments under contracts entered into under this subchapter shall be determined by the Secretary through—

''(i) the submission of offers for the contracts by owners and operators in such manner as the Secretary may prescribe; and

''(ii) determination of the rental value of the land through a productivity adjustment formula determined by the Secretary.

''(B) LIMITATION.—Rental payments shall not exceed local rental rates, except that rental payments for partial field enrollments may be made in an amount that does not exceed 150 percent of local rental rates, adjusted for the productivity of the land, as determined by the Secretary.

''(3) HARDWOOD TREES.—In the case of acreage enrolled in the conservation reserve that is to be devoted to hardwood trees, the Secretary may consider offers for contracts under this subsection on a continuous basis.

''(d) CASH OR IN-KIND PAYMENTS.—

''(1) IN GENERAL.—Except as otherwise provided in this section, payments under this subchapter—

''(A) shall be made in cash or in commodities in such amount and on such time schedule as are agreed on and specified in the contract; and

''(B) may be made in advance of the determination of performance.

''(2) IN-KIND PAYMENTS.—If the payment is made in in-kind commodities, the payment shall be made by the Commodity Credit Corporation—

''(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed to by the Secretary and the owner or operator;

''(B) by the transfer of negotiable warehouse receipts; or

''(C) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

''(3) INSUFFICIENT STOCKS.—If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to an owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

''(4) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Payments to a producer under a special conservation reserve enhancement program described in subsection (f)(4) shall be in the form of cash only.

''(e) PAYMENT ON DEATH, DISABILITY, OR SUCCESSION.—If an owner or operator who is entitled to a payment under a contract entered into under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

''(f) PAYMENT LIMITATION.—

''(1) IN GENERAL.—The total amount of rental payments, including the value of any rental payments in in-kind commodities, made to a person under this subchapter for any fiscal year may not exceed $50,000.

''(2) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

''(A) defining the term 'person' as used in paragraph (1); and

''(B) prescribing such rules as the Secretary determines are necessary to ensure a fair and reasonable application of the limitation contained in paragraph (1).

''(3) RECEIPT OF OTHER PAYMENTS NOT AFFECTED.—Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624), or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

''(4) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—The provisions of this subsection that limit payments to any person, and section 1305(f) of the Agricultural Reconciliation Act of 1987 (Public Law 100–203; 7 U.S.C. 1308 note), shall not be applicable to payments received by a State or political subdivision, or an agency of a State or political subdivision, in connection with an agreement entered into under a special conservation reserve enhancement program carried out by the State, political subdivision, or agency that has been approved by the Secretary. The Secretary may enter into an agreement for payments to a State or political subdivision, or agency of a State or political subdivision, that the Secretary determines will advance the objectives of this subchapter.

''(g) CONTRACTS UNAFFECTED BY CERTAIN PRESIDENTIAL ORDERS.—Notwithstanding any other law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any contract entered into at any time that is subject to this subchapter, including contracts entered into prior to the effective date of section 3 of the Agricultural Resources Conservation Act of 1995.

''(h) COST-SHARING PAYMENTS.—In addition to any payment under this subchapter, an owner or operator may receive cost-sharing payments, rental payments, or tax benefits from a State or political subdivision of a State for enrolling lands in the conservation reserve program.

''SEC. 1235. CONTRACTS.

''(a) OWNERSHIP OR OPERATION REQUIREMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), no contract shall be entered into under this subchapter concerning land with respect to which the ownership has changed during the 3-year period preceding the date the contract is entered into unless—

''(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

''(B) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subchapter; or

''(C) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercised a right of redemption from the mortgage holder in accordance with a State law.

''(2) APPLICABILITY.—Paragraph (1) shall not—

''(A) prohibit the continuation of a contract by a new owner after a contract has been entered into under this subchapter; or

''(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

''(i) has operated the land to be covered by a contract under this subchapter for at least 3 years preceding the date of entering into the contract; and

''(ii) controls the land during the contract period.

''(b) SALES OR TRANSFERS.—If, during the term of a contract entered into under this subchapter, an owner or operator of land subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

''(1) continue the contract under the same terms and conditions of the contract;

''(2) enter into a new contract in accordance with this subchapter; or

''(3) elect not to participate in the program established under this subchapter.

''(c) MODIFICATIONS AND WAIVERS.—

''(1) IN GENERAL.—The Secretary may modify a contract entered into by an owner or operator under this subchapter if—

''(A) the owner or operator agrees to the modification; and

''(B) the Secretary determines that the modification is desirable—

''(i) to carry out this subchapter;

''(ii) to facilitate the practical administration of this subchapter; or

''(iii) to achieve such other goals as the Secretary determines are appropriate, consistent with this subchapter.

''(2) PRODUCTION OF AGRICULTURAL COMMODITIES.—The Secretary may modify or waive a term or condition of a contract entered into under this subchapter to permit all or part of the land subject to the contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

''(d) TERMINATION.—The Secretary may terminate a contract entered into with an owner or operator under this subchapter if—

''(1) the owner or operator agrees to the termination; and

''(2) the Secretary determines that the termination is in the public interest.

''SEC. 1236. BASE HISTORY.

''(a) REDUCTIONS.—A reduction, based on a ratio between the total cropland acreage on the farm and the acreage placed in the conservation reserve, as determined by the Secretary, shall be made during the period of a contract entered into under this subchapter, in the aggregate, in crop bases, quotas, and allotments on the farm with respect to crops for which there is a production adjustment program.

''(b) BASE HISTORY AS BASIS FOR PARTICIPATION IN OTHER FEDERAL PROGRAMS.—Notwithstanding sections 1211 and 1221, the Secretary, by appropriate regulation, may provide for preservation of cropland base and allotment history applicable to acreage converted from the production of agricultural commodities under this subchapter, for the purpose of any Federal program under which the history is used as a basis for participation in the program or for an allotment or other limitation of the program, unless the owner and operator of the farm or ranch agree under the contract to retire permanently that cropland base and allotment history.

''(c) EXTENSION OF PRESERVATION OF CROPLAND BASE AND ALLOTMENT HISTORY.—The Secretary shall offer the owner or operator of a farm or ranch an opportunity to extend the preservation of cropland base and allotment history pursuant to subsection (b) for such time as the Secretary determines to be appropriate after the expiration date of a contract under this subchapter at the request of the owner or operator. In return for the extension, the owner or operator shall agree to continue to abide by the terms and conditions of the original contract, except that—

''(1) the owner or operator shall receive no additional cost-sharing, annual rental, or bonus payment; and

''(2) the Secretary may permit, subject to such terms and conditions as the Secretary may impose, haying and grazing of acreage subject to the agreement, except that—

''(A) haying and grazing shall not be permitted during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) during the period beginning April 1 and ending October 31 of a year; and

''(B) in the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

''(d) ADDITIONAL REMEDIES FOR VIOLATIONS.—In addition to any other remedy prescribed by law, the Secretary may reduce or terminate the quantity of cropland base and allotment history preserved pursuant to subsection (c) for acreage with respect to which a violation of a term or condition of a contract occurs.''.

SEC. 4. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

''CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

''SEC. 1238. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress finds that—

''(1) farmers and ranchers cumulatively manage more than ½ of the private lands in the continental United States;

''(2) because of the predominance of agriculture, the soil, water, and related natural resources of the United States cannot be protected without cooperative relationships between the Federal Government and farmers and ranchers;

''(3) farmers and ranchers have made tremendous progress in protecting the environment and the agricultural resource base of the United States over the past decade because of not only Federal Government programs but also their spirit of stewardship and the adoption of effective technologies;

''(4) it is in the interest of the entire United States that farmers and ranchers continue to strive to preserve soil resources and make more efforts to protect water quality and wildlife habitat, and address other broad environmental concerns;

''(5) environmental strategies that stress the prudent management of resources, as opposed to idling land, will permit the maximum economic opportunities for farmers and ranchers in the future;

''(6) unnecessary bureaucratic and paperwork barriers associated with existing agricultural conservation assistance programs decrease the potential effectiveness of the programs; and

''(7) the recent trend of Federal spending on agricultural conservation programs suggests that assistance to farmers and ranchers in future years will, absent changes in policy, dwindle to perilously low levels.

''(b) PURPOSES.—The purposes of the environmental quality incentives program established by this chapter are to—

''(1) combine into a single program the functions of—

''(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 6(a)(1) of the Agricultural Resources Conservation Act of 1995);

''(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 6(b)(1) of the Agricultural Resources Conservation Act of 1995);

''(C) the water quality incentives program established under this chapter (as in effect before the amendment made by section 4 of the Agricultural Resources Conservation Act of 1995); and

''(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 6(c)(1) of the Agricultural Resources Conservation Act of 1995); and

''(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

''(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

''(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and to encourage environmental enhancement;

''(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

''(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on the owners and operators of farms and ranches.

''SEC. 1238A. DEFINITIONS.

''In this chapter:

''(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

''(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

''(A) is a confined animal feeding operation; and

''(B) has more than—

''(i) 700 mature dairy cattle;

''(ii) 1,000 beef cattle;

''(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

''(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);

''(v) 55,000 turkeys;

''(vi) 2,500 swine; or

''(vii) 10,000 sheep or lambs.

''(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

''(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

''(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

''SEC. 1238B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2005 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

''(2) ELIGIBLE PRACTICES.—

''(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

''(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

''(b) APPLICATION AND TERM.—A contract between an operator and the Secretary under this chapter may—

''(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

''(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

''(c) STRUCTURAL PRACTICES.—

''(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—

''(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

''(B) evaluation of the offer in light of the priorities established in section 1238C and the projected cost of the proposal, as determined by the Secretary.

''(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

''(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

''(e) COST-SHARING AND INCENTIVE PAYMENTS.—

''(1) COST-SHARING PAYMENTS.—

''(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be less than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

''(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

''(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

''(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

''(f) TECHNICAL ASSISTANCE.—

''(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

''(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

''(g) MODIFICATION OR TERMINATION OF CONTRACTS.—

''(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with an operator under this chapter if—

''(A) the operator agrees to the modification or termination; and

''(B) the Secretary determines that the modification or termination is in the public interest.

''(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the operator violated the contract.

''(h) NON-FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

''(2) LIMITATION ON LIABILITY.—No person shall be permitted to bring or pursue any claim or action against any official or entity based on or resulting from any technical assistance provided to an operator under this chapter to assist in complying with a Federal or State environmental law.

''SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

''(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of the soil, water, and related natural resource problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

''(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

''(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

''(2) NATIONAL AND REGIONAL PRIORITY.—The prioritization shall be done nationally as well as within the conservation priority area, region, or watershed in which an agricultural operation is located.

''(3) CRITERIA.—To carry out this subsection, the Secretary shall establish criteria for implementing structural practices and land management practices that best achieve conservation goals for a region, watershed, or conservation priority area, as determined by the Secretary.

''(c) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

''(d) PRIORITY LANDS.—The Secretary shall accord a higher priority to structural practices or land management practices on lands on which agricultural production has been determined to contribute to, or create, the potential for failure to meet applicable water quality standards or other environmental objectives of a Federal or State law.

''SEC. 1238D. DUTIES OF OPERATORS.

''To receive technical assistance, cost-sharing payments, or incentives payments under this chapter, an operator shall agree—

''(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

''(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

''(3) on the violation of a term or condition of the contract at any time the operator has control of the land, to refund any cost-sharing or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

''(4) on the transfer of the right and interest of the operator in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-sharing payments and incentive payments received under this chapter, as determined by the Secretary;

''(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

''(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

''SEC. 1238E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''An environmental quality incentives program plan shall include (as determined by the Secretary)—

''(1) a description of the prevailing farm or ranch enterprises, cropping patterns, grazing management, cultural practices, or other information that may be relevant to conserving and enhancing soil, water, and related natural resources;

''(2) a description of relevant farm or ranch resources, including soil characteristics, rangeland types and condition, proximity to water bodies, wildlife habitat, or other relevant characteristics of the farm or ranch related to the conservation and environmental objectives set forth in the plan;

''(3) a description of specific conservation and environmental objectives to be achieved;

''(4) to the extent practicable, specific, quantitative goals for achieving the conservation and environmental objectives;

''(5) a description of 1 or more structural practices or 1 or more land management practices, or both, to be implemented to achieve the conservation and environmental objectives;

''(6) a description of the timing and sequence for implementing the structural practices or land management practices, or both, that will assist the operator in complying with Federal and State environmental laws; and

''(7) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

''SEC. 1238F. DUTIES OF THE SECRETARY.

''To the extent appropriate, the Secretary shall assist an operator in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

''(1) providing an eligibility assessment of the farming or ranching operation of the operator as a basis for developing the plan;

''(2) providing technical assistance in developing and implementing the plan;

''(3) providing technical assistance, cost-sharing payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

''(4) providing the operator with information, education, and training to aid in implementation of the plan; and

''(5) encouraging the operator to obtain technical assistance, cost-sharing payments, or grants from other Federal, State, local, or private sources.

''SEC. 1238G. ELIGIBLE LANDS.

''Agricultural land on which a structural practice or land management practice, or both, shall be eligible for technical assistance, cost-sharing payments, or incentive payments under this chapter include—

''(1) agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards;

''(2) an area that is considered to be critical agricultural land on which either crop or livestock production is carried out, as identified in a plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as having priority problems that result from an agricultural nonpoint source of pollution;

''(3) an area recommended by a State lead agency for protection of soil, water, and related resources, as designated by a Governor of a State; and

''(4) land that is not located within a designated or approved area, but that if permitted to continue to be operated under existing management practices, would defeat the purpose of the environmental quality incentives program, as determined by the Secretary. –

''SEC. 1238H. LIMITATIONS ON PAYMENTS.

''(a) PAYMENTS.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

''(1) $10,000 for any fiscal year; or

''(2) $50,000 for any multiyear contract.

''(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

''(1) defining the term 'person' as used in subsection (a); and

''(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).

