

## SENATE—Friday, September 13, 1991

(Legislative day of Tuesday, September 10, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Righteousness exalteth a nation: but sin is a reproach to any people.*—Proverbs 14:34.

God of our fathers, as I pray this morning I am mindful of a word from James Madison in 1788 who said: "To suppose that any form of government will secure liberty, or happiness without any virtue in the people is a chimerical idea." Those who founded our Nation were not saints; they were sinners as are we all. But they took God seriously, as should we. And they took virtues and values seriously. They believed in a God of love, full of grace and truth who, in mercy, forgives the sinner when he acknowledges his need. Though they, as we, often failed, their faith sustained them through the bitterest days of the Revolution and the invention of a form of government for which they had no models in history. Their faith in God made them strong and envisioned them for a political system in which people were sovereign, equal, and free. And the purpose of government was to guarantee this equality and freedom.

Gracious God, in these exciting and critical days, forbid that we should deny that faith, the virtue it generates, and put our future at risk. Renew in us the belief in a righteous God who ordained righteousness which exalts a nation, and save us from the sin which denies law and order, the foundation of democracy.

In the name of Him who is righteousness incarnate. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 13, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator

from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

## JUDGE THOMAS AND THE TV SPOTS

Mr. SANFORD. Mr. President, the misleading or vicious television spot is a recent development that has severely damaged the American political process. A quick slur, a lie, a racial innuendo, displaces reason and truth. This technique ought to be stopped, ought to be rejected by voters, by candidates, by political consultants—by all of us—as undemocratic. It undermines the essence of democracy, which is the triumph of truth.

The crowd that gave us Willie Horton, the crowd that invented the vicious, divisive, slanderous 30-second television political spot, is at it again. This time they exploit Judge Clarence Thomas for their sleazy purposes.

Negative, abusive, bullying, lying television ads are damaging and disgraceful, especially as America more than ever must set the shining example for people around the world who are grasping for the elements of democracy. We should not be teaching that the way to go is to fool the public.

The issue about Judge Thomas concerns his fitness to serve a lifetime on the Supreme Court. It is a serious and profound question, and Senators who must decide are obligated to give the question honest and studious attention. I am sure that they will.

The ads being run in support of Judge Thomas, without his consent and after his disapproval, are relevant only in that the reaction to them by Judge Thomas is relevant. I was disappointed that while he denounced them, Judge Thomas stopped short of demanding

that this tactic not be used in his behalf.

I hope he will insist that his name not be sullied by association with scurrilous campaign techniques. Judge Thomas cannot do anything about personal attacks on himself except to rise above them, but he can demand that others not be attacked in his name, especially U.S. Senators who are charged by the Constitution to give sober consideration to his confirmation.

Last week, the Willie Horton crowd began placing television ads in North Carolina with false associations daring me to vote against confirmation of Judge Thomas.

My reaction to being assaulted by this sleazy crowd is simple enough: I do not take well to threats and bullying.

Those of us who are eastern North Carolinians have our faults, but one thing we do not do is back off from a bully.

I expect that they will be on my case again next fall. I'll be ready for them. I will make sleazy political campaigning an issue at every opportunity. American democracy deserves honesty and decency. That is a major issue because a candidate who embraces dirty campaigns will embrace bad government.

I will not vote on the basis of the underhanded techniques of these self-seekers. But I do believe that Judge Thomas' reaction to the ads will reveal something important in his character.

I hope that he will stand up in behalf of all Americans whose democratic processes are maligned and undermined by false, mean, or tricky attacks of distortion and prejudice. I hope he will issue his personal cease-and-desist order. It is a simple matter of manhood.

## DON LAUGHLIN

Mr. REID. Mr. President, on September 26, 1991, Don Laughlin will be inducted into the Gaming Hall of Fame at a dinner coinciding with the World Gaming Congress and Exposition 1991. Don is being honored because he is a man of vision and a man of daring.

Many years ago, Don purchased a plot of undeveloped desert whose only claim to fame was its location across the Colorado River from Bullhead, AZ, the hottest place in America. Don, though, was a man who dreamed big, and he dreamed that this isolated, desolate patch of ground could someday be a grand oasis—a tourist resort where millions of tourists would flock annually.

Twenty years ago, Don Laughlin's dream was considered outrageous. But he proved the skeptics wrong, and today his dream has emerged into the fastest growing resort location in the United States; it is now a city that bears his name, Laughlin. He built the Riverside Hotel along the banks of the Colorado River, and offered his guests around-the-clock entertainment, great food and accommodations, and a tremendous opportunity for outdoor recreation and indoor gaming.

Word of his success spread so rapidly that within just a few years, several other large resorts have sprawled on the Colorado's banks, each of them emulating the vision that Don Laughlin provided. For this reason, Don is a true pioneer and entrepreneur.

I have a great respect for Don because he is also a man who knows how business and government can work together for the betterment of both. For example, Don Laughlin knew that traffic across the river from Arizona was essential for the growth and stability of the new resort. More importantly, though, the bridge meant the saving of lives. The road between the two States was a narrow, two-lane road that crossed the immense river upstream at Davis Dam. The road, which was built on the dam, could not be enlarged, and the Federal Government did not have the resources to build a bridge to span the river and accommodate the additional traffic. Don Laughlin worked with Federal, State, and local government, and he financed the construction with his own money.

Recently, Don Laughlin spent millions of dollars of personal moneys to expand and improve airport facilities in the Laughlin area, and he worked with the FAA to ensure that the airport was constructed to meet or exceed standards. It is rare to find one to invest their own money on government-type projects. But Don knew that his gamble would pay off—and it has, by creating jobs and opportunities for tens of thousands of Nevada residents.

It is with great pleasure that I congratulate, Don Laughlin, for being honored as an inductee into the World Gaming Hall of Fame.

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#### STEVE WYNN

Mr. REID. Mr. President, I rise today to recognize a leading figure in the growth and development of the tourism/resort industry in my home State of Nevada.

On September 26, 1991, Steve Wynn will be inducted into the Gaming Hall of Fame at a dinner coinciding with the World Gaming Congress Exposition 1991. Steve is a remarkable man with a remarkable history, and though he is still a young man, he is truly one of Nevada's gaming pioneers.

During the 1940's, 1950's, and 1960's, the Golden Nugget was the pillar of

downtown Las Vegas. However, the downtown area and the Golden Nugget began to fade. Steve Wynn could see the solution to revitalizing downtown. He purchased a controlling interest in the Golden Nugget and put his theory into practice. He put his money where his mouth was. He refurbished and rebuilt the Golden Nugget into what many said was the finest resort in Nevada. It not only helped the Nugget's balance sheet, but all of Glitter Gulch as well.

Not content to rest on his laurels, Steve began the development of another project, a hotel that would revolutionize the tourist industry. Two years ago, that vision also became a reality with the opening of the Mirage Hotel and Casino on the Las Vegas Strip. To say that the Mirage is a world class resort is an understatement. With its exploding volcano, its waterfalls and lush landscaping, and its magnificent design, the Mirage Hotel has set a new standard for excellence and quality as a resort destination. It is, as they say, the top of the line.

Steve, along with his wife and partner, Elaine, has invested heavily in the future of Las Vegas. However, they have also contributed to the community to ensure that Las Vegas residents will also share in the success of the future. Steve and Elaine have been the most avid supporters of education in Nevada. They helped inaugurate the UNLV Foundation, a fundraising project that has helped propel the University of Nevada, Las Vegas into the forefront as one of the best universities in the Western United States.

In addition, Steve and Elaine have contributed time, energy, and resources to make the Clark County School District more productive and more vigorous to meet the needs of a challenging future. And on a more individual level, with the establishment of the Golden Nugget Scholarship Foundation, they have personally helped hundreds of young people attend school who would otherwise not be able to afford to go.

The Wynns have set a great example of community involvement. It is therefore with great pleasure that I congratulate Steve for being honored as an inductee into the World Gaming Hall of Fame. The Hall of Fame would be incomplete without the name of Steve Wynn on its honor roll.

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#### KIRK KERKORIAN

Mr. REID. Mr. President, I rise today to recognize a leading figure in the growth and development of the tourism/resort industry in my home State of Nevada.

On September 26, 1991, Kirk Kerkorian will be inducted into the Gaming Hall of Fame at a dinner coinciding with the World Gaming Congress and Exposition 1991. Kirk is being hon-

ored because of his courage, his integrity, his reputation, and his success as one of America's all-time leaders in the business world.

I first met Kirk Kerkorian in Las Vegas when I started practicing law in 1964. He was a client who was developing an interest in the potential growth of southern Nevada's small, but internationally recognized tourist industry. He had already proven his financial acumen as a successful California entrepreneur.

At first, his activity was small, but as his interest grew, so did the legal work of the law firm. Soon after coming to Nevada, Kirk embarked on the first of several major, innovative projects in the State, this being the construction of the International Hotel, now known as the Las Vegas Hilton, one of the largest resort hotels in the world.

This venture was daring not only because of its location, but also because of its size. The undertaking was a symbol of Kirk's own creative spirit; he is a daring man who dreams and who dares to build to the distant horizon. He was not content with this success, but continued to pursue a larger vision, which culminated in the unique world-famous MGM Grand Hotel. This venture set the standard for the resort industry throughout the world.

Kirk Kerkorian is now embarking on another major project, the development of a new MGM Grand Hotel and Theme Park. This project, massive in size and design, befits a man who has always reached for the stars.

I have also known Kirk from another perspective. During my legal career, I frequently worked on projects for Kirk's family, particularly his sister Rose and his brother Nish. Though not as well known or as noteworthy as Kirk, both were as brilliant as their famous brother. I consider myself fortunate to be able to refer to Rose, Nish, and Kirk Kerkorian as friends.