''SEC. 1238I. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) INTERIM ADMINISTRATION.—

''(1) IN GENERAL.—During the period beginning on the date of enactment of this section and ending on the later of the dates specified in paragraph (2), to ensure that technical assistance, cost-sharing payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to provide technical assistance, cost-sharing payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the programs are consistent with the environmental quality incentives program.

''(2) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the later of—

''(A) the date that is 180 days after the date of enactment of this section; or

''(B) March 31, 1996.

''(b) PERMANENT ADMINISTRATION.—Effective beginning on the later of the dates specified in subsection (a)(2), the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.''.

SEC. 5. ADMINISTRATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

''Subtitle E—Administration

''SEC. 1241. FUNDING.

''(a) MANDATORY EXPENSES.—Subject to subsection (f), the Secretary shall use the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2005 to carry out the programs authorized by—

''(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

''(2) subchapter C of chapter 1 of subtitle D; and

''(3) chapter 2 of subtitle D.

''(b) ADVANCE APPROPRIATIONS TO CCC.—The Secretary may use the funds of the Commodity Credit Corporation to carry out chapter 3 of subtitle D, except that the Secretary may not use the funds of the Corporation unless the Corporation has received funds to cover the expenditures from appropriations made to carry out chapter 3 of subtitle D.

''(c) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

''(1) CROP PRODUCTION.—Subject to subsection (f), funds of the Commodity Credit Corporation for technical assistance, cost-sharing payments, and incentive payments targeted at practices relating to crop production under the environmental quality incentives program—

''(A) in the case of each of fiscal years 1996 and 1997, shall be allocated in the same proportion that existed between practices relating to crop production and livestock production in fiscal year 1995; and

''(B) in the case of each of fiscal years 1998 through 2005, shall not be less than the total funding level for the payments for fiscal year 1995.

''(2) LIVESTOCK PRODUCTION.—Subject to subsection (f) and paragraph (3), for each of fiscal years 2000 through 2005, 50 percent of the funding available for technical assistance, cost-sharing payments, and incentive payments under the environmental quality incentives program shall be targeted at practices relating to livestock production.

''(3) LIMITATION.—The Secretary is authorized to allocate less than 50 percent of the total program funding level for a fiscal year for practices relating to crop or livestock production under paragraphs (1) and (2), if the Secretary determines that the funding level is not justified by need or demand.

''(d) CONSERVATION RESERVE PROGRAM.—Subject to subsection (f), funding for the conservation reserve program (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)) shall be—

''(1) $1,805,000,000 for fiscal year 1996;

''(2) $1,804,000,000 for fiscal year 1997;

''(3) $1,485,000,000 for fiscal year 1998;

''(4) $1,345,000,000 for fiscal year 1999; and

''(5) $1,221,000,000 for each of fiscal years 2000 through 2005.

''(e) WETLANDS RESERVE PROGRAM.—Subject to subsection (f), funding to carry out the wetlands reserve program under subchapter C of chapter 1 of subtitle D shall be $150,000,000 for each of fiscal years 1996 through 2005.

''(f) LIMITATION ON USE OF CCC FUNDS.—Subject to subsection (c)(3) and notwithstanding any other law, the Secretary shall allocate $2,060,000,000, of funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2005 to carry out the programs authorized by chapters 1 and 2 of subtitle D.

''(g) PRORATION OF PAYMENTS.—If for any fiscal year the Secretary has incurred total contractual obligations to make payments under all programs authorized under subtitle D (other than chapter 3 of subtitle D) that would exceed an amount of $2,060,000,000, the Secretary shall prorate all payments owed under subtitle D (other than chapter 3 of subtitle D) for the fiscal year to ensure that actual payments for the fiscal year do not exceed that amount.

''SEC. 1242. ADMINISTRATION.

''(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

''(1) the conservation plans required for—

''(A) highly erodible land conservation under subtitle B;

''(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

''(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

''(2) the environmental quality incentives program plan required under chapter 2 of subtitle D.

''(b) TENANTS AND SHARECROPPERS.—In carrying out the programs established under subtitle D, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under a program established by subtitle D.

''(c) ACREAGE LIMITATION.—

''(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

''(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

''(A) the action would not adversely affect the local economy of a county; and

''(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

''(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

''(d) REGULATIONS.—

''(1) CONSERVATION RESERVE AND WETLANDS RESERVE PROGRAMS.—Not later than 90 days after the effective date of this section, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.

''(2) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Not later than 180 days after the effective date of this section, the Secretary shall issue regulations to implement the environmental quality incentives program under chapter 2 of subtitle D.

''SEC. 1243. CONSERVATION OPERATIONS.

''It is the sense of Congress that—

''(1) the functions performed by the Secretary pursuant to the authority for Conservation Operations are valuable conservation activities that should continue to be carried out by the Secretary; and

''(2) the amount of funds made available to carry out the functions of Conservation Operations for each fiscal year should not be less than the amount of funds made available to carry out those functions during fiscal year 1995.

''SEC. 1244. INFORMATION MANAGEMENT.

''It is the sense of Congress that the Secretary should develop information management techniques that are necessary to create—

''(1) individual farm or ranch natural resource databases that would streamline the process by which owners or operators apply to participate in a conservation program administered by the Secretary; and

''(2) to the extent practicable, develop a common application process for all conservation programs.''.

SEC. 6. CONFORMING AMENDMENTS.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

''(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).''; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking ''performance: *Provided further*,'' and all that follows through ''or other law'' and inserting ''performance''.

(C) Section 14 of the Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking ''or 8''; and

(ii) by striking the second sentence.

(D) Section 15 of the Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking ''sections 7 and 8'' and inserting ''section 7''; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading ''CONSERVATION RESERVE PROGRAM'' under the heading ''SOIL BANK PROGRAMS'' of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a) is amended by striking ''Agricultural Conservation Program'' and inserting ''environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)''.

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking ''as added by the Agriculture and Consumer Protection Act of 1973'' each place it appears in subsections (d) and (i) and inserting ''as in effect before the amendment made by section 6(a)(1)(F) of the Agricultural Resources Conservation Act of 1995''.

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''.

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking ''and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)''.

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking ''Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)'' and inserting ''environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)''.

(F) Section 126(a)(5) of the Internal Revenue Code of 1986 is amended to read as follows:

''(5) The environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).''.

(G) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note) is amended—

(i) in the subsection heading, by striking ''SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM'' and inserting ''A PRIORITY AREA UNDER THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM''; and

(ii) in paragraph (1), by striking ''special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))'' and inserting ''priority area under the environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)''.

(H) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking ''Great Plains program'' each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting ''environmental quality incentives program established under chapter 2 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.)''.

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(C) Section 126(a) of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (6); and

(ii) by redesignating paragraphs (7) through (10) as paragraphs (6) through (9), respectively.

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) ELIMINATION.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c).

(2) CONFORMING AMENDMENT.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (6).

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) (as amended by subsections (a)(2)(D), (b)(2)(B), and (c)(2)) is further amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (3), (4), (5), (7), and (8) as paragraphs (1), (2), (3), (4), and (5), respectively.

(e) HIGHLY ERODIBLE LAND CONSERVATION.—Section 1212(e) of the Food Security Act of 1985 (16 U.S.C. 3812(e)) is amended by inserting after the first sentence the following:

''Ineligibility under section 1211 of a tenant or sharecropper for benefits under section 1211 shall not cause a landlord to be ineligible for the benefits for which the landlord would otherwise be eligible with respect to a commodity produced on lands other than the land operated by the tenant or sharecropper.''.

(f) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(g) COMMODITY CREDIT CORPORATION CHARTER ACT.—

(1) The first sentence of section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) is amended by inserting before the period at the end the following: '', except that the total contractual obligations incurred under the functions and programs established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) shall not exceed $2,060,000,000 for any fiscal year''.

(2) Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

''(g) Carry out the functions and programs established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) at a funding level, notwithstanding any other provision of law, that does not exceed a total of $2,060,000,000 in any fiscal year for all functions and programs combined.''.

(h) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, F, G, and J of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1982 (7 U.S.C. 2272a) is repealed.

(i) WETLANDS RESERVE PROGRAM.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking ''1991 through 2000'' and inserting ''1996 through 2005''.

(j) ENVIRONMENTAL EASEMENT PROGRAM.—Section 1239(a) of the Food Security Act of 1985 (16 U.S.C. 3839(a)) is amended by striking ''1991 through 1995'' and inserting ''1996 through 2005''.

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective on the later of—

(1) the date of enactment of this Act; or

(2) October 1, 1995.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Section 1238I and 1242(d) of the Food Security Act of 1985 (as added by sections 4 and 5, respectively, of this Act) shall become effective on the date of enactment of this Act.

(2) 1991 THROUGH 1995 CALENDAR YEARS.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a program for any of the 1991 through 1995 calendar

years under a provision of law in effect immediately before the effective dates prescribed by this section.

SECTION-BY-SECTION ANALYSIS

Subtitles D and E of title XII of the Food Security Act of 1985 are amended accordingly:

Sec. 1. Subtitle D—Agricultural Resources Conservation Program, is amended to read:

Sec. 1230. Environmental Conservation Acreage Reserve Program.

During the 1996 through 2005 calendar years, the Secretary shall establish an Environmental Conservation Acreage Reserve Program to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources including grazing lands, wetlands, and wildlife habitat. The Secretary shall carry out these purposes through the Conservation Reserve, Wetlands Reserve, and Environmental Quality Incentive Programs authorized in this Act.

Sec. 2. Subchapter B-Conservation Reserve, is amended to read:

Sec. 1231. Conservation Reserve.

(a) In General. The Secretary is authorized to re-enroll lands currently in the Conservation Reserve Program (CRP) by extending current contracts and to enroll new lands into the CRP during the 1996–2005 calendar years. The purposes of the CRP are to improve water quality, soil erosion, and related natural resources, by taking environmentally sensitive lands out of production that, if permitted to remain untreated, could substantially impair water quality or reduce soil productivity or related natural resources.

(b) Eligible Lands. Emphasis will be place on enrolling and re-enrolling lands that are 1) highly erodible croplands that cannot be farmed in accordance with a conservation compliance plan or are next to lakes, rivers, or streams, 2) marginal pasture lands established as wildlife habitat, and 3) cropland or pasture land to be devote to the production of hardwood trees, windbreaks, shelterbelts.

(c) Certain Lands Affected by Secretarial Action. Lands enrolled into the CRP shall be considered to be planted to an agricultural commodity during a crop year if an action of the Secretary prevented land from being planted to the commodity during the crop year.

(d) Enrollment. Not more than 36.4 million acres may be enrolled and re-enrolled into the CRP in any year between the 1996–2005 calendar years. The Secretary shall enroll acreage into the CRP that meets specified water quality and soil erosion criteria, and that also maximizes wildlife habitat benefits, to the maximum extent practicable.

(e) Priority Functions. All lands enrolled or re-enrolled into the CRP between 1996—2000 must satisfy the priority functions of water quality, soil erosion, and wildlife benefits.

Water Quality. The Secretary shall enroll by the year 2000 filterstrips that are contiguous to permanent bodies of water, tributaries and smaller streams, or intermittent streams. Contour grass strips and grassed waterways shall also be enrolled. Priority shall be given to partial field enrollments. Four million acres shall be enrolled by the end of the year 2000.

Soil Erosion. The Secretary shall accept offers to enroll highly erodible lands that cannot be farmed through practices designed to significantly reduce soil erosion on highly erodible fields in a cost-effective manner without high potential for degradation of soil or water quality.

Wildlife. The Secretary shall, to the maximum extent practicable, ensure that offers to enroll acreage under the water quality and soil erosion priorities also maximize wildlife habitat benefits. This shall be accomplished by enrolling lands that are contiguous to other CRP acreage, designated wildlife habitats, or wetlands.

(f) Duration of Contract. CRP Contracts shall be for 10 to 15 years.

(g) Multi-Year Grasses and Legumes. Alfalfa and other multi-year grasses and legumes used in a rotation practice shall be considered agricultural commodities.

Sec. 1232. Duties of Owners and Operators.

(a)&(b) Conservation Plans. An owner or operator of a farm or ranch must agree to implement a conservation plan approved by the Secretary for converting eligible lands normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use, and to establish a vegetative or water cover on the land. An owner or operator must also agree not to use such land for agricultural purposes, or to conduct any harvesting or grazing on CRP land except as allowed by the Secretary. The conservation plan shall contain conservation measures and practices to be carried out during the term of the contract.

(c) Environmental Use.—To the extent practicable, not less than one-eighth of the land that is placed into CRP shall be devoted to hardwood trees.

(d) Foreclosure. If land enrolled into the CRP is foreclosed upon, the Secretary may waive repayment by the owner or operator of amounts received under the contract.

Sec. 1233. Duties of the Secretary. The Secretary shall provide cost share and technical assistance for carrying out conservation measures and practices, and pay an annual rental payment.

Sec. 1234. Payments.

The Secretary shall provide payments for cost share amounting to 50 percent of the cost of establishing water quality and conservation practices. Rental payments shall be paid as soon as practicable after October 1 of each calendar year, and shall be determined by the Secretary through the submission of offers for contracts by owners and operators and establishment of the rental value of the land through a productivity adjustment formula. Rental payments may not exceed local rental rates, except that rental payments for partial field enrollments may be up to 150% of local rental rates, adjusted for the productivity of the land. The total amount of rental payments may not exceed $50,000.

Sec. 1235. Contracts.

If the ownership of the land has changed within the previous 3 years, the land cannot be enrolled into the CRP unless the new ownership was acquired by will or succession as a result of the death of the previous owner, or the Secretary determines that the land was acquired under circumstances that give adequate assurance that such land was not acquired for the purpose of placing it in the CRP. CRP contracts can be modified upon the agreement of the owner or operator and the Secretary.

Sec. 1236. Base History.

The acreage base, quota or allotment for the farm (as applicable) shall be reduced in proportion to the ratio between the total cropland acreage on the farm and the acreage placed into the CRP.

Sec. 3. Environmental Quality Incentives Program. Chapter 2 is amended to read:

Chapter 2—Environmental Quality Incentives Program.

Sec. 1238. Findings and Purposes.

This section articulates the needs and purposes of a comprehensive conservation program that provides flexible and cost effective technical assistance, cost share, and incentive payments to farmers and ranchers engaged in crop and livestock production for various conservation practices, instead of retiring land from production. This program is intended to assist farmers and ranchers in complying with the conservation compliance and swampbuster requirements of Title XII of the Food Security Act of 1985, and other State and Federal environmental laws. The Environmental Quality Incentives Program (EQIP) combines the functions of the Agricultural Conservation Program, the Great Plains Conservation Program, the Water Quality Incentives Program and the Colorado River Salinity Control Program into a single program. Conservation assistance for livestock production is significantly increased.

Sec. 1238A. Definitions.

(a) Livestock. The term ''livestock'' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, and sheep or lambs.

(b) Large Confined Livestock Operation. The term ''large confined livestock operation'' means a farm or ranch that—

(1) is a confined animal feeding operation; and

(2) has more than—

(A) 700 mature dairy cattle;

(B) 1000 beef cattle;

(C) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

(D) 100,000 laying hens or broilers (if the facility has a liquid manure system)

(E) 55,000 turkeys;

(F) 2,500 swine; or

(G) 10,000 sheep or lambs.

(C) Structural Practices. The term ''structural practices'' as used in this chapter means animal waste management facilities, terraces, grassed waterways, contour grass strips, filterstrips, permanent wildlife habitat, and other structural practices the Secretary determines are needed to protect soil, water, and related resources in the most cost effective manner.

(d) Land Management Practices. The term ''land management practices'' as used in this chapter means nutrient and manure management, integrated pest management, irrigation management, tillage and residue management, grazing management, and other land management practices the Secretary determines are needed to protect soil, water, and related resources in the most cost effective manner.

(e) Operator. The term ''operator'' means a person who is engaged in agricultural production as defined by the Secretary.

(f) Secretary. The term ''Secretary'' means the Secretary of Agriculture.

Sec. 1238B. Establishment and Administration of Environmental Quality Incentives Program.

(a) Establishment. The Secretary shall, for the 1996–2005 fiscal years, provide technical assistance, cost share, and incentive payments through EQIP to operators engaged in crop or livestock production. Operators who implement structural practices shall be eligible for technical assistance and/or cost share. Operators who perform land management practices shall be eligible for technical assistance and/or incentive payments.

(b) Duration of Assistance. Contracts between operators and the Secretary may be for 5–10 years.

(c) Structural Practices. The Secretary shall administer a competitive offer (bid) system for cost share and/or technical assistance for the implementation of structural practices.

(d) Land Management Practices. The Secretary shall establish an application and evaluation process for awarding an incentive payment and/or technical assistance for the performance of land management practices.

(e) Cost Share and Incentive Payments.

Cost share payments for structural practices shall be not greater than 75% of the

projected cost of the structural practice, as determined by the Secretary. Operators of large confined livestock operations are not eligible for cost share for animal waste management facilities. Incentive payments shall be in an amount and at a rate determined by the Secretary to be necessary to attract operators to perform land management practices. The receipt of incentive payments under EQIP shall not affect the eligibility of the operator to receive incentive payments under other conservation programs.

(f) Technical Assistance. The Secretary shall allocate funding for technical assistance under EQIP according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The receipt of technical assistance under EQIP shall not affect the eligibility of the operator to receive technical assistance under other conservation programs.

(g) Modification or Termination of Contracts.

The Secretary may modify a contract with an operator under this chapter if the operator and Secretary agree.

Sec. 1238C. Evaluation of Offers and Payments.

(a) Regional Priorities. The Secretary shall provide cost share, technical assistance, and incentive payments depending on the significance of the soil, water and related natural resource problems in the region, watershed, or conservation priority area, and the structural or land management practices that best address these problems.

(b) Maximize Environmental Benefits. EQIP shall be administered so as to maximize environmental benefits per dollar expended.

(c) Local or State Contributions. Priority is given to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which watersheds, regions, or conservation priority areas in which local or state governments will, or already have already provided financial or technical assistance to the operator for a practice on the same land.

(d) Priority Lands. Priority is given to structural or land management practices on lands on which agricultural production has the potential to cause the failure to meet water quality standards or other environmental objectives of Federal or State laws.

Sec. 1238D. Duties of the Operator. An operator must agree to implement an EQIP plan that contains conservation and environmental goals to be achieved through land management or structural practices.

Sec. 1238E. Environmental Quality Incentives Program Plan.

EQIP plans may include a description of specific conservation and environmental objectives to be achieved, the practices necessary to achieve those objectives, or other information relevant to conserving and enhancing soil, water and related natural resources.

Sec. 1238F. Duties of the Secretary.

The Secretary shall assist the operator in achieving the conservation and environmental goals of the EQIP plan by providing technical assistance, cost share, or incentives payments.

Sec. 1238G. Eligible Lands.

Agricultural lands upon which land management and/or structural practices can be performed include cropland, rangeland, and pasture that the Secretary determines pose a serious threat to soil, water, and related resources. Agricultural lands identified as problems due to agricultural non-point sources of pollution under section 319 of the clean Water Act are also priority lands under this program.

Sec. 1238H. Limitation on Payments.

The total amount of cost share and incentive payments paid may not exceed $10,000 in any one year, and may not exceed a total of $50,000 for multi-year contracts.

Sec. 1238I. Temporary Administration of the Environmental Quality Incentives Program.

(a) Interim Administration. To assure that cost share, technical assistance, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations of EQIP, the Secretary shall, by 180 days after the effective date, continue to provide cost share, technical assistance, and incentive payments under the terms and conditions of the current Agricultural Conservation Program, Water Quality Incentives Program, Colorado River Basin Salinity Control Program, and Great Plains Conservation Program, to the extent the terms and conditions of these programs are consistent with the provisions of EQIP.

(b) Expiration of Authority. The authority of the Secretary to administer EQIP under the interim authority in subsection (a) shall terminate at the later of—

(A) 180 days from the date of enactment; or

(B) March 31, 1996.

Sec. 4. Administration. Subtitle E is amended to read: Subtitle E—Administration

Sec. 1241. Funding.

(a) Mandatory Expenses.

The CRP, WRP, and EQIP programs shall be funded through the Commodity Credit Corporation between 1996–2005.

(b) Environmental Easements Program. Funding for the Environmental Easements program is subject to prior appropriations.

(c) Environmental Quality Incentives Program. CCC funding for EQIP targeted at practices relating to crop production for the 1996–1997 fiscal years shall be allocated in the same proportion that exists for funding between practices relating to crop production and livestock production in 1995. For the 1998–2005 fiscal years, funding for practices relating to crop production shall not be less than the total 1995 funding level. By 2000, 50% of the EQIP funding shall be targeted at practices relating to livestock production. The Secretary is authorized to allocate less than 50% of the total program funding level for practices relating to crop or livestock production, if such a funding level is not justified by need or demand.

(d) CONSERVATION RESERVE PROGRAM. Funding for the CRP shall be—

(1) $1.805 billion in FY 1996;

(2) $1.804 billion in FY 1997;

(3) $1.485 billion in FY 1998;

(4) $1.345 billion in FY 1999;

(5) $1.221 billion in FY 2000–2005.

(e) WETLANDS RESERVE PROGRAM. Funding for the Wetlands Reserve Program shall be $150 million in each of fiscal years 1996–2005.

(f) LIMITATION ON USE OF CCC FUNDS. The Secretary shall allocate $2.06 billion of funds of the Commodity Credit Corporation in each of fiscal years 1996–2005 to fund the CRP, WRP and EQIP.

(g) PRORATION OF PAYMENTS. If in any fiscal year the Secretary has incurred total contractual obligations to make payments under the CRP, WRP and EQIP that would exceed $2.06 billion, the Secretary shall prorate all payments owed under these programs.

Sec. 1242. Administration.

(a) PLANS. The Secretary shall, to the extent practicable, avoid duplication in the conservation plans required for conservation compliance, CRP, WRP, and EQIP.

(b) TENANTS AND SHARECROPPERS. In carrying out the programs under subtitle D, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under either the CRP, WRP, or EQIP.

(c) ACREAGE LIMITATION. The Secretary shall not enroll more than 25 percent of the cropland in any county into the CRP, WRP, and Environmental Easements Program. Not more than 10 percent of such cropland in a county may be subject to an easement acquired under those programs.

Sec. 1243. Conforming Amendments.

(1) The following conservation cost share programs are terminated, and their functions transferred to EQIP.

1. Agricultural Conservation Program;

2. Agricultural Water Quality Incentives Program;

3. Colorado River Basin Salinity Control Program; and

4. Great Plains Conservation program.

(2) The Commodity Credit Corporation Charter Act is amended to provide for, and limit, funding by the Commodity Credit Corporation for the CRP, WRP, and EQIP.

(3) The WRP is amended to allow land to be enrolled between 1996–2005.

(h) The Environmental Easements Program is amended to allow land to be enrolled between 1996–2005.

Sec. 1244. Conservation Operations. It is the Sense of the Senate that the functions performed by the Secretary pursuant to the authority for Conservation Operations are valuable conservation activities that should continue to be carried out by the Secretary and receive annual appropriations by Congress at least at 1995 funding levels.

Sec. 1245. Information Management. It is the Sense of the Senate that the Secretary should develop information management techniques that are necessary to create individual farm or ranch natural resource data bases that would streamline the process by which owners or operators apply to participate in a conservation program administered by USDA and, to the extent practicable, develop a common application process for all conservation programs.

Mr. LEAHY. Mr. President, I am pleased and proud to introduce today, with Senator LUGAR, the Agricultural Resources Conservation Act of 1995.

When President Bush signed the 1990 farm bill, he called it one of the most important environmental bills in that Congress.

Today will build on that legacy.

We build on the legacy of Vermont's—and America's values.

Being good neighbors. That is the value we live by in Vermont. When a cow gets out of her pasture, our neighbors make sure she gets back safely. When phosphorus gets out of our barnyards and threatens Lake Champlain, we come together to find a solution.

We build on the legacy of our Vermont experience.

In Vermont we have proved over the past 15 years that if we build good conservation policy, our farmers will come and participate. This bill takes the Vermont model and makes it a nationwide program.

We build on a legacy of bipartisan cooperation.

The conservation policies we enacted in 1985 and 1990 have produced more progress in the last 10 years than we have seen in the last 50 years of soil conservation.

That is a summary of the values and policies behind this bill.

What does it mean on the ground in Vermont?

First, it means farmers will not have to choose between being good neighbors—controlling their polluted runoff—and staying in business.

Our neighbors, Vermonters and Americans nationwide, will help share the costs.

Second, our working together means cleaner rivers and streams. We can take the successes we have had in local areas, and make them work statewide.

Third, it means new opportunities for all Vermont's farmers. Dairy and sheep, apple farmers and vegetable farmers—all can be better farmers and neighbors.

I believe the bill we are introducing today embodies in legislation the agricultural community's commitment to conservation and the environment. In the Agricultural Resources Conservation Act of 1995 we extend that legacy to the broader environmental challenges farmers and ranchers will face in the next 10 years.

The legislation I am introducing today is built on four key ideas.

We are neighbors;

Let's build on proven success;

We need solutions, not complex programs;

Look ahead, or we will fall behind.

We are neighbors: The Good Neighbor Act of 1995.

The Agricultural Resources Conservation Act of 1995 is more than a set of proposals for policies and programs. It is, at its heart, a statement of the values we share as Americans.

The guiding principle of this bill is the golden rule.

Farmers and ranchers manage nearly half of the land mass of the contiguous United States. Cropland alone makes up one-fifth of our land. The 36 million acres in the Conservation Reserve Program is 2.5 times the size of the Wildlife Refuge System in the lower 48 states. These figures show that some of our most critical environmental concerns, from water quality to wildlife habitat, can be solved only with the active, cooperative support of the agricultural sector. The bill I am introducing today provides the means to engage farmers and ranchers in actively and cooperatively meeting their responsibilities as neighbors.

I firmly believe that most farmers and ranchers are good neighbors. The facts speak for themselves. Since 1985, farmers and ranchers have reduced soil erosion on highly erodible land by two-thirds. We are about to turn the corner on wetland losses in agriculture—restoring more acres than we are converting. A recent poll of 10,000 farmers in 15 leading farm States found that 58 percent of the farmers said conservation compliance should be continued. A majority of the farmers polled, 43 percent agreed that the Government should insist they plant filter strips along stream banks to protect water quality—40 percent disagreed.

Farmers, it seems to me, are way ahead of some of their leaders when it comes to working constructively to solve our real and legitimate environmental problems. This bill builds on farmers and ranchers clear commitment to conservation and their neighbors.

BUILD ON PROVEN SUCCESS: IF WE BUILD IT, THEY WILL COME.

This bill tries to make what has worked so well in Vermont work for farmers and ranchers in the rest of the country.

In Vermont we have a problem with Lake Champlain. Runoff from dairy farms causes a real problem when it carries phosphorus into Lake Champlain. Beginning in 1980, farmers and their urban neighbors came together to work out solutions. We identified the sources of runoff—we identified the management practices that would reduce that runoff—and we set ourselves some goals by which to measure our progress. We targeted the Federal assistance to get results.

And it's working. In the Lake Champlain basin alone 436 farmers have contributed $5.8 million over their own money to match $13.4 million in Federal funding in the last 15 years. Other farmers are taking advantage of technical assistance and incentive payments provided through the Water Quality Incentives Program to set up innovative rotational grazing systems that increase profits and protect water quality. Our experience proves that if we provide farmers and ranchers with the technical and financial assistance they need, they will step up to the plate and do their share to protect the environment.