From my perspective as a friend and legal counselor, I have been impressed with many of Kirk's attributes. But the most attractive, lasting feature of this good man is his devotion and loyalty to his family. To me, that says it all.

It is therefore with great pleasure that I congratulate Kirk Kerkorian for being honored as an inductee into the World Gaming Hall of Fame.

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#### BILL PENNINGTON

Mr. REID. Mr. President, I rise today to recognize a leading figure in the growth and development of the tourism/resort industry in Nevada.

On September 26, 1991, William Pennington will be inducted into the Gaming Hall of Fame at a dinner coinciding with the World Gaming Congress and Exposition 1991. Bill is being honored because his vision dramatically changed the shape and form of tourism in Nevada.

My relationship with Bill Pennington's family goes back a long way. I worked with Bill's father when I ran for Lieutenant Governor of Nevada in 1970. He was a valuable adviser to me, a candidate new to a statewide campaign.

I remember many conversations with Bill, Sr., about Nevada's great natural resources. I particularly recall his familiarizing me with Nevada's potential oil reserves. He thought the Railroad Valley area of the State contained a rich oil field. Time has proven his father to be visionary. This area of Nevada now has the single largest producing well in the continental United States.

I tell this story because it helps explain where Bill Pennington, Jr., acquired his insight and his innovative talent.

Bill had a vision of a resort complex in Las Vegas that would cater to families and that would provide entertainment for children and adults alike. Skeptics of his project thought he was wrong; Las Vegas was an adult's playground and a marketing effort devoted to families was doomed to fail.

But he persisted and operated the Circus Circus Hotel and Casino. The concept of the hotel was truly remarkable. Circus acts preformed around the clock, with trapeze artists soaring directly over the casino floor. A tremendous amusement center surrounded the facility, and the hotel has always been packed with people.

Almost overnight, the marketing strategy for the city changed, and most of the hotel properties in Reno and Las Vegas have now developed family oriented facilities. Today, Circus Circus Enterprises, with its new addition, the Excalibur Hotel, is one of the most successful businesses in the State.

Bill Pennington took a huge gamble. He dared to walk a path that no one had ever walked before. But his gamble was tempered with the insight and creative genius that marks true leaders and innovators.

I am, though, most impressed with the unique partnership he helped create. That partnership involves the association of the two Bills: Bill Bennett and Bill Pennington. Their incomparable development of Nevada's gaming industry is an example of what friendship and good business practices is all about.

It is with great pleasure that I congratulate Bill Pennington for being honored as an inductee into the World Gaming Hall of Fame.

#### SI REDD

Mr. REID. Mr. President, I rise today to recognize a leading figure in the growth and development of the tourism/resort industry in my home State of Nevada.

On September 26, 1991, Si Redd will be inducted into the Gaming Hall of

Fame at a dinner coinciding with the World Gaming Congress and Exposition 1991. Si is a genuine pioneer, and he is being recognized as a man who truly made a difference in the gaming industry.

I first met Si Redd when I represented him and his company, Bally Distributing. Later, I also represented him as his personal attorney.

Si was a man of vision and daring. As a slot machine distributor, he observed that people enjoyed squaring off against a machine, but that they were frustrated with the limitations of playing nickels and quarters. Players wanted action. He therefore proposed the creation of dollar slot machine carousels. Unfortunately, executives throughout the industry told him he was wrong, that slot players were not serious gamers and would not invest in dollar amounts.

Undaunted by this negative reaction, Si left Bally's and went out on his own and developed the dollar carousel. He approached casinos, large and small, with a proposition that the operators had trouble refusing; namely, he would bear all of the expense and share in the profits. This worked well, both for Si and for the casinos.

Si has many attributes, but his most significant is his making the word salesman a positive. Si dealt fairly and honestly and sold a good product.

More than an innovator, however, Si is also a kind, compassionate man. He has helped numerous people get started in the gaming and resort business because he likes to see other people succeed. That is the kind of person he is.

Si has also ensured that our State's young people have a chance to get a head start in life. His generous contributions to the University of Nevada, Las Vegas have helped that school grow into a leading academic institution.

It is therefore with great pleasure that I congratulate Si Redd for being honored as an inductee into the World Gaming Hall of Fame.

#### KEN AND MARY ELLEN MCCAFFREE—50 WONDERFUL YEARS OF MARRIAGE

Mr. GORTON. Mr. President, today I congratulate Ken and Mary Ellen McCaffree on celebrating 50 wonderful years of marriage together. The McCaffrees celebrated their golden anniversary with family and friends, of which I am honored to be included. Mary Ellen has dedicated most of her professional life to public service; Ken, too, has influenced for the better the lives of many through his career as labor arbitrator and a professor of economics.

Each of us in the Senate knows all too well the trials of a life of public service and its effects upon those dear to us; Ken and Mary Ellen have re-

markable children, grandchildren, and a satisfying life. Together they are a positive affirmation that we can both fulfill our obligation to public service and have an equally joyous family life.

Mary Ellen answered the call to public service in order to positively impact the lives of her family and friends. She was elected to the Washington State House of Representatives in 1962, which was where I first had the pleasure of working with this enthusiastic and skillful politician. Mary Ellen's delightful personality and political acumen made her the clear choice to fulfill the position of chief of staff during my first term in the U.S. Senate. Although her time as my chief of staff was brief, her impact was nonetheless influential. Mary Ellen brought an enthusiasm to that position which few have matched. That same enthusiasm for life can be found in Ken McCaffree.

Ken's career is equally impressive. He spent 32 years as a professor of economics at the University of Washington. But Ken has worn many different hats throughout his life: professor, labor arbitrator, charter member, and past-president of Group Health Cooperative of Washington State, husband, father, and grandfather. He has hung up a few of these hats, for now, and will undoubtedly find new ones to wear in the future. But retirement has not slowed down Ken or Mary Ellen one bit.

Mr. President, I thank you for allowing me to honor my dear friends today. I have had the distinct pleasure of knowing the McCaffrees for many of their 50 years together. It is with much confidence that I close this tribute to Ken and Mary Ellen by remarking that this is one couple which you will certainly not find complacently rocking away their golden years—they simply have far too much left to do.

#### IN HONOR OF SILVIO O. CONTE

Mr. KERRY. Mr. President, today we are honoring one of the most dedicated public servants to ever represent the Commonwealth of Massachusetts, and one of the greatest individuals who has served in Congress, Silvio Conte.

The Senate shortly will pass legislation I introduced in the Senate with Senator KENNEDY to rename the Pittsfield, MA Federal Office Building the Silvio O. Conte Federal Building. It was our hope when we introduced this bill that this action will serve as a small token of our respect and affection for Sil and as a tribute to his tireless efforts to help his fellow citizens.

Sil Conte entered politics because he wanted to make a difference. During his congressional service he made a very big difference for the people of Massachusetts's First Congressional District, whom he served for 32 years and, indeed, for people throughout the United States. He was a compassionate

defender of the common man who never lost sight of the reason he was elected.

Too often, Members of Congress get wrapped up in the atmosphere of Washington, persuaded that what happens there is more important than anything happening anywhere else in the world. With his wit and humor, Sil Conte always brought the issues back into perspective.

Silvio Conte spent his life helping working men and women and their families, providing assistance to the disabled and destitute, protecting the environment, and trying to give every American a chance to achieve the American dream. Where he saw facets of America that needed to be changed, he tried to make those changes. Where he saw things of value, he tried to preserve them. And he did not let party politics stand in his way or obscure his vision or judgment. His congressional career and its accomplishments stand as a monument to good government and to the highest standards of integrity in public service.

It is a special honor the Senate is according to Sil, but one which he richly deserves. As we do business in, or just pass by, the Silvio O. Conte Federal Building, we will be continually reminded of a man who distinguished himself in his service to and for his fellow human beings, and will have held before us a high standard for service to which we all can aspire.

#### TRIBUTE TO PAUL HARVEY

Mr. THURMOND. Mr. President, for the past 40 years, America has been entertained and informed by the energetic, thoughtful, and humorous Paul Harvey. His famous morning blend of news, humor, and political satire is now heard by 22 million people nationwide and is radio's longest running show. He is respected and admired by members of government, the broadcasting industry, and the media; but more importantly, he is respected and loved by his audience.

Mr. Harvey has a great ability to discover stories which are unique, touching, ironic, and at times almost unbelievable. He skillfully incorporates these tidbits into his broadcast along with the important daily events of the world. It is the combination of his down home manner and the carefully crafted content of his show which appeals so greatly to Middle America. Many Members of this body would love to have Mr. Harvey's gift of communication.

Recently, *Insight on the News* magazine published an article about Mr. Harvey which I found most enjoyable. I ask unanimous consent that a copy of the article be included in the RECORD immediately following my remarks.

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

[From *Insight*, Aug. 5, 1991]

#### PROFILE, PAUL HARVEY: STAND BY FOR . . . THIS QUIRKY NEWSMAN

Summary: For 40 years, homey broadcaster Paul Harvey has treated middle America to a picnic of humor, news and political scolding. He can throw a punch, plug a product, rattle about world events, romanticize a real-life tale—floating with total ease. Harvey, 72, is an unstoppable hobbyist. And, by the way, he tends to bristle at the conservative label.

(By Mark Lawrence Ragan)

It's several hours before dawn on a typical weekday morning, and a limousine has pulled up to 333 N. Michigan Ave. in Chicago's Loop. A balding, 72-year-old man emerges from the car and heads into the building, taking the elevator to a sound-proof radio booth and newsroom perched on the 16th floor. For the next few hours, he sifts carefully through the stories that have come in during the night, searching for the gems in the never-ending flood of everyday news, until the engineer gives the signal and he's on the air.

"Hello, Americans!" booms the familiar voice over millions of radios around the country. "This is Paul Harvey . . . Stand by for . . . News."