That is what the Agricultural Resources Conservation Act of 1995 does—put the tools into the hands of farmers that will allow them to reconcile profitability, productivity, and the environment. Specifically we:

Reauthorize the Conservation Reserve Program through 2005 and make sure the program works to protect soil, water quality, and wildlife habitat;

Authorize a new program, called the Environmental Quality Incentives Program, which insures farmers will have the technical and financial assistance to produce crops and livestock in ways that protect the environment; and

Reauthorize the Wetland Reserve Program through 2005 to make sure wetland restoration and protection works for flood prevention, water quality, and wildlife habitat.

These three programs will enable farmers to make the changes they need to make to protect the environment while protecting their bottom line at the same time.

We need solutions, not complex programs.

Farmers and ranchers want to do the right thing, but sometimes our rules and regulations get in the way.

This bill gets bureaucratic redtape out of the way of farmers that want to conserve and protect the environment.

Our proposed Environmental Quality Incentives Program combines the functions of the Great Plains Conservation Program, Water Quality Incentives Program, Agricultural Conservation Program, and the Colorado River Salinity Control Program into one, voluntary and flexible conservation program. Farmers and ranchers will have one-step shopping for conservation planning. They will no longer have to have a file drawer full of plans for every conservation program or cost-share agreement they need. They will be able to use one plan to address all their conservation objectives and that makes them eligible for financial assistance.

Last year, we took the first steps toward eliminating bureaucratic redtape when we passed legislation that reorganized the Department. There is no reason to reinvent the wheel and create a new bureaucratic structure to implement the Environmental Quality Incentives Program. The structure is already in the field to do the job—county committees, conservation districts, the Natural Resources Conservation Service and the Consolidated Farm Services Agency just need to work together to get the job done. That's how it works in Vermont, and that's how it should work in every State. The implementation of the Department reorganization is proving that it can and will work for everyone.

We have to think ahead or we will be left behind.

This bill provides a public commitment to help farmers meet what they tell me is a growing concern: meeting increasingly complex environmental challenges while sustaining profitable and productive farms and ranches.

This bill charts a course for farm policy in the 21st century. It is a course that provides for environmental income stability in the same way our current farm policy provides for market income stability.

Agricultural programs were established in the 1930's to stabilize farm income in the face of large swings in commodity prices. Farmers now believe that conservation and environmental rules threaten the stability of farm income. Often these threats are overblown by groups more interested in being divisive than being constructive. Polls consistently show that the American public holds both farming and environmental protection in very high esteem. Both farmers and environmentalists have much to lose from a divisive relationship.

As I said earlier, farmers and ranchers manage half of the land mass in the contiguous United States. This means how we farm and how we ranch must affect our neighbors, whether those neighbors are across the fence, or 1,000 miles downstream. The farm policy of the future must meet the unique needs of farmers and ranchers as the Nation's landowners and land managers.

This bill proposes to put conservation funding on an equal footing with commodity programs. Why?

The purpose of the CCC borrowing authority is to provide farm income stability.

Conservation programs address the effect of changing environmental rules on farm income, just as commodity programs address farm income instability from changing markets.

That is why this legislation authorizes the Commodity Credit Corporation to use its borrowing authority to fund the Conservation Reserve Progam, the Environmental Quality Incentives Program, and the Wetland Reserve Program.

Early last year several groups of experts from all sectors of agriculture came together under the auspices of the National Center for Food and Agricultural Policy to help us plan for the 1995 farm bill.

Let me quote from the overview prepared at the end of this process:

> Supporters of the program had some difficulty, however, in rationalizing as to why an industrial policy for the food and fiber sector requires continuing large-scale transfers of income to a portion of the farm production sector. . . . The working group looking at land use, conservation and environment issue had no such problems in identifying the public interest in and the public benefits that can be derived from programs. . . . This group argued that the primary beneficiary of the conservation and the environment programs is the public—which values the benefits of additional wildlife, cleaner water, and less soil erosion.

This report is right. The direction is clear. I firmly believe that conservation should and will play an increasingly important role in the agricultural policy of the next century. The public has proved they are willing to pay for conservation. We need to take the first steps this year to build on that willingness to guarantee farmers and ranchers will have the technical and financial assistance they will need in the future.

Budget pressures will sorely test our commitment to conservation this year. We will be forced to make painful choices. We will be forced to rethink the basis and justification of our farm policy. This bill makes a firm commitment to conservation as a fundamental purpose of future farm programs.

Mr. President, I am proud to introduce this bill today. This bill builds on what we know works in my State and in the Nation. It is part of a blueprint for a farm policy that will meet the needs of farmers, ranchers, and their neighbors as we approach the next century.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 855. A bill to amend title 10, United States Code, to revise the authorization for long-term leasing of military family housing to be constructed; to the Committee on Armed Services.

THE BUILD-TO-LEASE MILITARY FAMILY HOUSING ACT OF 1995

• Mr. MURKOWSKI. Mr. President, today I am introducing on behalf of myself and Senator STEVENS legislation to address a serious national need—the condition and availability of military family housing for the Armed Forces of the United States, including the Coast Guard.

The condition of the family housing for our military personnel has deteriorated to the point where it is a serious disincentive to reenlistment and a threat to long-term military readiness. According to a March 7, 1995 article in the Washington Post:

> ''Defense Secretary William J. Perry cites the poor condition of military housing as the number one complaint he hears from soldiers on visits to bases.''
>
> ''. . . 60% of the 375,000 on base family housing units are inadequate . . .''
>
> ''Many barracks and family apartments, built soon after World War II, are cramped and suffer from peeling lead-based paint, hazardous asbestos, cracked foundations, corroding pipes or faulty heating and cooling systems.''

Mr. President, this is clearly a shameful situation that we can and should address. The Washington Post article I cited goes on to point out the need for a system to attract private investment to help rebuild or replace America's military housing. That is the approach of the legislation I am introducing today.

Mr. President, in Alaska we have successfully used private developers to build 1,216 units of critically needed military family housing, including 666 units of Air Force housing at Eielson Air Force Base, and 550 units of Army housing at Fort Wainwright. This was accomplished under the authority of section 801 of Public Law 98–115, a provision I authored in 1983 along with Senator Tower and Representative CHARLIE STENHOLM of Texas. Today I am urging that we revise and extend that law to encourage its use for today's housing needs in the Army, Navy, Air Force, Marines, and Coast Guard.

While there is still build-lease authority in 10 U.S.C. 2828, it is my understanding that little or no new housing has actually been constructed under the provisions of the statute as currently written due to the manner in which proposed projects are scored for budgetary purposes by the Congressional Budget Office [CBO]. There are also other constraints in the current statutory language, such as the requirement that the housing be off-base, that work to the detriment of successful projects.

Mr. President, in Ketchikan, AK the Coast Guard tells me that there is a serious need for new housing. However, they do not believe that they can provide this for their personnel due to budgetary constraints. By providing the authority to lease or construct on or near a military installation I believe we will reduce the cost of providing housing as many of the needed infrastructure support systems, that is, water, sewer, electricity, will already be in place.

The approach I advocate, and the approach in the legislation I am introducing today, is simple and cost effective. The military services would invite the private sector to build housing to military specifications on land already belonging to the Federal Government, preferably on base or on Government property. Under my approach, the military service can also contract for maintenance, providing the developer with an added incentive to construct easy-to-maintain housing.

The private developer builds the housing, leases it back to the military for the contract lease price including any inflation factors specified in the contract, for a lease term not to exceed 20 years. At the end of the 20 years, the United States has the right of first refusal to purchase the housing for its own purposes. As a practical matter, I'd expect the purchase to occur at little additional cost. Since the land the housing is on belongs to the Government, and since access to the housing and the base can be stipulated, any on-base housing would only be of value to the Federal Government.

My approach also codifies the requirement that the housing projects be competitively bid, and that the committees of jurisdiction in the House and Senate have an opportunity to review the economic justifications for the projects prior to final award.

Finally, Mr. President, my legislation directs that the total amount of budget authority and outlays required by the build-lease contract shall be scored on a pro rata basis over the term of the contract for purposes of CBO scoring. While some may dislike this provision, experience has demonstrated its necessity.

Mr. President, I ask that the article from the Washington Post and the text of the bill be printed in the RECORD.

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

S. 855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF AUTHORIZATION FOR LONG TERM LEASING OF MILITARY FAMILY HOUSING.

(a) REVISION.—The text of section 2835 of title 10, United States Code, is amended to read as follows:

''(a) BUILD AND LEASE AUTHORIZED.—The Secretary of a military department, or the Secretary of Transportation with respect to the Coast Guard, may enter into a contract for the lease of family housing units to be constructed or rehabilitated to military use on or near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. Housing units leased under this section shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

''(b) COMPETITIVE PROCESS.—Each contract under subsection (a) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

''(c) CONDITIONS ON OBLIGATION OF FUNDS.—A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

''(1) A statement that the obligation of the United States to make payments under the

contract in any fiscal year is subject to the availability of appropriations for that purpose.

''(2) A requirement that housing units constructed pursuant to the contract be constructed to Department of Defense specifications.

''(d) LEASE TERM.—A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

''(e) RIGHT OF FIRST REFUSAL TO ACQUIRE.—A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

''(f) NOTICE AND WAIT REQUIREMENTS.—A contract may not be entered into for the lease of housing facilities under this section until—.

''(1) the Secretary of Defense submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle 15 costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities; and

''(2) a period of 21 calendar days has expired following the date on which the economic analysis is received by those committees.''.

(b) BUDGET SCORING.—For purposes of scoring the budgetary impact of any contract entered into under section 2835 of title 10, United States Code (as amended by subsection (a)), the total amount of budget authority required by the contract, and the total outlays, shall be scored on a pro rata basis over the term of the contract.

[From the Washington Post, Tuesday, Mar. 7, 1995]

THE NEW MILITARY READINESS WORRY: OLD HOUSING

(By Bradley Graham)

FORT BRAGG, NC—After decades of neglect, U.S. military housing has so deteriorated that Pentagon leaders say it is discouraging soldiers from reenlisting and thereby handicapping the nation's military readiness.

Many barracks and family apartments, built soon after World War II, are cramped and suffer from peeling lead-based paint, hazardous asbestos, cracked foundations, corroded pipes or faulty heating and cooling systems.

More than half the family housing is rated inadequate, and Defense Secretary William J. Perry cites the poor condition of military housing as the number one complaint he hears from soldiers on visits to bases.

''If you ever drove up with your kids to a college with that kind of housing, you'd never leave your kid,'' John Hamre, the Pentagon's comptroller, has been telling congressional and news media audiences around Washington. ''It's pathetic.''

But at a time of shrinking budgets, Pentagon officials have come up with only some token extra millions of dollars to throw at a problems requiring billions to fix. So Perry is casting about for creative off-budget schemes. His main notion, still largely untested, is to establish a system for attracting private investment to help rebuild or replace America's military housing.

So passionate has Perry become about the subject that the former aerospace, entrepreneur—remembered as an undersecretary in the Carter administration for such high-tech innovations as stealth technology and the cruise missile—is now determined to leave his mark by cleaning up the more mundane housing mess.

''When I leave here, I want to look back at a handful of legacies—things that I've done that I'm proud of, that will be sustained and carried on—and this is going to be one of them,'' Perry said in an interview.

Asked about the apparent irony of appealing for new, improved housing even as another round of base closings is underway, Pentagon authorities say the shutdowns have exacerbated the overall housing shortage. Moreover, with much of the closure process now behind them, Defense Department officials say the way is open for enlisting private developers who had been spooked by the uncertainty of the closings.

On Capitol Hill, where strong bipartisan support exists for better military housing, Perry has run into one complication. His emphasis on the U.S. problem is undermining his parallel effort to continue building new homes for former Soviet military officers, part of a U.S. program to finance elimination of nuclear missile bases in Moscow's onetime empire.

Much American military housing remains in decent shape. Some quite handsome buildings, with remodeled interiors and attractive surroundings, are home to senior officers. And many bases feature well-kept smaller housing units.

But the norm is something else.

While no definitive Pentagon standard for adequate housing exists, the Defense Department reports that about 60 percent of the 375,000 on-base family housing units are inadequate—and there are long waiting lists at most bases even for those homes. About one-fourth of the military's 510,000 ''barracks spaces'' are rated substandard, with World War II-vintage gang latrines still common.

Even some top-tier combat forces, like the Army's 82nd Airborne Division based here at Fort Bragg, live in overcrowded rooms with pock-marked walls, rickety lockers, swaying bunks and dim lighting.

''We'd like to give our soldiers something better than tiles falling on their heads and air conditioning that doesn't work,'' said Lt. Col. Charles Jacoby, a battalion commander in the 82nd.

Pentagon officials cite several factors to explain how housing became a crisis. One involves the shift over the past two decades from a conscript force to an all-volunteer military, which led to a jump from 40 percent to 60 percent in the proportion of married service members.

But the availability of family housing has increased little since the 1970s. Most of the Reagan administration's surge in defense spending went into new weapon systems rather than bricks and mortar. Some military housing was upgraded in Europe, then central to Cold War defenses, but those facilities now are being closed.

''Even during the 1980s, when we had a defense budget buildup, there was little or not attention paid to this housing problem,'' Perry said. ''I think it just didn't strike them that it was an important problem.''

The relocation in the United States of U.S. troops formerly based abroad has exacerbated the shortage, as has the closing of numerous domestic bases that offered at least some decent housing.

Styles, too, have changed. Today's soldiers, like other Americans, expect more privacy and space than their counterparts several decades ago. One bath for three or four bedrooms might have been satisfactory in the 1950s; now, military families want not only more bathrooms, but more living and storage space, various appliances, parking for at least two cars and other amenities.

Despite numerous, limited renovations efforts, military officials say maintenance has tended to be more reactive than preventive. Besides, only so much can be done for some eroding structures.

''This place is like an old car, it's continually breaking down,'' said Sgt. Maj. Sam Chapman of the 16th Military Brigade, quartered at Fort Bragg in a 1920s-era barracks with broken plumbing, unreliable heating and never enough hot water. ''We're constantly putting in work orders, but the only way to fix things is to tear the place down and build a new barracks.''

Defense Department policy is to provide on-base housing when the neighboring private market cannot meet the need. Each military service houses about the same proportion of its family population on base—between 30 percent and 40 percent. Some commanders would prefer to get out of the housing business altogether, but on-base units remain very popular among service members for reasons of adding security, family support networks, financial advantages, proximity to jobs and access to child care and medical services.

Living off-base is often not a manageable alternative, because military pay and housing allowances have not kept up with civilian pay on average. In a recent survey of 29 home ports, the Navy found that sailors ranked petty officer third class and below could afford a one-bedroom apartment in only five of the localities and an efficiency in only 17.

Perry makes the point that ''quality of life'' concerns, of which housing ranks highest, are key to persuading the best military people to reenlist.

''What I want to do is equate dealing with the housing problem with [military] readiness,'' he said. ''I see a single, iron logic that drives me from one to the other.''

Under an initiative announced last fall, the Pentagon plans to spend $450 million a year for the next six years to improve on-base housing, raise allowances for off base living and provide more child care and other family support services. But even with these extra funds—on top of increased spending on housing by the services—Pentagon officials expect to modernize only 14 percent of the family housing stock over the next six years and only one in three substandard barracks.

''The real hope is that we can attract large amounts of private investment into this housing problem,'' said Perry.

Perry now has both an internal team of officials and an outside task force headed by former Army secretary John O. Marsh looking for alternatives.

One promising plan is being tried by the Navy, which received congressional authority last year to enter into equity partnerships with private developers. Also under consideration are sales of excess property or land swaps to raise capital for housing projects, discounted leases on government land to lower costs for developers and mortgage insurance for new or renovated military housing.

Perry would like to proceed with several pilot programs this year, then select one or two for expansion next year.

''The problems have been a long time in coming, and will take a long time to fix,'' said Col. James R. Hougnon, Fort Bragg's public works director.●

By Mr. JEFFORDS (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. PELL, Mr. SIMPSON, and Mr. DODD):

S. 856. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to improve and extend the acts, and for other purposes; to the Committee on Labor and Human Resources.

THE REAUTHORIZATION OF THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1995

Mr. JEFFORDS. Mr. President, with Senators KASSEBAUM, KENNEDY, PELL, SIMPSON, and DODD, I am introducing today the Reauthorization of the National Foundation on the Arts and Humanities Act of 1965. This bill provides authorization for the National Endowment for the Arts, the National Endowment for the Humanities, the newly consolidated Institute for Museum and Library Services, and the Arts and Artifacts Indemnity Act, through the year 2000.

Mr. President, this has been a controversial bill I know, and we have done our utmost in the committee, and will continue to do so through the markup, to restore the kind of confidence that this act in these various endowments deserve.

The subject of government sponsorship of the arts and humanities evokes great disagreement and spirited debate from thoughtful people. My colleagues here in the Senate are certainly no strangers to the controversies and discussions associated with the National Endowment for the Arts. I must say that throughout the process of drafting the bill this consideration has been on my mind. I worked in consultation with my Republican and Democratic colleagues on the Labor Committee in hopes of addressing concerns and incorporating constructive suggestions as to how to improve each of the agencies.

At each subcommittee hearing, we had opportunities to discuss fundamental issues related to the NEA, NEH, and IMS with a host of individuals each with very different perspectives. Some spoke of the merits of the Endowments, others proposed significant change, still others advocated total elimination of the Endowments as we now know them. We had the opportunity to see the work of the IMS first hand. The hearing on the Institute for Museum Services was held at the Alexandria Black History Resource Center—a center that serves the community, is home to a wonderful collection of photographs and objects, supports education and lifelong learning initiatives, and is there for the enjoyment of all of the people of Alexandria, and others who visit.

The exchanges at each of the hearings were enlightening, lively, and I believe in the end, very productive. We were able to discuss ideas and concepts which challenged the way we have thought of these agencies. I believe we successfully broadened this discussion from that of simply all or nothing—elimination versus no change—and created an opportunity to improve upon these agencies.

We have sought to do something very different with this bill. We have made changes that will lead to substantial improvement in terms of how these agencies work and made it even more clear in the legislation as to the priority of who they serve. I learned a great deal from the hearings and feel certain that we have incorporated some of the valuable and thoughtful ideas that were shared during these discussions. There was room for improvement at the NEA and NEH. In addition, there is a clear and direct connection to learning between the IMS and libraries.

We have worked very hard on this bill, for very simple reasons, in my opinion. The National Endowment for the Arts, the National Endowment for the Humanities, libraries and museums make enormous contributions to vibrancy and greatness of our society. They enrich the fabric of this Nation, they bring us together, enable us to better express ourselves and better understand each other and many times, through the arts and humanities we reach those who have been written off.

Simply, the arts and humanities are an integral improvement in terms of how these agencies work and make even more clear that legislation is needed as to the priority of those who they serve.

I learned a great deal from the hearings and feel certain that we will have incorporated some of the most valuable and thoughtful ideas that were shared during these discussions. There was room for improvement in the NEA and the NEH.

In addition, it is clear that direct connection to learning between the NEH, the NEA, and the libraries is enlightening. We have worked very hard on this bill for very simple reasons, in my opinion. The National Endowment for the Arts and the National Endowment for the Humanities and the institute for Museum and Library Services make enormous contributions. Encouraging curiosity, thought, learning, dialog, and understanding are endeavors that the Federal Government should have a role in supporting.

In fact, I believe the Federal Government should have a leadership role in fostering and preserving the unique cultural heritage of the Nation. And to give credit where credit is due, the National Endowment for the Arts, the National Endowment for the Humanities, the Institute for Museum Services and libraries have made the arts and humanities more accessible to all people of our Nation and have created innovative and exciting ways of learning to the lives of many, old and young.

My support of these agencies is based on what I have witnessed and learned over the years—facts about what they really do and who they really serve. I have seen the many ways the Endowments' and the IMS' programs have touched people's lives. Their programs have reached children who, prior to their involvement with the arts or humanities had little interest in learning and less hope. Each of these agencies have enabled individuals to gain a better understanding of their neighbors and their communities through participation in community festivals and other outreach activities. They have brought the beauty and the magic of the Nation's rich culture to even the smallest corners of the Nation.

My own State of Vermont, while unique in so many ways, is part of a common phenomenon—when the arts, humanities, museums, and libraries are introduced to a community—that community comes alive, its people come alive. There are examples of excellence in the arts and humanities in Vermont which deserve mention. Book Discussion for General Audiences, which began from a small grant from the Vermont Council for the Humanities at the suggestion of a local librarian in my home town of Rutland, VT, has become a integral component of the agenda in many of the State humanities councils. The Shelburne Museum has received grants from the NEA, NEH, and IMS. It is a showcase and a leading institution of American folk art and decorative arts and artifacts—visited by Vermonters and other visitors from across the country and around the world. It has worked in partnership with local libraries, local schools, and with adult education projects. These are but two examples of thousands which have enhanced the experiences of people in a State.

It has been my intention to preserve what the agencies do well, yet provide them with greater guidance and direction as to the purpose of their work. Today we are putting forward a proposal that consolidates programs, streamlines functions, restructures and provides clear guidelines for the agencies. It recognizes that there are initiatives that are best done best locally and other initiatives that are clearly national in scope and benefit a broad audience. This bill makes the agencies more accountable and more responsive to the American public while enabling them to continue to do what they do best—provide and enhance access to the best of the arts and humanities to all the people of this Nation.

It comes to a very fundamental question, should this Nation care and support those who want to nurture its heart and soul, to provide the opportunity for those who would not otherwise have it, and to best demonstrate the beauty and greatness of our fabulous country.

I think it is important to go into some detail as to the extent of the changes we have proposed. They are far reaching and go to the basis of the operation of these agencies. It is our hope that these changes will provide clear guidance as to how the Endowment funds are spent and sets a clear priority which meet the standard of artistic excellence and artistic merit, benefit and reach the widest possible audience.

First, we have cleaned up much of the clutter and confusion regarding grant programs, primarily as this relates to the National Endowment for the Arts. We have imposed a new structure by establishing three grant programs at the Arts Endowment: partnership grants, national significance

grants, and direct grants. At the Humanities Endowment, we have adopted this same structure. We have consolidated the Institute for Museum Services with the Library Services Act and changed the focus of the latter to technology and access and literacy programs for undeserved communities.

Forty percent of NEA's program funds must now be spent on partnership grants. Local initiatives make up the partnerships block. Projects funded under this block include the basic State grant at an increased level as well as competitive grants to State agencies and local and regional groups to establish local acts activities with particular emphasis on arts education and projects that reach rural and urban undeserved areas. Funds will be matched on a 1:1 ratio.

Forty percent of all program funds must be used for national significance grants. These are grants to organizations of demonstrated and substantial artistic and cultural importance for projects that will increase access of the American people to the best of their arts and culture. Within this block, priority will be given to those projects that will have a national, regional, or otherwise substantial artistic and cultural impact. Matching requirements are increased within the block to 3:1 or 5:1 dependent on the size of the institution's annual budget.

Finally, 20 percent of funds for grants must be spent on direct grants to groups or individuals that are broadly representative of the cultural heritage of the United States and broadly geographically representative for projects of the highest artistic excellence and artist merit. Again, within this block, priority is given to those projects that will have a national, regional, or otherwise substantial artistic and cultural impact and the match is 1:1.

Some administrative changes apply to both Endowments. We have merged many of the administrative functions of the Endowments with the intent of eliminating duplication and saving money. In addition, we have placed a cap on what can be spent on administration for both Endowments at 12 percent. We have decreased the number of members that make up the national councils to streamline and cut bureaucracy. We have instituted a provision which enables both the NEA and NEH to recapture funds if a grant supported by the Endowment becomes commercially successful. We have prohibited any funds from either Endowment to be used for lobbying. Some administrative changes apply specifically to the NEA. We have incorporated administrative provisions that make the chairperson more accountable and given her greater decisionmaking responsibilities. It limits the number of grants an individual can receive in a lifetime and the number of grants an institution can receive in a year. We have eliminated seasonal support and eliminated subgranting—areas of great problem and concern in the past—making an exception only for States and regional groups. We have increased turnover in the panel system and increased lay person participation to ensure greater community involvement. In addition, panels will be prohibited from recommending specific amounts for grants and required to recommend more grants than funding available.

We have made substantial structural changes as well as the Humanities Endowment. We have mandated that 25 percent of program funds be used for Federal/State partnership. Included in this block is the basic State grant to State humanities councils which represents an increase in their funding. NEH funds must be matched dollar for dollar.

We have mandated that 37.5 percent of all program funds at the NEH be used for national grants to support groups and individuals for programs in education and the public humanities that have a national audience and are of national significance. Projects within the block used for endowment building or capital projects must be matched 3:1 by private funds.

Finally, research and scholarship grants will constitute the final 37.5 percent of program funds at the Humanities Endowment. These funds will be awarded to groups and individuals to encourage the development and dissemination of significant scholarship in the humanities and will be matched 1:1.

The consolidation of the Institute of Museum Services and the Library Services Act reflects efforts to unite programs that have a direct connection to one another. More than simply a connection is the potential for invaluable collaboration and partnership especially in the areas of technology and access.

Last but, in my opinion one of the most important changes to this bill is the broadening of the Arts and Artifact Indemnity Act. This change will enable domestic exhibitions to be eligible for insurance and allow for more Americans to have access to the great treasures of this Nation.

I have laid out a great deal in this statement. It is my hope it provides a general sense of the direction we have moved the agencies and the efforts we have made in consolidating programs to better serve the American people. We have focused on what is done best at each level and made each responsible for projects to serve the large constituency—the citizens of this Nation. Access to the name of the game in my opinion and we have a responsibility to provide direction and guidance to ensure that the Endowments and the Institute of Museum Library Service reach every corner of the country.

By Ms. SNOWE:

S. 857. A bill to amend the Immigration and Nationality Act to provide waiver authority for the requirement to provide a written justification for the exact grounds for the denial of a visa, except in cases of intent to immigrate; to the Committee on the Judiciary.

THE LAW ENFORCEMENT AND INTELLIGENCE SOURCES PROTECTION ACT OF 1995

• Ms. SNOWE. Mr. President, today I am introducing the Law Enforcement and Intelligence Sources Protection Act of 1995. This legislation would significantly increase the ability of law enforcement and intelligence agencies to share information with the State Department for the purpose of denying visas to known terrorists, drug traffickers, and individuals involved in international crime.

This provision would permit denials of U.S. visas to be made without a detailed written explanation for individuals who are excludable for law enforcement reasons, which current law requires. These denials could be made citing U.S. law generically, without further clarification or amplification. Individuals denied visas due to the suspicion that they are intending to immigrate would still have to be informed that this is the basis, to allow such an individual to compile additional information that may change that determination.

Under a provision of the INA, a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S. visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal activity. This has impeded the willingness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens. These agencies are logically concerned about impeding an investigation or revealing sources and methods if they submit a name of a person they know to be a terrorist or criminal—but who we do not want to know that we know about their activities—who then goes on the lookout list, is denied a visa, and then is informed in writing that he or she was denied a visa because of known drug trafficking activity. That drug trafficker then will know that the DEA knows about his or her illegal activity and may be developing a criminal case. This information is something the United States would want to protect, until the case against is completed and, hopefully, some law enforcement action is taken. At the same time, however, for the protection of the American people we should also make this information available to the Department of State to keep the individual out of our country.