The inflated pauses and the staccato delivery are the hallmarks of radio's longest-running ritual, the quirky mixture of humor, irony and journalism known as "Paul Harvey News and Comment."

Every morning for 40 years, Harvey has brought his distinctive, provocative and down-home views on issues of the day to an attentive audience that has grown to 22 million people.

On this particular morning, for example, he runs through a quick wrapup of Big News—soldiers injured by a fire in Iraq, negotiations on U.S. air bases in the Philippines—before reporting that nudists in Lakeland, Fla., are upset that outsiders are sneaking a peek through a hole in their fence. "Police," Harvey says drily, "promise to look into it."

With a contract rumored to be worth more than \$5 million, Harvey is sitting on top of the radio world. Of the top five network radio programs in the country, three—a morning broadcast, another at midday and a feature program called "The Rest of the Story"—are his.

His new book, a collection of homey, off-beat stories read on his radio broadcast titled *For What It's Worth*, is a best-seller. And Harvey continues to draw \$30,000 for speeches to industry groups. Even Rush Limbaugh, radio's sensationally popular talk show host, can't touch him.

He is widely admired in the industry, even by those who may not share his conservative political views. Says Larry King, the well-known national talk show host: "Someone once said to me, 'I don't agree with Paul Harvey, but I'd hire him tomorrow.' He is an opinionated, engrossingly captivating radio performer. He's a performer of the news."

Or, as Les Acree, operations manager of WIVK in Knoxville, Tenn., put it: "Sometimes he's like a Baptist preacher, and sometimes it's like someone whispering in your ear."

Harvey in person is nearly indistinguishable from Harvey on the radio: a Norman Rockwellish figure who spins folksy stories depicting the wit and homespun wisdom of ordinary Americans. His office is filled with the memorabilia of everyday America: the keys to Sidney, Neb., and Anniston, Ala., and

countless other towns; a plaque from the Order of the Eagles; a replica of the Statue of Liberty; and numerous citations and awards from Rotary and Kiwanis clubs.

The radio announcer is nothing, if not optimistic. When asked if he'll ever retire, Harvey grins. "I'm committed to ABC into the next century." Then he talks about his favorite tie. It's the one that shows two miners dancing with joy over discovering gold.

"I think of myself as getting up every morning and panning for gold," he says. "I can't wait to get down to the Teletype machines and the fax messages and go through those thousands of words looking for some dust, and maybe, here and there, a real nugget."

But Harvey is more than an avuncular chronicler of middle America. During his Saturday morning broadcasts, he continues to deliver acid-tongued jeremiads against big government, muddleheaded bureaucrats and—a favorite—the ballooning federal deficit. And though he is viewed as a staunch conservative, the commentaries frequently belie the label.

Few people remember that it was Harvey who went on the air in May 1970 to denounce the Vietnam War. ("Mr. President, I love you—but you're wrong," he said.) It was Harvey who, after some gentle prodding by his wife, embraced the Equal Rights Amendment. And it was Harvey who lashed the Bush administration for becoming too cozy with Saddam Hussein in the days leading up to the Persian Gulf war and for agreeing to raise taxes.

"His about-face on taxes, when Americans learned they could no longer trust his lips, was such a grotesque blunder that the president needs something he can claim as a significant victory," Harvey told his listeners soon after the war erupted.

Not surprisingly, Harvey bristles when people refer to him as a conservative. "I used to think I was unabashedly conservative," he says. "But then one morning I woke up and found myself in bed with [former Arkansas Sen.] Bill Fulbright. Here Fulbright had been the ultimate liberal, and yet we agreed on Vietnam."

"Labels keep changing their meanings. Paul Harvey does not."

His occasional tilt toward liberal stands—he is also pro-choice—has alienated friends and fans who have at times viewed him as a turncoat conservative.

"When I made my Vietnam broadcast, some of my dear, old American Legion friends thought I had deserted them," he says. "They were for America, right or wrong. But I don't think our enlightened generation subscribes to that philosophy. I think we want our country to be right."

Paul Harvey Aurandt was born Sept. 4, 1918, in Tulsa, Okla.—"only 12 years after Oklahoma had been Indian territory," he says. (He dropped the last name after moving to Chicago during World War II at the advice of his producer, who feared that the ethnic name would turn off some listeners.) His father, whom he describes as an "old Oklahoma days lawman," was killed in the line of duty on Christmas Eve when Harvey was 3. His mother rented out apartments in the family home to support Harvey and his older sister.

"We were poor, but we didn't know it," he recalls. "We didn't have Lyndon Johnson telling us where the breakoff point was."

Harvey got his start in radio when, at age 14, he persuaded a station manager at KVOO in Tulsa to hire him to do spot announcements, play the guitar, read the news off the

wire and clean the studio before heading home. "I hung around KVOO for two years before he put me on the air," says Harvey. "I think they put me on the payroll just to limit my hours because I was hanging around till midnight."

After hoptoching from Tulsa to Salina, Kan., and Oklahoma City, Harvey landed a \$29-a-week job at KXOK in St. Louis, where he met his wife, Lynne Cooper (he calls her Angel), who was handling school announcements while working on a master's degree. Harvey's career took off after his marriage to Angel. The couple moved to Chicago, where Harvey was hired by the ABC Radio Networks after making a splash with a local 10 p.m. news program.

Robert Mulholland, a Chicago journalism professor who worked with Harvey in the ABC newsroom in 1966, recalls how reporters would fight for position around the Teletype machines to grab any stories that broke while Harvey was on the air. Harvey had established the practice of announcing the name of the reporter who had handed him the story. ("A late-breaking story has just been handed to me by . . .")

"It was the cheapest form of insurance ever invented to make sure that nothing ever broke while he was on the air that he missed," says Mulholland.

But the most telling story from Harvey's life may be the way he got married. As the story goes, Harvey needed a ride to the local airport and asked Angel if she would drive him in her white Nash Lafayette—a car that Harvey still keeps on his Reveille Ranch in Missouri.

"Is that your pretty white car out front?" Harvey recalls asking her. "And then I said, 'You're driving me to the airport.'" They ate dinner together and he proposed the same night in the Lafayette.

The story of his marriage, and the lushly romanticized way in which Harvey likes to tell it, is emblematic of his style on radio. Dramatic, uplifting and, at times, sentimental, Harvey peppers his news broadcasts with similar Frank Capra-like dramas that are faxed or called in to his Chicago office by fans from throughout the country.

There's a story of the minister who overhears a child praying to God to "please take care of yourself [because] if anything happens to you, we're sunk." Or the father who finds a note on his pillow after disciplining his child: "Daddy, I hate you—Love, Sarah."

In less skillful hands, such stories risk coming across as phony or saccharine-sweet. But Harvey has the uncanny ability to pull them off. What's more, he does so between segments on Saddam Hussein and a congressional pay raise. "He can move from the small, warmhearted personal vignette to something larger, and make it seem that there's a certain harmony to it all," says Scott Simon, the host of National Public Radio's "Weekend Edition." He can be funny, and he can bespeak the tragic sense of the story. He's someone you like being with every day."

At times, Harvey paints a nostalgic view of America, an America of the 1950s brimming with clean living and Father Knows Best decency. Even his commercials, which he writes and reads himself, seem a little dated. During one recent broadcast, as he sang the praises of the Royal Vacuum cleaner, Harvey noted that the machine could be handled by "even the daintiest feminine hand"—words that conjured up a June Cleaver-ish housewife posing happily next to her ironing board.

Not everyone appreciates the Harvey style. James Warren, the Chicago Tribune's media

critic, hasn't written a word about Harvey, even though Chicago named a street outside his building after him.

"I think a fair amount of his stuff is rather wacky, and some of it crazily antiquated and right-wing. But he's an American phenomenon. If you look at the ratings, it's stunning. He's got a big audience out there."

Most of that audience is in the South, the Midwest and the Great Plains states, where Harvey's brand of patriotism and his down-home style have wide appeal. The regions account for nearly 70 percent of his audience, according to Derek Berghuis, a senior vice president at ABC. "Folks down here really like Paul Harvey a lot," says Kelly Allgood, president of the Mississippi division of South Central Bell. "You'll find people on break standing in the hallway listening to Paul Harvey."

If Harvey laments anything on his radio broadcasts, it's the disappearance of what he sees as a traditional American decency that has always been associated, perhaps mythically, with the South and the Midwest. And he's not afraid to point it out, even at the risk of alienating his fans.

In 1980, for example, Harvey used a speaking appearance before country radio broadcasters to criticize what he said was the increasing use of dirty lyrics in country music. "He had in that room the power of the country music industry," says Acree, the operations manager for WIVK. "Here he was criticizing them for playing dirty lyrics—and he had them in the palm of his hand."

Although Harvey is widely praised by his fellow radio broadcasters, some fault him for his continuing practice of reading commercials on the air, often between news segments.

It takes a practiced listener to even know when Harvey begins an ad. On a recent broadcast, he began with his customary lead-in ("Stand by for . . . News"). But instead of news, listeners heard a pitch for Royal Vacuum cleaner couched in a newsy style.

This advertising format is what makes Harvey so popular among potential radio advertisers. Moreover, his reputation among his listeners is so solid that the product and the announcer become one.

"He is a person who has a very, very high degree of credibility," says Dennis Glynn, ABC's Midwest sales manager. "He's wrapped in the American flag and he's very honorable."

Harvey defends the practice, saying he only endorses products that he and his staff have thoroughly investigated. "I'm very proud of endorsing the people who are willing to put their money where my mouth is. I cannot look down my nose at people who pay the bills."

Sponsors pay \$24,500 to the ABC Radio Networks each time Harvey sells their products during his programs. That compares with \$1,200 for a canned spot on the Rush Limbaugh show, or \$4,000 to \$5,000 for an ad on programs hosted by CBS's Charles Osgood.