The key issue is that travel to the U.S. by noncitizens is a privilege, not a constitutional right. There is no fundamental right for extensive due process in visa decisions by our consular officers overseas. While I believe that our country should do what we can to be

fair in our treatment of would-be visitors to the United States, in cases where providing information to an alien would harm our own national security, complicate potential criminal cases, or potentially reveal sources and methods of intelligence gathering, we should err on the side of protecting Americans, not the convenience of foreign nationals.●

By Mr. HATFIELD:

S. 862. A bill to authorize the Administrator of the Small Business Administration to make urban university business initiative grants, and for other purposes; to the Committee on Small Business.

SMALL BUSINESS ENHANCEMENT ACT

Mr. HATFIELD. Mr. President, today, I am introducing a bill to help our vital small and emerging businesses grow successfully. This bill would utilize existing research facilities, especially in our urban universities, to help enable businesses to discover what currently hinders their development. This proposal previously passed the Senate as an amendment to S. 4, the National Competitiveness Act. While this act did not become law last year, it is my hope that this measure will see quick action in this Congress.

This proposal will not create a new bureaucracy. In fact, it may help to point out where local and Federal bureaucracies impede business development. It is designed to promote business research assistance by those uniquely qualified to take on these tasks: namely, our Nation's business schools in conjunction with private or nonprofit organizations.

The focus of this legislation is the overall health of businesses in lower income urban communities. However, this bill does not preclude this assistance from being applied in rural areas. In fact, if a State does not contain an urban area as defined in the legislation, the SBA Administrator may designate one area in that State for this purpose.

We know some of the most basic problems that businesses face, such as intrusive government regulations. Additionally, small and emerging businesses in low-income urban areas find development difficult because of the lack of access to investment capital and technical assistance. However, why do some of these businesses thrive and compete internationally while others fail?

Last year's committee report on the National Competitiveness Act noted that only 6 out of 10 of our smaller manufacturers employ advanced technology, compared to 9 out of 10 for plants with more than 500 employees. Reports offer little information on exactly why businesses fail or cease to expand in certain areas. When I tried to find research on the specific problems that businesses face in Oregon, the only current source of information was a survey done by the National Federation of Independent Businesses. Surveys and government statistics cannot take the place of primary research conducted by our Nation's business schools.

Business schools play an important role in sustaining business development. They currently perform vital research and train our Nation's future business leaders. However, this role could be greatly enhanced by providing them with additional Federal resources to expand their much needed research and apply their findings to businesses in their communities through assistance programs.

This proposal would allow the Small Business Administration to make grants to urban universities for research on, or for implementation of, technical assistance, technology transfer, or delivery of services in business creation, expansion, and human resource management. As noted above, where there is not an urban university in a State, the SBA Administrator may designate another eligible area in the State.

The authorization for these demonstration grants is limited to $10 million. The grants would be dispersed geographically, and not exceed $400,000 per institution or consortium. This procedure makes use of existing talent and facilities to create the information and assistance that developing businesses need.

For example, a comprehensive data base on business births, deaths, expansions, or contractions is no longer maintained. A potential benefit of this proposal could be the creation of such a data base in conjunction with assistance efforts based upon the resulting information. In this case, we would see nonprofit entities taking over functions that were previously under the direction of the SBA in order to enhance American competitiveness.

Other programs such as the Small Business Development Centers [SBDC's] do an admirable job of specializing in assisting small entrepreneurial enterprises. However, the Small Business Enhancement Act is designed to offer applied research and in-depth technical assistance to small and emerging businesses that SBDCs do not have the facilities to undertake.

I urge my colleagues to join me by cosponsoring this important business initiative. I ask unanimous consent that supporting letters from the American Association of State Colleges and Universities, the National Association of State Universities and Land-Grant Colleges, the American Electronics Association of Oregon, and Portland State University be placed into the RECORD following my remarks.

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

MAY 25, 1995.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the American Association of State Colleges and Universities and Land Grant Colleges (NASULGC), we commend your efforts to match the resources of our urban colleges and universities to the needs of the urban business community through the proposed Urban University Business Initiative legislation.

The community resource and economic development mission of our urban colleges and universities inextricably links our institutions to the communities in which they reside. Moreover, the business community's need for technical assistance and solutions to problems, especially those in lower income urban areas, and the urban university's ability and interest in applying their energies and talents to human and community concerns, creates a climate for urban universities and urban businesses to collaborate.

As we approach the 21st century, the technological challenges threatening America's economy and international competitiveness will have to be addressed by the American people. Too often the potential of our colleges and universities, as participants in the problem solving process, is overlooked. Your legislation helps create the link between urban institutions of higher education and the communities in which they reside.

Once again, we appreciate your foresight and leadership on this issue and your outstanding and longstanding advocacy on behalf of urban and metropolitan colleges and universities.

Sincerely,

JAMES B. APPLEBERRY,
President, American Association of State Colleges and Universities.

C. PETER MAGRATH,
President, National Association of State Universities and Land-Grant Colleges.

PORTLAND STATE UNIVERSITY,
Portland, OR, May 22, 1995.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I'm writing to let you know I enthusiastically endorse your proposed legislation related to urban universities and technical assistance for small and emerging businesses. This legislation will make a difference not only to businesses in Oregon, but throughout the nation. Establishing direct linkages between urban universities and business assistance will help enhance the success rate of small and emerging businesses.

At a time when our nation's economic base is changing dramatically from industrial to small and mid-size businesses, legislative solutions like the Urban University Business Initiative Grants are especially crucial to long-term sustainability. In addition to providing technical assistance, your legislation specifically establishes a priority for a research agenda. Clearly, too little is now known about what works to support business development, strategies for promoting business expansion, and successful efforts to maintain profitability and sustainability.

The urban university is well positioned to provide business assistance. It is the mission of the urban university to work with the community to address community problems. A key problem for urban areas, especially lower-income neighborhoods, is business competitiveness. Jobs, particularly family-wage jobs, are essential to self-sufficiency, family stability, and community development. Your legislation creates a mechanism for urban university business schools to be an integral part of the solution.

Senator Hatfield, your leadership on this issue is greatly appreciated. I especially want to recognize the good work and commitment of your staff in making this legislative concept a reality. It is obvious that your

passion for the urban university mission is shared by the people you employ.

Thank you again for embracing this important issue. Please call upon me if I can provide you with any information or assistance.

Best regards,

JUDITH A. RAMALEY,
President.

AMERICAN ELECTRONICS ASSOCIATION,
Salem, OR, May 25, 1995.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing to express support for your proposed small business initiative grant program.

As you know, Oregon is a hotbed of small businesses, many of which are faced with the daunting task of trying to compete in a global marketplace. Although such programs as the SBDCs attempt to help small enterprises get started, your proposal addresses a different need: the applied research and long-term technical assistance that could be provided by our urban universities.

Your proposal addresses another gap in our current system—a much needed data base to track small business development and chart the reasons for success and failure.

A recent discussion we had with economic development leaders in the Portland area highlighted for us the urgent need for business development strategies designed specifically for lower income urban communities. We hope that your proposal, if successful, will help address those needs.

As always, we applaud your leadership in these issues. Good luck.

Sincerely,

JIM CRAVEN,
Government Affairs Manager.

By Mr. GRASSLEY (for himself and Mr. CONRAD):

S. 863. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

S. 864. A bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. GRASSLEY. Mr. President, today, on behalf of myself and Senator CONRAD, I am introducing two bills. If enacted, these bills would increase access to primary care for Medicare beneficiaries in rural and inner city communities. The Primary Care Health Practitioner Incentive Act of 1995 would reform Medicare reimbursement to nurse practitioners [NP's] and clinical nurse specialists [CNS's]. The Physician Assistant Incentive Act of 1995 would reform Medicare reimbursement for physician assistants.

We introduced these bills in the last Congress. We are reintroducing them today in the conviction that access to primary care services for Medicare beneficiaries would be improved if we reformed Medicare policies that restrict the circumstances under which the services of these providers can be reimbursed.

THE PROBLEM

The Medicare program currently covers the services of these practitioners. However, payment levels vary depending on treatment settings and geographic area. In most cases, reimbursement may not be made directly to the nonphysician provider. Rather, it must be made to the employer of the provider, often a physician. The legislation authorizing these different reimbursement arrangements was passed in an incremental fashion over the years.

The Medicare law which authorizes reimbursement of these providers is also inconsistent with State law in many cases. For instance, in Iowa, State law requires nonphysicians to practice with either a supervising physician or a collaborating physician. But under Iowa law, the supervising physician need not be physically present in the same facility as the nonphysician practitioner and, in many instances, can be located in a site physically distant from that of the nonphysician practitioner he or she is supervising.

Unfortunately, Medicare policy will not recognize such relationships and instead requires that the physician be present in the same building as the nonphysician practitioner in order for the services of these nonphysician providers to be reimbursed. This is known as the incident to provision, referring to services that are provided incident to a physician's services.

This has created a problem in Iowa, Mr. President. In many parts of my State, clinics have been established using nonphysician practitioners, particularly physician assistants, in order to provide primary health care services in communities that are unable to recruit a physician. The presence of these practitioners insures that primary health care services will be available to the community.

Iowa's Medicare carrier has strictly interpreted the incident to requirement of Medicare law as requiring the physician presence of a supervising physician in places where physician assistants practice. This has caused many of the clinics using physician assistants to close, and thus has deprived the community of primary health care services.

Mr. President, recently the Iowa Hospital Association suggested a number of ways access and cost effectiveness could be improved in the Medicare Program. One of their suggestions was that this incident to restriction be relaxed. They said:

> In rural Iowa, most physicians are organized in solo or small group practices. Physician assistants are used to augment these practices. With emergency room coverage requirements, absences due to vacation, continuing education or illness and office hours in satellite clinics, there are instances on a monthly basis where the physician assistant is providing care to patients without a physician in the clinic. Medicare patients in the physician clinic where the physician assistant is located have to either wait for the physician to return from the emergency room or care is provided without charge. The patient and the providers are clearly harmed by this provision.

THIS LEGISLATION

If enacted, this legislation would establish a more uniform payment policy for these providers. It would authorize reimbursement of their services as long as they were practicing within State law and their professional scope of practice. It calls for reimbursement of these provider groups at 85 percent of the physician fee schedule for services they provide in all treatment settings and in all geographic areas. Where it is permitted under State law, reimbursement would be authorized even if these nonphysician providers are not under the direct, physical supervision of a physician. Currently, the services of these nonphysician practitioners are paid at 100 percent of the physician's rate when provided incident to a physician's services. If enacted, this legislation would discontinue this incident to policy. The reimbursement would be provided directly to the nurse practitioners and clinical nurse specialists. It would be provided to the employer of the physician assistant.

These bills also call for a 10-percent bonus payment for those of these practitioners who work in health professional shortage areas [HPSA's]. We hope that this provision will encourage nonphysician practitioner to relocate in areas in need of health care services.

Mr. President, legislation closely paralleling the legislation we are introducing today was twice accepted by the Committee on Finance, and once by the Senate. Comparable legislation was included in the Senate's version of H.R. 11 in 1992. Also included in that legislation were certified nurse midwives. Comparable legislation was also accepted by the committee in its health care reform legislation last year. That legislation included only the services of nurse practitioners and physician assistants.

Mr. CONRAD. Mr. President, Senator GRASSLEY and I are again introducing legislation to improve Medicare reimbursement policy related to nurse practitioners, clinical nurse specialists, and physician's assistants. The bills we are introducing today—the Primary Care Health Practitioner Incentive Act and the Physician Assistant Incentive Act—are slightly modified versions of S. 833 and S. 834, which we introduced during the last Congress.

Our legislation helps maximize the effective utilization of these primary health care providers, who play a vital role in our health care delivery infrastructure, particularly in rural areas.

Each of the specialties affected by our legislation has its own training requirements. For example, nurse practitioners are registered nurses who have advanced education and clinical training in a health care specialty area that is either age- or setting-specific. A few examples include pediatrics, adult health, geriatrics, women's health,

school health, and occupational health. Nurse practitioners generally perform services like assessment and diagnosis, and provide basic primary care treatment.

Almost half of the 25,000 nurse practitioners across the Nation have master's degrees. Clinical nurse specialists, on the other hand, are required to have master's degrees and are found more frequently in tertiary care settings in specialties like cardiac care. However, many also practice in primary care settings.

Physician assistants on average receive 2 years of physician-supervised clinical training and classroom instruction. Unlike nurse practitioners, they are educated using the medical model of care, rather than the nursing process. Physician assistants work in all settings providing diagnostic, therapeutic, and preventive care services.

Members of each of these provider groups work with physicians to varying degrees. They generally work in consultation with physicians, and are being relied upon more and more. In States like North Dakota, nurse practitioners or physician assistants often staff clinics where no physician is present or available. Without their presence, many communities would have no ready access to the health care system.

Within their areas of competence, nurse practitioners, clinical nurse specialists, and physician's assistants furnish care of exceptional quality. Numerous studies have demonstrated that they do a particularly effective job of providing preventive care, supportive care, and health promotion services. They also emphasize communication with patients and provide effective followup with patients. These qualities will continue to grow in importance as primary care receives increasing emphasis throughout our health care system.

Medicare currently provides for reimbursement of nurse practitioners, physicians' assistants, and clinical nurse specialists working with physicians. But the ad hoc fashion in which the various payment mechanisms have been established results in wide reimbursement variations in different settings and among different providers.

Our national budget situation requires that we approach Medicare reimbursement policies in a sensible way. This legislation is one example of how Medicare can and should promote the use of cost-effective providers to a much higher degree, without compromising the quality of care that older Americans receive.

Today's Medicare requirements can hinder the ability of practices to set up satellite clinics that are staffed by providers other than physicians. For example, although the State of North Dakota allows for broad use of such providers, the reimbursement levels provided by Medicare can create difficulty both for the providers and the practices themselves.

In rural North Dakota, and in rural communities throughout the Nation, one or two doctors might rotate between a series of clinics. The clinics might also be staffed by physician's assistants, nurse practitioners, or other providers. If a Medicare patient requires care when a doctor is conducting business away from the clinic, and the only provider present is a physician assistant, the clinic can not be reimbursed by Medicare for care he or she provides to that individual—the same care that would be reimbursed if the physician were in the next room. The State of North Dakota allows that same physician's assistant to provide the care without a physician present, but Medicare provides no reimbursement.