Still, Harvey has been known to turn down sponsors because they were entangled in unseemly legal battles or because after trying a product, he didn't like it. In one instance, he rejected an educational book publishing company whose door-to-door sales force had developed a nasty reputation for the hard sell.

Harvey's rejection of sponsors often shocks ABC's sales managers, says Glynn. "It's very frustrating for some of the account executives around the country," he says. "If someone comes in willing to pay \$1.3 million for

52 units, you know that, as often as not, he'll refuse that advertiser."

When Harvey is not pitching products, reading the news or commenting on word events, he is an indefatigable hobbyist. His son, now the writer of Harvey's afternoon broadcast, "The Rest of the Story," has counted some 50 different athletic pursuits undertaken by his father.

Age has not slowed him. Last November, the septuagenarian was visiting California when he heard about a world-class skydiving champion whose airfield was located nearby.

Within hours, Harvey was diving out of an airplane, back arched, legs hoisted high behind him, catapulting toward the California vineyards below. "I knew then why birds sing," he says. He is also an outspoken advocate of protecting the desert, which he came to adore after frequent visits to Arizona.

Yet, despite his love of the outdoors and his taste for adventure, the pull of work is even stronger. Of the six weeks of vacation allotted to him by contract, Harvey rarely takes more than two. And even when he travels, he insists on continuing his broadcasts. His farm in Missouri and his winter home in Phoenix are both equipped with sound studios that link him to the ABC Radio Networks.

His broadcasts away from Chicago are the most difficult, however, when he's traveling on the West Coast. Because he faces East Coast Deadlines, Harvey must hoist himself from bed at 1:30 a.m. to begin researching and writing his stories. "At that time in the morning, there's nobody on the street but homebound bartenders, bakery drivers, bad girls and Paul Harvey," he says.

Now, as he approaches his 73rd birthday, Harvey has no intention of retiring. "Goodness! It would be terrible to have to get up every morning and play golf the way I play golf," he says. "Maybe something's going to come along some day that's going to intrigue me more than this. I haven't found it."

#### TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,372d day that Terry Anderson has been held captive in Lebanon.

#### QUORUM CALL

The ACTING PRESIDENT pro tempore. The Chair, in its capacity as a Senator from the State of Wisconsin, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DEPARTMENT OF THE INTERIOR  
AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 2686, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the two managers of the bill, Senator NICKLES and I, are here, and we invite Senators who have amendments to come to the floor so that we can get an early start on this very difficult bill.

I am concerned that we will not finish the bill today, and Senators, of course, will be running, heading for the airports and other places early in the afternoon, and Monday will be a slow day until Senators can drag themselves back in, which means it is going to be Tuesday, I guess, before we will finish action on this bill.

Then we have a long and difficult conference with the House. In addition we have the September 30 deadline coming up fast. We will be starting a new fiscal year on October 1. I would hope that we could complete action on this bill, take it to conference, get it on the President's desk well in advance of October 1.

So, while other Senators may be able to take their time and delay any action on this bill, the two managers have a responsibility to try to move it along and get action on it. So, I urge Senators, again, to come to the floor. I urge their staffs, who may be listening, to encourage the Senators who have amendments to come to the floor and let us begin considering them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I certainly concur with Senator BYRD's comments. We would encourage Senators to bring their amendments. I understand Senator MCCAIN may have an amendment. We are calling his office now to see if we can get that one to come forward. We do expect votes.

Some of my colleagues asked me if we would have controversial amendments, and we are looking for any amendments. If they have those amendments, I think we are prepared to do business on those whether they be on grazing fees or minerals or leasing or whatever. I would hope that they would come forward and try to handle these amendments and dispose of as many as possible this morning.

Mr. BYRD. Mr. President, I understand that there will be a grazing fee amendment, and I suppose that will be controversial. I would suggest, if the Senator wishes to call up the grazing fee amendment, come on over and call it up. Let us start debate on it. It may be subject to a tabling motion after adequate debate. That is a controversial amendment, I am told. So I would hope that Senators would not leave, thinking there will not be any votes, because a tabling motion can be made and that will bring forth a vote.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1124

(Purpose: To protect the natural and cultural resources of the Grand Canyon and Glen Canyon)

Mr. MCCAIN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the committee amendment?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. DECONCINI, proposes an amendment numbered 1124.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 115, between lines 21 and 22, insert the following new title:

TITLE IV—GRAND CANYON PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act of 1991".

SEC. 402. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereafter in this title referred to as the "Secretary") shall—

(1) operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in this title; and

(2) exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall carry out this section in a manner fully consistent with and subject to—

- (1) the Colorado River Compact;
- (2) the Upper Colorado River Basin Compact;
- (3) the Water Treaty of 1944 with Mexico;

(4) the decree of the Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964); and

(5) the provisions of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes", approved April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.), and the Colorado River Basin Project Act (43 U.S.C. 1511 et seq.), that govern the allocation, appropriation, development, and exportation of the waters of the Colorado River Basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title is intended—

(1) to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established; or

(2) to affect the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.).

SEC. 403. INTERIM OPERATION OF GLEN CANYON DAM.

(a) PLAN.—

(1) DEVELOPMENT.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop a plan for operating Glen Canyon Dam on an interim basis to protect, mitigate adverse effects to, and improve the condition of the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(2) IMPLEMENTATION.—The Secretary shall implement the plan on the earlier of—

(A) September 1, 1991; or

(B) the cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989.

(b) CRITERIA.—The interim plan developed pursuant to subsection (a)(1) shall be designed—

(1) not to interfere with the water storage and delivery functions of Glen Canyon Dam established pursuant to—

(A) the Colorado River Compact;

(B) the Upper Colorado River Basin Compact; and

(C) other laws relating the allocation of the Colorado River;

(2) to minimize, to the extent reasonably possible, the adverse environmental impact of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam;

(3) to adjust fluctuating water releases used for the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flow that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) to minimize flood releases, consistent with section 402;

(5) to maintain sufficient minimum flow releases from Glen Canyon Dam—

(A) to minimize, to the extent reasonably possible, adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam; and

(B) to protect fishery resources; and

(6) to limit maximum flows released during normal operations—

(A) to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam; and

(B) to protect fishery resources.

(c) CONSULTATION.—The Secretary shall develop and implement the interim plan described in this section in consultation with—

(1) representatives of appropriate bureaus of the Department of the Interior, including the Bureau of Reclamation, the United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian tribes; and

(5) the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) BEST AVAILABLE DATA.—The Secretary shall develop and implement the interim plan referred to in this section using the best and most recent scientific data available.

(e) TERMINATION OF INTERIM PLAN.—The interim plan described in this section shall terminate upon compliance by the Secretary with section 404.

(f) DEVIATION FROM INTERIM PLAN.—The Secretary may deviate from the interim plan referred to in this section upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of section 404(a);

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) reduce adverse effects on downstream Colorado River natural, recreational, or cultural resources.

#### SEC. 404. ENVIRONMENTAL IMPACT STATEMENT AND LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General of the United States shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report on the results of the audit to Congress and the Secretary.

(c) ADOPTION OF CRITERIA AND PLANS.—

(1) IN GENERAL.—Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall adopt criteria and operating plans separate from, and in addition to, those specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), and exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 402.

(2) ANNUAL OPERATIONS REPORT.—Each year after the date of the adoption of criteria and

operating plans pursuant to paragraph (1), the Secretary shall submit to Congress and to the Governors of the Colorado River Basin States a report, separate from, and in addition to, the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operations undertaken pursuant to this title during the preceding year and as projected for the upcoming year.

(3) CONSULTATION.—In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)) and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to Congress—

(1) the environmental impact statement described in subsection (a); and

(2) a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream from Glen Canyon Dam.

#### SEC. 405. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with section 402.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include all necessary research and studies to determine the effect of the Secretary's actions under section 404(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

#### SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

#### SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

Mr. McCAIN. Mr. President, I offer this amendment on behalf of myself and Senator DECONCINI. I hope my colleagues will provide their attention on

this amendment. It may be one of the most important pieces of environmental legislation, at least in my view and in the view of the citizens of the Southwest and perhaps the entire Nation, that we will consider in the 102d Congress.

Let me say from the outset, this amendment, Mr. President, is strongly supported by the conservation community. It is endorsed by such groups as the Grand Canyon Trust, Sierra Club, the Wilderness Society, American Rivers, the Natural Resources Defense Council, America Outdoors, the Environmental Defense Fund, the National Parks and Conservation Association, the Izaak Walton League, the National Wildlife Federation, Trout Unlimited, the Audubon Society, as well as other national and local conservation and recreation organizations.

Why should this be so important? Why would practically every major national environmental organization rally behind this measure?

The reason is simple, Mr. President. It is the Grand Canyon, the crown jewel of our National Park System and one of the Seven Wonders of the World, is at significant risk, in the view of many, and needs our help. Three years ago, the Department of the Interior reported to us that operating practices at Glen Canyon Dam have been destroying natural resources within the Grand Canyon National Park. Due, in part, to widely fluctuating water releases from the dam used to generate peak electric power, we have lost Colorado River beaches, riparian vegetation, fish, and other natural and cultural resources within our most cherished national park unit, resources which will never be recovered.

I am sure that my colleagues are aware of this situation as it has been the focus of increased attention throughout the country and was addressed in a recent Time magazine cover story. Clearly, we cannot sit idly by and watch a precious part of our national heritage wash away into oblivion.

To do so would be unconscionable. The good news is that we have an opportunity to help stop the damage and preserve the Grand Canyon for all people and all times. We can begin by adopting this amendment—legislation which is identical to the Grand Canyon Protection Act Senator DECONCINI, Senator BRADLEY, and I introduced earlier this year.