The Office of Technology Assessment, the Physician Payment Review Commission and these providers themselves have all expressed the need for consistency, and for a reimbursement scheme that acknowledges reality of today's medial marketplace.

Greater use of nurse practitioners, physician assistants, and clinical nurse specialists can improve our ability to provide health care services in areas where access to providers can be difficult. These providers have historically been willing to move to both rural and inner-city areas that are underserved by health care providers. In fact, they are located in about 50 communities throughout North Dakota.

Many communities that cannot support a physician can support a full-time nurse practitioner or physician assistant. As I have already discussed, some towns already utilize these providers to some extent. North Dakotans and residents of many other States recognize the value of each of these health care professionals, and appreciate the access to quality care they provide.

Although North Dakota maximizes access to health care for our rural residents by allowing for relatively broad utilization of these providers, our efforts are impeded by an irrational Federal reimbursement scheme. But no matter what the State of North Dakota does, unless changes are made in Federal reimbursement, we will never encourage use of this group of health care professionals to the extent that rural Americans need.

The bills Senator GRASSLEY and I are introducing would help eliminate the existing barriers to using these important primary care providers. The bills provide each of these provider groups with reimbursement at 85 percent of the physician fee schedule for the services they provide. The 85 percent level represents a compromise relative to the legislation we introduced in the 103d Congress. It is consistent with a provision that was included in all of the major health reform legislation before the Senate last year—the Mainstream coalition proposal as well as the health reform proposals made by Senators Mitchell and DOLE.

Our proposals also allow for a bonus payment to these providers if they elect the practice in Health Professional Shortage Areas [HPSAs]. All but six counties in North Dakota are completely or partially designated as HPSAs. The health care access problems residents of those counties experience could be substantially alleviated by the presence of this special class of primary care providers. Finally, our legislation ensure that a nurse practitioner from a rural area who follows a patient into an inpatient setting will get paid for doing so.

The improvements that Senator GRASSLEY and I advocate will pay dividends in improved access to health care for Americans living in rural and urban areas alike. They were items about which Democrats and Republicans had a great deal of agreement during health care reform last year. I urge my colleagues to support this bipartisan effort to improve health care access for rural Americans.

By Mr. DOLE (for himself, Mr. KYL, and Mr. HATCH):

S. 866. A bill to reform prison litigation, and for other purposes; to the Committee on the Judiciary.

PRISON LITIGATION REFORM ACT

Mr. DOLE. Mr. President, I am pleased to join today with my distinguished colleague from Arizona, Senator KYL, in introducing the Prison Litigation Reform Act of 1995.

Over the past two decades, we have witnessed an alarming explosion in the number of lawsuits filed by State and Federal prisoners. According to enterprise institute scholar Walter Berns, the number of ''due-process and cruel and unusual punishment'' complaints filed by prisoners has grown astronomically—from 6,600 in 1975 to more than 39,000 in 1994. As Chief Justice William Rehnquist has pointed out, prisoners will now ''litigate at the drop of a hat,'' simply because they have little to lose and everything to gain. Prisoners have filed lawsuits claiming such grievances as insufficient storage locker space, being prohibited from attending a wedding anniversary party, and yes, being served creamy peanut butter instead of the chunky variety they had ordered.

Unfortunately, prisoner litigation does not operate in a vacuum. Frivolous lawsuits filed by prisoners tie up the courts, waste valuable judicial and legal resources, and affect the quality of justice enjoyed by the law-abiding population.

According to Arizona Attorney General Grant Woods, 45 percent of the civil cases filed in Arizona's Federal courts last year were filed by State prisoners. That means that 20,000 prisoners in Arizona filed almost as many cases as Arizona's 3.5 million law-abiding citizens. The time and money spent defending most of these cases are clearly time and money that could be better spent prosecuting criminals, fighting

illegal drugs, or cracking down on consumer fraud.

GARNISHMENT

The bottom line is that prisons should be prisons, not law firms. That's why the Prison Litigation Reform Act would require prisoners who file lawsuits to pay the full amount of their court fees and other costs.

Many prisoners filing lawsuits today in Federal court claim indigent status. As indigents, prisoners are generally not required to pay the fees that normally accompany the filing of a lawsuit. In other words, there is no economic disincentive to going to court.

The Prison Litigation Reform Act would change this by establishing a garnishment procedure: If a prisoner is unable to fully pay court fees and other costs at the time of filing a lawsuit, 20 percent of the funds in his account would be garnished for this purpose. Every month thereafter, an additional 20 percent of the income credited to the prisoner's account would be garnished, until the full amount of the court fees and costs are paid-off.

When average law-abiding citizens file a lawsuit, they recognize that there could be an economic downside to going to court. Convicted criminals shouldn't get preferential treatment: If a law-abiding citizen has to pay the costs associated with a lawsuit, so too should a convicted criminal.

In addition, when prisoners know that they will have to pay these costs—perhaps not at the time of filing, but eventually—they will be less inclined to file a lawsuit in the first place.

JUDICIAL SCREENING

Another provision of the Prison Litigation Reform Act would require judicial screening, before docketing, of any civil complaint filed by a prisoner seeking relief from the Government under section 1983 of title 42, a reconstruction-era statute that permits actions against State officials who deprive ''any citizen of the United States * * * of the rights, privileges, or immunities guaranteed by the constitution.'' This provision would allow a Federal judge to immediately dismiss a complaint under section 1983 if either of two conditions is met: First, the complaint does not state a claim upon which relief may be granted, or second, the defendant is immune from suit.

OTHER REFORMS

The Prison Litigation Reform Act would also punish Federal prisoners who file frivolous lawsuits by requiring them to forfeit any good-time credits they may have accumulated. Why should we provide ''good-time'' credits to Federal prisoners who waste taxpayer dollars and valuable judicial resources with unnecessary lawsuits?

The act also requires State prisoners to exhaust all administrative remedies before filing a lawsuit in Federal court.

In addition, the act amends both the Civil Rights of Institutionalized Persons Act and the Federal Tort Claims Act to prohibit prisoners from suing for mental or emotional injury while in custody, absent a showing of physical injury.

If enacted, all of these provisions would go a long way to curtail frivolous prisoner litigation.

CONCLUSION

Finally, Mr. President, I want to express my thanks to Arizona Attorney General Grant Woods. In many respects, the Prison Litigation Reform Act is modeled after the attorney general's own State initiative in Arizona. Without the invaluable input of Attorney General Woods and his staff, Senator Kyl and I would not be here today introducing this important piece of legislation.

Mr. President, I ask unanimous consent that the full text of the Prison Litigation Reform Act be reprinted in the RECORD.

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

S. 865

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 ''Prison Litigation Reform Act of 1995''.

SEC. 2. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) Any'' and inserting ''(a)(1) Subject to subsection (b), any'';

(B) by striking ''fees and'';

(C) by striking ''makes affidavit'' and inserting ''submits an affidavit'';

(D) by striking ''such costs'' and inserting ''such fees'';

(E) by striking ''he'' each place it appears and inserting ''the person'';

(F) by adding immediately after paragraph (1), the following new paragraph:

''(2) A prisoner of a Federal, State, or local institution seeking to bring a civil action or appeal a judgment in a civil action or proceeding, without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each institution at which the prisoner is or was confined.''; and

(E) by striking ''An appeal'' and inserting ''(3) An appeal'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

''(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess, and when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

''(A) the average monthly deposits to the prisoner's account; or

''(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

''(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

''(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or a appeal of a civil action or criminal judgment.

''(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner is unable to pay the initial partial filing fee.'';

(4) in subsection (c), as redesignated by paragraph (2), by striking ''subsection (a) of this section'' and inserting ''subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)''; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e) The court may request an attorney to represent any person unable to employ counsel, and shall dismiss the case at any time if the allegation of poverty is untrue, or if the court determines that the action or appeal is frivolous or malicious, or fails to state a claim on which relief may be granted.''.

(b) COSTS.—Section 1915(e) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended)—

(1) by striking ''(f) Judgment'' and inserting ''(f)(1) Judgment'';

(2) by striking ''such cases'' and inserting ''proceedings under this section'';

(3) by striking ''cases'' and inserting ''proceedings''; and

(4) by adding at the end the following new paragraph:

''(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

''(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

''(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.''.

SEC. 3. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

''§ 1915A. Screening

''(a) SCREENING.—The court shall review, before docketing if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

''(b) GROUNDS FOR DISMISSAL.—On review, the court shall dismiss the complaint, or any portion of the complaint, if the complaint—

''(1) fails to state a claim upon which relief may be granted; or

''(2) seeks monetary relief from a defendant that is immune from such relief.

''(c) DEFINITION.—As used in this section, the term 'prisoner' means a person that is serving a sentence following conviction of a crime or is being held in custody pending trial or sentencing.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

''1915A. Screening.''.

SEC. 4. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking ''(b)'' and inserting ''(b)(1)''; and

(2) by adding at the end the following:

''(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.''.

SEC. 5. CIVIL RIGHTS CLAIMS.

The Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997 et seq.) is amended by inserting after section 7 the following new section:

''SEC. 7A. LIMITATION ON RECOVERY.

''No civil action may be brought against the United States by an adult convicted of a crime confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.''.

SEC. 6. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1932. Revocation of earned release credit

''In a civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of earned good time credit (or the institutional equivalent) if—

''(1) the court finds that—

''(A) the claim was filed for a malicious purpose;

''(B) the claim was filed solely to harass the party against which it was filed; or

''(C) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court; or

''(2) if the Attorney General determines that subparagraph (A), (B), or (C) of paragraph (1) has been met and recommends revocation of earned good time credit to the court.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

''1931. Revocation of earned release credit.''.

SEC. 7. EXHAUSTION REQUIREMENT.

Section 7(a)(1) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)(1)) is amended—

(1) by striking ''in any action brought'' and inserting ''no action shall be brought'';

(2) by striking ''the court shall'' and all that follows through ''require exhaustion of'' and insert ''until''; and

(3) by inserting ''and exhausted'' after ''available''.

Mr. KYL. Mr. President, I join Senator DOLE in introducing the Prison Litigation Reform Act of 1995. This bill will deter frivolous inmate lawsuits. Statistics complied by the Administrative Office of the U.S. Courts show that inmate suits are clogging the courts and draining precious judicial resources. Nationally, in 1994, a total of 238,590 civil cases were brought in U.S. district court. More than one-fourth of these cases—60,086—were brought by prisoners.

Most inmate lawsuits are meritless. Courts have complained about the abundance of such cases. Filing frivolous civil rights lawsuits has become a recreational activity for long-term residents of our prisons. *James* v. *Quinlan,* 886 F.2d 37, 40 n. 5 (3rd Cir. 1989) quoting *Gabel* v. *Lynaugh,* 835 F.2d 124, 125 n. 1 (5th Cir. 1988) (per curiam). Indeed, in Gabel, the fifth circuit expressed frustration with the glut of ''frivolous or malicious appeals by disgruntled state prisoners.'' *Gabel* v. *Lynaugh,* 835 F.2d 124, 125 (per curiam). The court wrote:

> About one appeal in every six which came to our docket (17.3%) the last four months was a state prisoner's pro se civil rights case. A high percentage of these are meritless, and many are transparently frivolous. So far in the current year (July 1–October 31, 1987), for example, the percentage of such appeals in which reversal occurred was 5.08. Partial reversal occurred in another 2.54%, for a total of 7.62% in which any relief was granted. . . . Over 92% were either dismissed or affirmed in full.
>
> For the same period section 1983 prisoner appeals prosecuted without counsel were our largest single category of cases which survived long enough to be briefed and enter our screening process so as to require full panel consideration. The number of these stands at almost 22%, with the next largest category—diversity cases—coming in at 16%, federal question appeals at 14.5%, and both general civil rights cases and criminal appeals coming in at something over 11% each. Such figures suggest that pro se civil rights litigation has become a recreational activity for state prisoners in our Circuit . . . *Id.*

As Walter Berns recently wrote in the Wall Street Journal, ''Nowhere is [the] problem [of frivolous lawsuits] more pressing than in our prison system.'' (April 24, 1995) Legislation is needed because of the large and growing number of prisoner civil rights complaints, the burden that disposing of meritless complaints imposes on efficient judicial administration, and the need to discourage prisoners from filing frivolous complaints as a means of gaining a ''short sabbatical in the nearest Federal courthouse.'' *Cruz* v. *Beto,* 405 U.S. 319, 327 (1972) (Rehnquist, J., dissenting).

The Dole-Kyl ''Prisoner Litigation Reform Act'' will:

Remove the ability of prisoners to file free lawsuits, instead making them pay full filing fees and court costs.

Require judges to dismiss frivolous cases before they bog down the court system.

Prohibit inmate lawsuits for mental and emotional distress.

Retract good-time credit earned by inmates if they file lawsuits deemed frivolous.

Require the exhaustion of administrative remedies.

The Dole-Kyl bill is based on similar provisions that were enacted in Arizona. Arizona's recent reforms have already reduced State prisoner cases by 50 percent. Now is the time to reproduce these commonsense reforms in Federal law. If we achieve a 50-percent reduction in bogus Federal prisoner claims, we will free up judicial resources for claims with merit by both prisoners and nonprisoners.

Section 2 of the bill covers proceedings in forma pauperis. It adds a new subsection to 28 U.S.C. section 1915. The subsection provides that whenever a Federal, State, or local prisoner seeks to commence an action or proceeding in Federal court as a poor person, the prisoner must pay a partial filing fee of 20 percent of the larger of the average monthly balance in, or the average monthly deposits to, his inmate account. The fee may not exceed the full statutory fee. If the inmate can show that circumstances render him unable to make payment of even the partial fee, the court has the power to waive the entire filing fee.