How will this measure safeguard the Grand Canyon? In four vital ways. First, it requires the Secretary of the Interior to operate Glen Canyon Dam in a manner which will fully protect the Canyon environment. No longer will the park be deprived of its rightful place in our priorities.

Second, the measure ensures the timely completion of an environmental impact statement on dam operations.

This study will provide the Secretary with the scientific data he needs to make responsible decisions on long-term operations at the dam, and to fulfill his duty to protect our national treasure.

Third, because the environmental study will not be completed for 2 more years, the Secretary is directed to implement protective flows pending completion of the study. Interim flows would mitigate environmental damage associated with erratic water releases while the search for long-term solutions is underway.

Finally, the Secretary would be required to develop and implement a long-term resource monitoring program to ensure the ongoing protection of the park.

Mr. President, there is no controversy on the substance of this legislation. In fact, the measure has been agreed to by the affected parties including the conservation community, regional power distributors, and the Colorado River Basin water authorities.

Moreover, the Senate has spoken on this issue. Last year, we passed the Grand Canyon Protection Act with overwhelming support. Regrettably, the measure did not make it to the President's desk—not because of any controversy over substance—but the legislation was tied to other more controversial matters and time ran out in the 101st Congress.

Mr. President, time is running out for Grand Canyon National Park. Time is running out on the park's beaches—so many of which have been scoured away by the erratic release of water from Glen Canyon Dam. Time is running out for ancient Indian ruins and cultural sites. Time is running out for the disappearing riparian vegetation and the wildlife it supports. Time is running out for endangered fish species. And time is running out for us to do the right thing.

With an environmental impact statement on dam operations underway, and a commitment from Secretary Lujan to implement protective interim flows this fall, some might ask why legislation is necessary. Some might ask why the hurry? What's the emergency?

Indeed, the Secretary, after the urging of millions of Americans and that of myself, Senator DECONCINI, as well as other Members of this body, ordered an EIS, and has committed to implement interim flows while the study is underway. I support the Secretary's decision to do so.

Enactment of the Grand Canyon Protection Act, however, is critical because it will provide vital guidance and legal support to the Secretary in his efforts. Congress has an obligation to permanently and clearly codify our standards in statute and leave no doubt, now and in the future, about our national responsibility to protect the Grand Canyon.

Administrative decisions of this importance and magnitude must have solid and indisputable grounding in law. While I firmly believe current law requires the Secretary to ensure that Glen Canyon Dam is operated in a fashion which will protect the park, making the law as clear and unambiguous as possible is critical. It will protect the Secretary from legal challenges intended to delay and frustrate efforts to reconcile the dam with the Grand Canyon. In fact, I'm informed that certain parties are preparing lawsuits to challenge the Secretary's administrative authority to alter dam operations for park protection purposes.

In sum, passage of this legislation will establish beyond question, legal challenge or administrative fiat a high and permanent standard of protection for the canyon. It is a blueprint for action to see that Glen Canyon Dam is operated in harmony with the interests of our most vital national park. That is our responsibility and the reason we need the legislation without delay.

Let there be no mistake, Mr. President, Glen Canyon Dam has provided, and will continue to provide, many benefits—clean and dependable energy to help power the region's growth; water for people to survive and for our crops to grow, and recreational opportunities for millions.

This legislation does not suggest that we forego these benefits. In fact, the amendment, beyond any question, ensures that the dam's water storage and delivery functions shall not be interfered with. And the dam will continue to produce vital electric power for the region.

It merely puts our priorities back into perspective. It will see that we do not allow our constructive use of one important resource to become an abuse of another—particularly the Grand Canyon.

Mr. President, I know that some may have procedural objections about adding this legislation to an appropriations bill. But, I would submit to my colleagues that our obligations to the Grand Canyon—our responsibilities to the family of nations as the steward of this world treasure—must transcend questions of procedural correctness.

In the Interior appropriations bill we seek to spend \$12 billion to manage our Nation's natural resources. In fiscal year 1992 we intend to spend nearly \$1.3 billion to preserve our national parks.

The protection of public resources is what this bill is all about; and, clearly that is what this amendment is all about.

I freely admit this amendment will not cost the taxpayer one penny. There is no question about it. In fact, I am immensely proud of that. But, it will mean everything to the future of the Grand Canyon. I think that is a pretty good bargain.

Mr. President, I believe in process. I have had the pleasure of debating the

process with the distinguished chairman of the Appropriations Committee and look forward to doing so in the future. It is always an educational and enlightening experience for me.

Had the Senate not passed this bill with overwhelming support last year and had the bill not been agreed to by the affected parties, I might concur with those who would argue against the measure for procedural reasons. But the fact is that the Senate passed this bill last year. With the exception of one controversial provision on financing, which has been deleted, it is identical. There is no debate on the substance of the bill.

We have agreed this is the right thing to do, so let us get it done.

I remind my colleagues of the words of Theodore Roosevelt, one of the first and most dedicated supporters of the Grand Canyon. It was almost 90 years ago that President Roosevelt stood at the edge of the Grand Canyon and marveled at the magnificence he beheld. Moved by its grandeur, the President admonished those assembled. "Leave the canyon as it is," he said, "you cannot improve on it. The ages have been at work on it, and man can only mar it. What you can do is to keep it for your children, your children's children, and for all who come after you."

Mr. President, we are marring the Grand Canyon today. We are destroying beaches. We are endangering already endangered species. We are destroying archeological sites that are invaluable. We are doing things to the Grand Canyon which must be stopped and must be stopped immediately. I urge my colleagues concerned about this issue of procedural question not to hold up the halting of an ongoing system of destruction to the Grand Canyon.

This year marks the 75th anniversary of the National Park Service. In this landmark year, let's send the American people and the world a message that we are worthy caretakers of the sublime natural legacy with which we have been blessed. Let's adopt this amendment. Let's do as Theodore Roosevelt beseeched us and as our sense of right dictates. Let us protect the Grand Canyon for our children and those who follow.

I would like to make a couple of additional points, Mr. President. Although technically—and I speak technically—there is a budget impact by this amendment, the reality is this amendment does not cost one penny to the taxpayer.

It provides strict guidelines on the releases from the Grand Canyon, and any costs associated with those changes will be made up by increases—very minimal increases—in rates to the consumers of power from Glen Canyon Dam. Every major environmental organization in this country agrees with the urgency of taking this action.

Mr. President, later on I will be including various letters and other information in the RECORD that we received from these environmental organizations, not the least of which is the Grand Canyon Trust, outlining the urgency of this situation and is the primary reason why I bring this amendment to the floor today.

Let me just read from a letter from the American Rivers, American Outdoors, Grand Canyon Trust, Sierra Club, and the Wilderness Society.

While the recent decision by the Secretary of the Interior to mandate interim flows at Glen Canyon until the Bureau of Reclamation can complete an environmental impact statement offers some temporary protection, the Grand Canyon deserves the permanent protection afforded by this legislation.

In addition, in order to ensure that the EIS will be conducted in an orderly and timely fashion after years of delay, Congress must establish a realistic timeframe for its completion.

Mr. President, I think it is important to point out to my colleagues, who I do not expect to be experts on the Grand Canyon, 8 years of study have already been completed. Then we were told that we needed 2 more years, at least, to complete further studies, and these studies, unless we enact this legislation, are basically open-ended.

So, Mr. President, I urge adoption of this amendment. I yield the floor.

Mr. SYMMS. Mr. President, will the Senator yield for a question before he yields the floor? I thank the Senator for yielding, and he makes a very persuasive argument. He listed a long list of people—I happen to be one of those that is not an expert on the Grand Canyon—and of organizations that support the legislation.

Who is opposing it?

Mr. MCCAIN. I say to my friend from Idaho, there may be objection on procedural grounds that we are familiar with: One, legislating on an appropriations bill; and two, that there is a technical budgetary impact of this bill.

I am sure, I have to say to him in all candor, there are groups or individuals who may be opposed to this legislation but do not intend to make it visible, if you see my point. In other words, there are those who may be in opposition but have not publicly opposed the merits of the legislation.

Mr. SYMMS. Are there consumer electric users that are opposed to it? There are no grazers involved, or miners, or anything; correct?

Mr. MCCAIN. Two years ago, we had a meeting of the power interests, Basin water authorities and the environmental organizations primarily represented by Mr. Ed Norton, who is the head of the Grand Canyon Trust. After several months of negotiations, they all agreed to this package. I have to tell my friend from Idaho that last year there was an amendment that was added to the bill which required payment by the taxpayers for any studies,

which was a significant change from the normal way of financing studies concerning Federal projects.

That particular amendment was vehemently opposed by the administration, and would have to have been worked out in conference because it was not in the House bill. So there is that element of controversy as well, an amendment added in committee by Senators WIRTH and WALLOP. That is not part of this amendment.

Mr. SYMMS. I thank the Senator very much for a very impressive statement.

Mr. MCCAIN. I thank my friend from Idaho, who continues to show his commitment to our environment, and who also represents, I think, in many ways, perhaps maybe the second most beautiful State in America.

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

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

The yeas and nays were ordered.

Mr. NICKLES. Mr. President, if the Senator will yield, I compliment him for his work, and also for his statement. I add, I may have some aversion to the legislation on this bill. There are going to be several attempts, I mention to my colleague from Idaho and other States, to legislate on this bill. It is my inclination to oppose those.

Certainly I will consult with Senator BYRD and others to seek wisdom. I am not that familiar with this legislation. But the Senator mentioned it passed last year. Did it pass as a separate, independent bill; not as an amendment to an appropriations bill?

Mr. MCCAIN. It passed as part of the reclamation package at the end of the last Congress, and was passed out through the normal process. It was heard in the committee, and was passed out to the floor of the Senate. I believe it was a voice vote. It was a voice vote.