Section 2 will require prisoners to pay a very small share of the large burden they place on the Federal judicial system by paying a small filing fee upon commencement of lawsuits. In doing so, the provision will deter frivolous inmate lawsuits. The modest monetary outlay will force prisoners to think twice about the case and not just file reflexively. *Lumbert* v. *Illinois Department of Correction,* 837 F.2d 257, 259 (7th Cir. 1987) (Posner, J.). Prisoners will have to make the same decision that law-abiding Americans must make: Is the lawsuit worth the price? Criminals should not be given a special privilege that other Americans do not have. The only thing different about a criminal is that he has raped, robbed, or killed. A criminal should not be rewarded for these actions.

The volume of prisoner litigation represents a large burden on the judicial system, which is already overburdened by increases in nonprisoner litigation. Yet prisoners have very little incentive not to file nonmeritorious lawsuits. Unlike other prospective litigants who seek poor person status, prisoners have all the necessities of life supplied, including the materials required to bring their lawsuits. For a prisoner who qualifies for poor person status, there is no cost to bring a suit and, therefore, no incentive to limit suits to cases that have some chance of success.

The filing fee is small enough not to deter a prisoner with a meritorious claim, yet large enough to deter frivolous claims and multiple filings. As noted above, the bill contains a provision to waive even the partial filing fee. This provision assures that prisoners with meritorious claims will not be shut out from court for lack of sufficient money to pay even the partial fee.

Finally, section 2 of the Dole-Kyl bill also imposes the same payment system for court costs as it does for filing fees. This provision, like the filing fee provision, will ensure that inmates evaluate the merits of their claims.

Section 3 of this bill creates a new statute that requires judicial screening of a complaint, or any portion of the complaint, in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. The bill establishes two standards a prisoner must meet. Under the first standard, the court must dismiss the complaint if satisfied that the complaint fails to state a claim on which relief may be

granted. Under the second standard, the court must dismiss claims for monetary relief from a defendant who is immune from such relief.

Sections 4 and 5 of the bill will bar inmate lawsuits for mental or emotional injury suffered while in custody unless they can show physical injury. Of the 60,086 prisoner petitions in 1994 about two-thirds were prisoner civil rights petitions, according to the Administrative Office of the U.S. courts. Prisoner civil rights petitions are brought under 42 U.S.C. 1983. Section 1983 petitions are claims brought in Federal court by State inmates seeking redress for a violation of their civil rights. ''The volume of section 1983 litigation is substantial by any standard,'' according to the Justice Department's report on section 1983 litigation, ''Challenging the Conditions of Prisons and Jails.'' Indeed, the Administrative Office [AO] of the U.S. courts counted only 218 cases in 1966, the first year that State prisoners' rights cases were recorded as a specific category of litigation. The number climbed to 26,824 by 1992. When compared to the total number of all civil cases filed in the Nation's U.S. district courts, more than 1 in every 10 civil filings is now a section 1983 lawsuit, according to the AO.

Section 6 of the bill will deter frivolous suits by adding to the U.S.C. a sanction to revoke good-time credits when a frivolous suit is filed. Specifically, the bill would require that in a civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of earned good-time credit if the court finds that: First, the claim was filed for a malicious purpose, second, the claim was filed solely to harass the party against which it was filed, or third, the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court. Additionally, if the Attorney General determines that any of these criteria have been met, the Attorney General may recommend the revocation of earned good-time credit to the court.

Section 7 will make the exhaustion of administrative remedies mandatory. Many prisoner cases seek relief for matters that are relatively minor and for which the prison grievance system would provide an adequate remedy. Section 7 of this bill would require an inmate, prior to filing a complaint under 42 U.S.C. section 1983, to exhaust all available administrative remedies certified as adequate by the U.S. attorney general. An exhaustion requirement is appropriate for prisoners given the burden that their cases place on the Federal court system, the availability of administrative remedies, and the lack of merit of many of the claims filed under 42 U.S.C. section 1983.

Mr. President, in a dissenting opinion in *Cleavinger* v. *Saxner*, 474 U.S. 193, 211 (1985), then-Justice Rehnquist wrote, ''With less to profitably occupy their time than potential litigants on the outside, and with a justified feeling that they have much to gain and virtually nothing to lose, prisoners appear to be far more prolific litigants than other groups in the population.'' The Dole-Kyl bill will stem the tide of meritless prisoner cases.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

[From the Wall Street Journal, Apr. 24, 1995]

SUE THE WARDEN, SUE THE CHEF, SUE THE GARDENER . . .

(By Walter Berns)

The Senate's debate this week on tort reform will focus the public spotlight on frivolous lawsuits. Nowhere is this problem more pressing than in our prison system. As one federal appeals court judge said recently, filing civil rights suits has become a ''recreational activity'' for long-term inmates. Among his examples of ''excessive filings'': more than 100 by Harry Franklin (who, in one of them, sued a prison official for ''overwatering the lawn''), 184 in three years by John Robert Demos, and—so far the winning score—more than 700 by the ''Reverend'' Clovis Carl Green Jr.

Disenting in a case that reached the Supreme Court in 1985, Chief Justice William Rehnquist noted that prisoners are not subject to many of the constraints that deter litigiousness among the population at large. Most prisoners qualify for in forma pauperis status, which entitles them to commence an action ''without prepayment of fees and costs or security therefor,'' and all of them are entitled to free access to law books or some other legal assistance. As the chief justice said, with time on their hands, and with much to gain and virtually nothing to lose, prisoners ''litigate at the drop of a hat.''

Chief Justice Rehnquist was not referring to appeals by defendants protesting their innocence, but to the suits initiated by people claiming a deprivation of their rights while in prison. Since almost any disciplinary or administrative action taken by prison officials now can give rise to a due process or cruel-and-unusual-punishment complaint, the number of these suits is growing at a rate that goes far to explain the ''litigation explosion'': from 6,606 in 1975 to 39,065 in 1994 (of which ''only'' 1,100 reached the Supreme Court).

Of the 1994 total, 37,925 were filed by state prisoners under a section of the so-called Ku Klux Klan Act of 1871, which permits actions for damages against state officials who deprive ''any citizen of the United States or other person under the jurisdiction thereof, [of] any rights, privileges, or immunities secured by the Constitution and laws.'' This statute came into its own in 1961 when the Supreme Court permitted a damage action filed by members of a black family who (with good reason) claimed that Chicago police officers had deprived them of the Fourth Amendment right ''to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures.'' Today, the statute is used mostly by prisoners who, invoking one or another constitutional right, complain of just about anything and everything.

They invoke the cruel-and-unusual-punishment provision of the Eighth Amendment not only when beaten or raped by prison guards, but when shot during a prison riot, or when required to share a cell with a heavy smoker, or when given insufficient storage locker space, or when given creamy peanut butter instead of the chunky variety they ordered.

They involve the First Amendment when forbidden to enter into marriage, or to correspond with inmates in other state prisons. John Robert Demos sued one prison official for not addressing him by his Islamic name.

And there is probably not a prison regulation whose enforcement does not, or at least may not, give rise to a 14th Amendment (or, in the case of federal prisoners, a Fifth amendment) due process complaint. Requiring elaborate trials or evidentiary proceedings, these especially, are the cases that try the patience of the judges. Still, reviewing these complaints imposes a particular burden on administrative officials who, unlike the judges, can be sued for damages.

Consider a recent due process case involving a New York state inmate.

In five separate hearings, prison officers found inmate Jerry Young guilty of violating various prison rules and sentenced him to punitive segregation and deprived him of inmate privileges. Appeals from the disciplinary decisions in the 66 state prisons are directed to Donald Selsky, a Department of Correctional Services official who, in a typical year, hears more than 5,000 such appeals. Young sued the prison hearing officers, claiming that they had denied his request to call 31 inmates and two staff officers as witnesses, and that they failed to provide him with adequate legal assistance; he also sued Mr. Selsky, claiming he had violated his due process rights by affirming the decisions made by the hearing officers. From Mr. Selsky he demanded $200 in punitive damages, $200, in compensatory damages, and $200 in exemplary damages for each day of his segregated confinement.

Mr. Selsky is currently the defendant in 156 such suits, but the state provides him with legal representation, and, if he is found liable, will indemnity him unless the damages ''resulted from [his] intentional wrongdoing,'' Since he bears the burden of providing that it was ''objectively reasonable to conclude that the prisoners' constitutional rights were not violated.'' he may or may not find this reassuring.

The Republican crime bill passed by the House in the first 100 days aims to reduce the number of such suits—first, by prohibiting the filing of an action in Federal court by adult state prisoners until they have exhausted all the remedies available to them in the states, and, second, by permitting federal judges to dismiss an in forma pauperis case ''if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief may be granted or is frivolous or malicious, even if the partial filing fees have been imposed by the court.''

These provisions seem reasonable, but it remains to be seen whether the Senate and the president will find them so. And only time will tell whether they are adequate.

[From the Tucson Citizen, Feb. 2, 1995]

COST OF INMATES' FRIVOLOUS SUITS IS HIGH

Almost 400 times last year, inmates in Arizona prison sued the state. Some of their claims:

An inmate wasn't allowed to go to his parents' wedding anniversary party; another said he was subject to cruel and unusual punishment because he wasn't allowed to attend his father's funeral.

An inmate claimed that he lost his Reebok tennis shoes because of gross negligence by the state. Another said the state lost his sunglasses.

A woman inmate said the jeans she was issued didn't fit properly.

An inmate sued because he wasn't allowed to hang a tapestry in his cell.

When the state decided that inmates would not be allowed to see movies with exposed breasts and genitals, an inmate claimed that violated his Constitutional rights.

Inmates claimed the state stole money from their prison accounts. But another inmate claimed the state illegally deposited money in his account, disqualifying him as an indigent.

An inmate claimed he was wrongly disciplined for refusing to change the television from a Spanish-language channel.

An inmate said he was not provided the proper books for a black studies class he was taking.

Several inmates said they weren't allowed to go to the bathroom while using the law library.

One inmate was denied access to the law library after he kicked and tampered with a security device in the library.

An inmate said he wasn't allowed to get married.

An inmate said he was forced to work and not paid minimum wage.

Lawsuits filed by inmates are expensive for Arizona taxpayers. The Attorney General's Office budgets $1.5 million per year to fight the suits, not including court costs. Other state departments also pay some costs.

To cut down on the number of frivolous suits filed, the state Legislature last year passed a law that requires inmates to pay part or all of the filing costs from money earned in prison jobs. In addition, inmates who filed unsubstantiated or harassing lawsuits can be forced to forfeit five days of good-behavior credit.

The new law didn't slow down Mitchell H. Jackson, a convicted drug dealer incarcerated at the state prison in Tucson. Jackson has filed 22 suits against the state in recent years. He got off to a good start in 1995, filing two in the first week.

In one of his suits, he targets the new law requiring inmates to pay filing fees. He claims that has caused him ''mental anguish and emotional distress.'' He wants $10 million from each of the 90 legislators—a total of almost $1 billion.

ADDITIONAL COSPONSORS

S. 240

At the request of Mr. DOMENICI, the name of the Senator from New York [Mr. D'AMATO] 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. 245

At the request of Mr. COHEN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 490

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 490, a bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes.

S. 515

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 515, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes.

S. 714

At the request of Mr. LEAHY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 714, a bill to require the Attorney General to study and report to Congress on means of controlling the flow of violent, sexually explicit, harassing, offensive, or otherwise unwanted material in interactive telecommunications systems.

S. 758

At the request of Mr. HATCH, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 770

At the request of Mr. DOLE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

S. 816

At the request of Mr. DEWINE, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 816, a bill to provide equal protection for victims of crime, to facilitate the exchange of information between Federal and State law enforcement and investigation entities, to reform criminal procedure, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

SENATE CONCURRENT RESOLUTION 15—RELATIVE TO THE COSTS OF INTERNATIONAL PEACEKEEPING ACTIVITIES

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 15

Whereas in fiscal year 1989 the United States provided $29,000,000 to the United Nations for assessed United States contributions for international peacekeeping activities, compared to $485,000,000 paid for combined assessed contributions for all other international organizations, including the United Nations, all United Nations specialized agencies and the Organization for American States and all other Pan American international organizations;

Whereas in fiscal year 1994 United States assessed contributions to the United Nations for international peacekeeping activities had grown to $1,072,000,000, compared to $860,000,000 for combined assessed contributions for all other international organizations;

Whereas for fiscal year 1995 the President requested a $672,000,000 United Nations peacekeeping supplemental appropriation which, if approved, would have been a direct increase in the Federal budget deficit and would have brought fiscal year 1995 total appropriations for assessed contributions for United Nations peacekeeping activities to $1,025,000,000;

Whereas for fiscal year 1995 the President also requested supplemental appropriations of $1,900,000,000 to cover the Department of Defense's unbudgeted costs for humanitarian and peacekeeping missions in Haiti, Kuwait and Bosnia, which are in addition to regular United States assessed contributions to the United Nations for peacekeeping activities; and

Whereas for fiscal year 1996 the President requested $445,000,000 for assessed contributions to the United Nations for international peacekeeping activities, a funding level most observers believe to be a significant understatement of actual peacekeeping obligations the Administration has committed the United States to support and which, if accurate, would lead to the third year in a row in which the Administration requests supplemental appropriations for assessed contributions to international peacekeeping in excess of $600 million outside of the regular budget process: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Executive Branch should cease obligating the United States to pay for international peacekeeping operations in excess of funds specifically authorized and appropriated for this purpose.

SENATE CONCURRENT RESOLUTION 16—RELATIVE TO THE RUSSIAN FEDERATION

Ms. SNOWE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 16

(a) FINDINGS.—The Congress finds that—

(1) Iran is aggressively pursuing a program to acquire and/or develop nuclear weapons;

(2) the Director of Central Intelligence, in September of 1994, confirmed that Iran is manufacturing and stockpiling chemical weapons;