Mr. NICKLES. If the Senator will yield further, is there any reason why we cannot pass it through the Energy Committee? If it passed by unanimous or strong support last year, is there any reason why we cannot do it this year through the authorizing committee, so we will not entangle this bill up with the legislation?

Mr. MCCAIN. I say to my friend from Oklahoma that the problem seems to be this year that there are significant other issues within the committee, reclamation reform, that I know my friend from Oklahoma is familiar with, and I have repeatedly sought passage of this legislation through the committee.

Again, I have been told—and I see that the Senator from New Jersey is here. He probably could add more additional information on this issue. But I have been told time after time that it

would be considered and passed, but yet we are now into September. I have been seeking this since we came in January. Again, there is no opposition, but no move to proceed with the legislation, unfortunately.

Mr. NICKLES. If my understanding is correct that there is some opposition from the authorizing committee, again it may not be on the substance of the Senator's legislation. But I understand that both Senator JOHNSTON and Senator WALLOP and others may have some opposition regarding procedural grounds.

It would be probably my intention to respect that, although I certainly understand the intention of the Senator from Arizona, and I compliment him for it. I think he has worked diligently on this. This is possibly one vehicle that he might be able to attach it to.

But, as a general rule, I hope we will not try to pass everything that we did not pass last Congress on this piece of legislation.

I will yield the floor and listen to the others. I encourage those. If Senator WALLOP or Senator JOHNSTON have strong feelings about this, I think they should speak up concerning the authorizing committee.

But I thank my friend and colleagues from Arizona for his statement.

Mr. MCCAIN. Mr. President, first of all, I would like to thank my friend from Oklahoma for his consideration on this issue.

Second of all, as I mentioned in my prepared statement, I do not like to violate, in any way, the rules, but at the same time, I think it is important to point out that I think this bill is unique in that it already passed the Senate, was approved by the committee last year, and failed to be enacted, not because of any lack of will of the Senate, but because of the fact that it was tied up at the end of the session.

I understand that there may be a challenge to this on procedural grounds, and obviously I would seek to have that overridden.

I see my friend, the Senator from New Jersey, here on the floor, who I think will be able to add a great deal to this debate, since he has been heavily involved not only on the issue itself, but he has been one who we in the West have been very grateful to for his commitment to the Grand Canyon and to the great natural treasures that it embodies.

Mr. President, I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I am one of the original sponsors of the Grand Canyon Protection Act, which is the amendment that the Senator from Arizona has offered to the Interior appropriations bill.

The Grand Canyon Protection Act is an authorization, is legislation, and it

is inappropriate for it to appear on an appropriations bill.

Over the last 2 years, the Water and Power Subcommittee, which I chair, has heard extensive testimony on the need for this legislation. Senators McCAIN and DECONCINI have presented the case for the Grand Canyon Protection Act with great force and with persuasion.

I join with them in their sense of urgency to move forward to secure passage of this legislation as soon as possible.

Earlier this summer, representatives of two of the Indian tribes also visited in Washington to urge prompt passage. They spoke eloquently about the importance of the Grand Canyon and the damage caused by the fluctuating releases of water from the Glen Canyon Dam. I shared their concerns and agreed that we have to act in their interests, and in a broader public interest, by protecting the Grand Canyon's natural values. In short, I think that the amendment that the Senator has offered in the substance of the bill is very important.

I think he knows, as we have talked on any number of occasions, that I strongly support it. I have been to the Grand Canyon. I have witnessed the fluctuation. The range is from 7,000 to 35,000 cubic meters per second coming from the Glen Canyon Dam. I have seen the banks washed away. I have talked to the voters. So the Senator should have no doubt about where I am on the substance of this bill. I have also told the Senator that I expect that the Water and Power Subcommittee would be marking up this bill sometime within the next month, and I have essentially been very direct with him.

So the Senator seems not able to wait another few weeks and chooses to come to the floor and put an authorization that should legitimately go through the Water and Power Subcommittee on an appropriations bill. Let us just pause a minute and think of what that implies. We might as well disband the Water and Power Subcommittee. We might as well disband the Energy and Natural Resources Committee, if the Senator is going to take the work of the Energy and Natural Resources Committee and, instead, not going through the committee, put the amendment, the substantive legislation, on an appropriations bill. I think that that is clearly not the way to do business.

The distinguished chairman of the Appropriations Committee has spoken often and eloquently about legislation on an appropriations bill, and I think this is a perfect example of what he is saying. My guess is that we have probably another eight or nine Western water bills. If this amendment goes through, goodness knows what is going to be offered on any other bill. By analogy, why should it apply only to the

Energy and Natural Resources Committee? What about the Human Resources Committee? Or what about the Banking Committee? Or what about any other committee in the U.S. Senate? If this is the procedure that is going to be used, let us not do banking legislation by working through the Banking Committee and having hearings and developing legislation and bringing that legislation to the floor. Just put banking legislation on an appropriations bill. By analogy, if we are going to do a big tax bill, forget the Finance Committee, just put an amendment on an appropriations bill.

So I hope that the Senator will take my assurances to him, as I have offered it in the past, and not push this to a vote, and allow us to work through the Water and Power Subcommittee and the Energy and Natural Resources Committee. That is the place where this should be done.

I say to the Senator, I know he is motivated by the best of impulses and a desire to protect the Grand Canyon. I share those. But his action is destructive of the Senate. There is a kind of fragile balance here. If suddenly everything is going to be put on appropriations bills, I think we are in a free-for-all situation that makes it extremely dangerous for the way we do our business here.

So I hope the Senator will accept my assurances and find no cause to push the amendment further.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I would like to, first of all, thank the Senator from New Jersey for his visits to the Grand Canyon and his commitment to it. Let me express, at the same time, my deep disappointment that he would choose to oppose this protection of a great natural treasure of this world on the grounds that it has not gone through his committee, when it went through his committee last year in exactly this form. I cannot understand why this degree of parochialism over a committee procedure, which already took place a year ago, which would block the halting of irreparable damage to the Grand Canyon. Frankly, I am astounded.

Let me also say to the Senator from New Jersey, if he told me that he was going to bring it up next month, then I either do not recollect it, or he told somebody else. I do remember visiting, several months ago, in the Senator's office, with the head of the Grand Canyon Trust, when the Senator told me he would make every effort to bring it up in June, remembering that this legislation has been pending since January. It is now September. We are supposed to go out of session by Thanksgiving, I am told.

Last year we know what happened. After the bill had gone through the

Senator's subcommittee, had been approved by the entire U.S. Senate, it got hung up on other issues. I am not accusing the Senator from New Jersey of anything, except that there are rumors around that this bill is going to be held hostage, as it was last year, to other more controversial issues.

Mr. President, to me, it is unconscionable to hold the greatest natural treasure of this globe, certainly of this Nation, hostage in order that other agendas might be pursued. The Senator from New Jersey says next month he may take it up. That is the month of October. We are supposed to go out of session by the end of November. Everyone around here knows how clogged up everything gets. Things are placed on the calendar, and one Senator can block a measure from being brought to the floor for consideration.

So if the Senator from New Jersey or the Senator from West Virginia chooses to raise an objection to this amendment on procedural grounds, then I will ask for a vote to override that. But let me say again to the Senator from New Jersey, if this legislation had not already gone through his committee, had not already been passed by the U.S. Senate, it would be one thing. I also point out that if the Senator from New Jersey is as concerned about the damage to the Grand Canyon as he has just stated, which I believe he is totally sincere, then he would have some time ago passed this legislation through his committee and we would have been able to get it passed by the entire U.S. Senate, leaving me, Mr. President, with only one option and that is to attach it as an amendment on this bill.

The Senator from New Jersey is concerned about legislating on an appropriation bill. Let me point out to him that there is already legislation on the appropriation bill and that legislation—I reference the provision on the strategic petroleum reserve, which I might add is under the jurisdiction of the Energy Committee. Is it so important that we legislate on oil leasing, but we cannot legislate on the Grand Canyon? There is an appropriation in this bill concerning the strategic petroleum reserve which is clear legislation on an appropriation bill.

So without getting too emotional about this, Mr. President, because I have been working on this issue for many, many years, I want to keep the acrimony involved in this issue to as low a level as possible. This is an obligation I have, not to the people of Arizona, not to the people of the United States of America, but to the people of the world.

Last year, Mr. President, millions of people visited the Grand Canyon. Over 50 percent of those were from foreign countries. Every environmental organization in America says we must act and act immediately. This legislation

was introduced again when we came back into session in January. For reasons that perhaps the Senator from New Jersey can make clear, the Energy Committee and his subcommittee did not act and, as he said, we met on several occasions. I met in his office with the head of the Grand Canyon Trust. Native American representatives have come to Washington and asked and begged and pleaded that their great national heritage, the land that they hold sacred, not continue to suffer destruction as it is today.

I am compelled to be here this morning under these circumstances, and again if a procedural objection is raised, I will, of course, ask for a vote on those grounds.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, will the Senator yield for an additional comment or question? And this is again for my information.

Mr. MCCAIN. I yield.

Mr. NICKLES. I am very sympathetic to the Senator from Arizona and what he is trying to do. But, in the legislation that passed last year, if I remember the statement correctly there were some differences. This was an amendment put on, I believe, by Senator WALLOP and Senator WIRTH, that dealt with protected customers in the upper basin and talking about millions of dollars in expenses. I am not that familiar with it. But I would like to know what the differences are between the amendment the Senator from Arizona has today and from the amendment on the bill that passed last year?

Mr. MCCAIN. I would like to respond to my friend from Oklahoma, Mr. President. There was an amendment added which required that the burden for the funding be assumed by the taxpayers. That was not in the House version of the bill.

Let me also state to the Senator what the administration had to say about that amendment.

The administration strongly objects to section 1007, the section I am talking about, which is the only change from the bill passed last year, which requires the Federal Government to bear the full cost of preparing the Glen Canyon impact statement, including the cost of supporting studies and long-term monitoring. Such a requirement violates longstanding congressional-executive branch policy which appropriately allocates such costs to project purposes and beneficiaries. This precedent could result in potentially significant cost to Federal taxpayers.

That is the difference. And one of the reasons that I have left it out, besides the fact of my own objections, is that the administration would veto the legislation if it were in this bill. So that is the primary differences between the two. It has nothing to do with the protection of the Grand Canyon itself. It has nothing to do with it. But it has to

do with who bears the cost of the studies.

Mr. NICKLES. Let me make sure I understand. So, under the Wirth-Wallopp amendment would the taxpayers pay for the study?

Mr. MCCAIN. Yes.

Mr. NICKLES. Under the Senator's legislation he is silent on it, on who would pay for it?

Mr. MCCAIN. Under our historical precedents, the beneficiaries are the ones who would pay, would assume the burdens for the studies, which is the historical precedent for all studies of this nature. The reason that the administration objected so strongly was because of the fact that it was a precedent shattering amendment.

Mr. NICKLES. Again, the Senator is convincing in his argument. He is saying under his proposal that is before us today, that the—I guess in this case it would be the utility.

Mr. MCCAIN. The ratepayers?

Mr. NICKLES. The ratepayers in that area would pay instead of the taxpayers across the country.

Mr. MCCAIN. Actually ratepayers all over the West, practically speaking, since there are power companies who receive electrically all over the West including California, from the Glen Canyon Dam.

Mr. NICKLES. Again, I know there is at least a difference of opinion, I believe, with Senator WALLOP and others. I would hope that he would come to the floor and address this issue, because I am not that involved in the details particularly of this one amendment. I know it is important. I know we are talking about millions of dollars. I know the Grand Canyon is important and I appreciate the Senator's effort.

I might refer the next question to Senator BRADLEY.

Did I not hear him mention he was willing to consider this in the Energy Committee within a month?

Mr. BRADLEY. I said to the distinguished Senator from Arizona that it was my full intention to do so, and that is what I do intend to do. I would hope that we would be able to move this bill as well as a number of others. And as I told the Senator, I am an original cosponsor of this bill and I have strongly supported it. I have visited the Grand Canyon I have seen the merit of the proposal. But I do not see a reason here to make an end run around the authorizing committee.

The Senator spoke with a degree of urgency. The Senator from Arizona, and I appreciate his sense of urgency. But another month is not really going to make the ultimate determination about the Grand Canyon. I mean the Grand Canyon is millions of years old, and we are talking about here, by the time this works its way through the whole process, through the House and through a conference, we are looking at maybe the end of this year, I would hope.

And so the Senator should feel assured I have a sense of urgency about this equal to his sense or urgency, but perhaps a little greater respect for the way that we should do things in the Senate. Again, I think that on something this major it is kind of a dangerous precedent to set.

Mr. NICKLES. If the Senator will yield further, is it his intention to mark up this bill in the Energy Committee and report it to the floor of the Senate at least this year?

Mr. BRADLEY. Absolutely. That is my full intention.

Mr. NICKLES. I thank the Senator and encourage him on that. Since I am a member of that Energy Committee I will try to expedite the procedure as well and, hopefully, we will be successful in getting this bill passed. I think it obviously has merit. I am not that familiar with the slight difference on this one amendment and maybe that should be further discussed in the Energy Committee.

Mr. BRADLEY. If the Senator will yield, I heard his questions to the distinguished Senator from Arizona. I must say there is one question that has to be looked at, and that is whether this would violate the pay-as-you-go provisions of the budget deal.

It is possible that it might, because with the passage of this bill WAPA will end up with less revenues from peaking and the range that will provide \$30 million could very well violate the budget deal. But that is clearly something we want to look at carefully while we are marking up the bill. That is another reason not to proceed here but rather to allow the authorizing committee to work its will.

Mr. NICKLES. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. First of all, I will try in order to address the comments of the Senator from New Jersey. He says that the legislation requires examination by his subcommittee. It was examined last year when it went through his committee. Nothing has changed, I tell the Senator from New Jersey. The only thing that has changed is more archeological sites destroyed for riparian areas and beaches. Endangered species have been harmed and damaged during the intervening year since the Senator from New Jersey considered that in his committee. It was considered in his committee and passed out through the committee.

Mr. BRADLEY. Will the Senator yield at this point?

Mr. MCCAIN. If the Senator from New Jersey shares the sense of urgency, the logical question is: Why did his subcommittee not take up the legislation in January when the legislation was introduced—it is now September—if he shares my sense of urgency? So we are getting repetitious on this issue.

Again, I say to my friend from New Jersey, I do not want to get emotional on this issue. But to allow a strictly procedural matter on an issue that has already been reported out and approved by the Senate would be a travesty. I wonder if the Senator from New Jersey is as exercised about the part of the bill concerning the strategic petroleum reserve, which is legislation on the appropriations bill. I would ask my friend from New Jersey to respond to that as soon as I finish.

The fact is that the Western Area Power Authority—the Federal agency responsible for marketing the power from Glen Canyon Dam—is required by law to meet its financial obligations from those who benefit from the water stored behind the structure and the hydroelectric power it generates: from the ratepayers, not the taxpayers.

Small rate increases will be implemented to make up the cost of replacing any power which may be lost from the dam due to operational changes.

However, the procedure for adjusting rates takes some time.

Yes, the Department of Energy will be required to cover any shortfalls between expenses and revenues but only until the appropriate rate adjustments can be made to reimburse the Treasury.

So if there is a question, it is a purely technical one as far as violation of the Budget Act is concerned. And my friend from New Jersey should understand that clearly, and I will be glad to explain it to him again if he has further questions about it.

I just would repeat again, the year grows late, Mr. President. We all know what happens around here at the end of a session. We saw what happened last year after this bill had been passed by the U.S. Senate. It was blocked from consideration on the floor for a long time, finally allowed to pass by unanimous vote, and then it was held up on the other side in the waning hours of the session.

Mr. President, again, this is not something new. This is something the committee has already considered and the full Senate has already considered—protection of the Grand Canyon.

I am befuddled at the Senator from New Jersey, who says he shares my sense of urgency, yet here we are in September, and we could have taken it up in January and probably gotten it done. So, Mr. President, I will not go through this again and again as I say. I am trying to avoid acrimony on this issue. I do not want to get too emotional about it, but we are addressing one of the most critical issues for this Nation's environment, the great natural resource of the United States of America. To allow it to be hung up on procedural grounds, when the issue has already been considered, is frankly something that I cannot comprehend.

I yield the floor.

Mr. BRADLEY. Mr. President, I think maybe a few points ought to be made that will give a little context for the Senator's sense of urgency on this bill, the substance that deals with the operation of the Glen Canyon Dam, which is under the Bureau of Reclamation, which is under the Department of the Interior, which is a Department in the Government of President Bush.

The fact of the matter is what the Senator wants could be done tomorrow—could be done tomorrow—if the Secretary of the Interior ordered it, if the Bureau of Reclamation chose to do it. So let us keep in context where the sense of urgency does not lie.

I want to protect the Grand Canyon. The Senator from Arizona clearly wants to protect the Grand Canyon. We have given him a commitment that we are going to move this bill through this year. And he says, well, what has happened between last year and this year? Only the Budget Act. Only the big budget summit agreement that this bill could possibly violate that we need to look at.

So I urge the Senator to withdraw the amendment and not push this so that we could enact his bill and Senator DECONCINI's bill in a clear and prudent manner.

Mr. JOHNSTON. Mr. President, I say to my friend from Arizona that I held hearings in San Francisco on Senator BRADLEY's bill last week, I believe it was; in any event, in the recent past. I told those assembled there, as I have said elsewhere, that it is no longer a question of if we are going to move the Bradley water bill. The question is what the content of it would be. And therefore I said that we would discuss whatever they wanted to discuss but that we intended in the Committee on Energy and Natural Resources as a matter of high priority to pass the Bradley water bill. He has put in a tremendous amount of work on that bill.

The Grand Canyon is part of it. We are giving it a high priority in committee. I hope that assurance will reassure the Senator from Arizona that we will legislate on his bill as a very high priority matter.

I state that and hope that he would go along with the subcommittee chairman, Senator BRADLEY, in allowing that to go as part of this bill. He very strongly feels, and the committee supports him in this, that water policy ought to be dealt with as a package. So it is not a question of "if." Nobody opposes the Grand Canyon. It is a question of whether you enact it today as part of the bill or whether you wait not too long before we pass it. So I hope that reassures the Senator from Arizona.

Mr. MCCAIN. Not only does it not reassure me, the statement of the Senator from Louisiana confirms my suspicions and concerns about our ability to protect the Grand Canyon. Clearly

the Senator from Louisiana is under the impression that this vital act will be tied to an omnibus bill which will have issues associated with it of enormous controversy, reclamation reform, many others. Very frankly, it reinforces—and I appreciate the Senator from Louisiana bringing this to my attention—reinforces my profound desire and motivation to have this amendment adopted, since clearly the intentions are to tie the Grand Canyon Protection Act to very controversial legislation which may never see, frankly, agreement by both Houses on the President's desk.

Mr. BYRD. Mr. President, I rise to urge the Senator to withdraw his amendment. I am not going to make a point of order that it is legislation on an appropriation bill.

But as manager of the bill, I do have to go to conference with the bill, and we will have a contentious—a contentious—conference as we usually do because there will be many controversial issues involved. I do not want to see this one added. It will be one more contentious issue in the conference.

I urge the Senator to withdraw the amendment in light of the assurances that have been given by Mr. JOHNSTON and Mr. BRADLEY. Would he consider withdrawing the amendment?

Mr. MCCAIN. Mr. President, if I could respond to the query?

Mr. BYRD. Mr. President, I yield for that purpose. I retain my right to the floor.

Mr. MCCAIN. Mr. President, with the greatest respect to the distinguished chairman of the Appropriations Committee and former outstanding majority leader of this body, I must say to him that sometimes we talk about issues in which procedures become insignificant or pale in significance. I must add to the Senator from West Virginia, the Senator from Louisiana has just made clear what the strategy is on this issue. It is the intention to put the Grand Canyon Protection Act in with very, very controversial issues which have to do with the entire structure of water law in the West—reclamation reform and others.

Very frankly, Mr. President, I cannot entrust the Grand Canyon to be included in that kind of controversy. The distinguished chairman of the Energy Committee just said that it would be part of an omnibus package. That omnibus package may end up containing elements which would be resisted by Members of both the Senate and the House from the Western United States with incredible vigor and also by the administration.

Mr. President, I say with the greatest respect and affection for the distinguished chairman of the Appropriations Committee, I do not wish to complicate his duties. I understand his position. But I also hope that the distinguished chairman would have apprecia-

tion for the fact that this legislation was already passed by the U.S. Senate.

I am not springing a surprise on the Members of this body. This legislation was already considered by the Energy Committee. And yet months and weeks and even years go by and the destruction to what is viewed not only by me but by others—starting with President Roosevelt 90 years ago—as one of the great natural treasures of this world is being destroyed. So with all due respect to the chairman of the committee, understanding that he may have to raise a point of order on this issue because of his jurisdictional and chairmanship responsibilities, I cannot withdraw the amendment.

Mr. BYRD. Mr. President, may I say to the distinguished Senator, I have no particular interest one way or the other in this amendment. I would in all likelihood vote for the bill when it is brought before the Senate as it will be reported from the committee. But I do have an interest in this appropriation bill. And, as one who participated in the budget summit, I have to have an interest in amendments that are subject to Budget Act points of order.

I am not going to make a point of order that the amendment is legislation on an appropriations bill. I could do that, but I shall not.

I am going to make a different point of order. I hesitate to do it. I do not like to do it. I do it with apologies to the Senator. But I have urged him to withdraw the amendment, and he has a right, of course, not to withdraw it. I recognize that right. But for the reasons I have already stated, I will make a point of order.

Mr. President, I am advised by the Budget Committee that there is a section 401 Budget Act point of order on this amendment in that it would cause a loss in revenues of between \$10 and \$30 million. I, therefore, make the point of order that the amendment is not in order.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I move to waive section 401 of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Let me just say to the Senator from West Virginia, the distinguished chairman of the Appropriations Committee, he knows full well, or should be briefed by the staff, that this is purely a technical violation of the Budget Act. The costs will be made up by project beneficiaries not taxpayers. And the fact is that it is very understandable why the chairman of the Appropriations Committee would use a budget point of order rather than germaneness because of the requirement of the number of votes.

I say to the distinguished chairman of the Appropriations Committee I hope that he understands—and I can provide him with factual evidence—that this is a purely technical violation of the Budget Act and one which is clearly not in keeping with the spirit of what was intended by the Budget Act.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. DECONCINI. Mr. President, I was unable to get over here due to the Thomas hearings and other things, and I ask unanimous consent if I can speak in favor of the amendment offered by the junior Senator from Arizona for 3 minutes.

The PRESIDING OFFICER. This is a debatable motion.

Mr. DECONCINI. I did not realize it was a debatable motion. I thank the Chair.

Mr. President, I concur with my colleague from Arizona. There is every reason to waive this technical requirement here on the budget because this bill has passed the Senate last year. We have enacted it. And I rise in strong support of the amendment offered by the junior Senator from Arizona.

This legislation, in my opinion, represents a fair and equitable balance between the power generation requirements of the Glen Canyon Dam and the need to protect the natural and recreational resources of the Grand Canyon.

This legislation is virtually identical to legislation that passed the Senate last session. I normally do not like to pursue authorizing issues on appropriations bills. And I appreciate immensely the deep concern about this of the President pro tempore and chairman of the Appropriations Committee. He has expressed it many times and been extremely consistent about it.

For the information of my colleagues, there is other authorization legislation in this bill already. And in view of the criticalness of this issue and the importance of the Grand Canyon, I feel compelled to support Senator MCCAIN in asking the Grand Canyon protection be included in the Interior bill.

Where else are we going to go? We are up against it. We have tried for a number of years to see that this passed. I know the Senators from New Jersey and Louisiana have been extremely helpful in passing this bill in the last session. I hesitate to come out here and cause them any consternation and concern. But I am at my wit's end, of how do we get the Grand Canyon protected?

I know the Energy Committee under the distinguished leadership of the Senator from Louisiana has just not been able to deal with all the legislation that is before that committee. But in fact this bill has passed. It is substan-

tially the same bill. The Senate has already been on record. To me this is an ideal moment to see that the Grand Canyon is protected.

The major objectives of this legislation are threefold: First, it requires the timely completion of the environmental impact statement currently underway on dam operations; second, while the EIS is being completed, the Secretary is to implement interim, protective flows to mitigate the damages occurring to the canyon while the search for a long-term solution is underway; and third, the bill requires the Secretary of the Interior to operate the dam in a fashion which will protect and mitigate damages to the natural and recreational resources of the Grand Canyon.

Recently, Secretary Lujan issued interim operating criteria for the Glen Canyon Dam. In view of the fact that this is one of the major objectives of the amendment, one could argue that it is not necessary. However, I believe that this amendment gives the Secretary the necessary legal standing to undertake this action. It gives clear congressional direction on this issue and thus would hopefully insulate the Secretary from potential lawsuits on his proposed interim operating criteria.

The relationship between Glen Canyon Dam and the Grand Canyon is truly unique. In the 27 years since this dam was built, it has provided water and energy to much of the Southwest. It is representative of the interlocking structure of common allegiances that typify the Colorado River Basin. The Colorado River Storage Project Act [CRSP], passed in 1956, authorized the construction of Glen Canyon Dam. CRSP also provided for the establishment of the upper basin fund into which revenues from power generation—mostly from Glen Canyon Dam—would finance the construction of the other upper basin projects authorized by the act. Further, the large reservoir behind the dam provides storage space in order that the upper basin could use its entitlement to Colorado River water.

The construction of the Glen Canyon Dam has forever changed the Colorado River through the Grand Canyon. To assume that all of these changes are bad is simply not the case. The water released at the bottom of Glen Canyon Dam is clear and cold. This has resulted in the creation of one of the best trout fisheries in the country. Fishing enthusiasts from around the world travel to Lee's Ferry in anticipation of catching 4- and 5-pound rainbow trout. Also, the dam has controlled seasonal floods which has allowed vegetation to grow along the banks of the Colorado River. This situation has contributed to this area becoming home to one of the most diverse bird populations in the Southwest.

Another positive contribution of the dam is that it has evened the flows through the canyon. Prior to the construction of the dam, the historic flows of the Colorado River through the Grand Canyon varied from almost nothing to more than 200,000 cubic feet per second. With the beginning of impoundment behind the dam, the flows are now more consistent and even. In order to meet the high urban energy demands during the summer months, more water is released from the dam and there are higher flows during this normally dry, but popular rafting period.

Notwithstanding these beneficial aspects, a number of studies have concluded that the operations of Glen Canyon Dam are having an adverse impact on some of the natural and recreational resources of the Grand Canyon. In 1982, the Secretary of the Interior initiated the Glen Canyon Environmental Studies [GCES]. These studies were meant to answer two principal questions: First, are the current dam operations adversely affecting the existing river-related environmental and recreational resources of Glen and Grand Canyons? Second, are there ways to operate the dam, consistent with CRSP water delivery requirements, that would protect or enhance environmental and recreational resources? GCES did indeed conclude that some aspects of the operations of Glen Canyon Dam were adversely affecting the downstream resources of the Grand Canyon and further concluded that modified dam operations could protect and enhance these resources.

Among the adverse impacts identified in the GCES final report included the erosion of the beaches along the river. As mentioned previously, the water discharged by the dam is clear and cold, thus giving it tremendous carrying capacity for sediment. As the saying goes, a clear river is a hungry river. Some may argue that the erosion of beaches impacts only a select number of rafters and campers. However, it is the beaches that provide the habitat for wildlife and create backwaters for certain aquatic species.

The GCES final report also identified a number of impacts on certain endangered species, particularly the humpback chub. It was determined that the lower river temperatures are having a negative impact on this and a number of other native species. Also, the blue ribbon trout fishery created by the dam is being impacted by the way it is being operated. The fluctuating flows strand fish, interfere with fish production, and impact fishing activities.

In response to these findings, the Department recommended that a second phase of the GCES be undertaken. Because these further studies would have likely led to a NEPA study and that an environmental impact statement

would provide the same information, Senator MCCAIN and I wrote to Secretary Lujan in June of 1989 suggesting that the Department immediately begin preparing an EIS. On July 27, 1989, the Secretary ordered the Bureau of Reclamation to prepare an EIS. This document will identify the impacts of the current operations of the dam and determine what measures are needed to protect the downstream environment. It is expected to be completed by the end of 1992. Public interest in this process has been overwhelming. The Bureau has received over 17,000 written comments and more than 1,200 people have attended the hearings.

Faced with the findings of GCES phase I and the length of time that it would take to prepare the EIS, Senator MCCAIN and I again wrote to Secretary Lujan in April of this year suggesting that he develop an interim operating criteria. We felt that these interim measures would protect the Grand Canyon while a search for a long-term solution was underway. We expressed to him that this interim criteria should not impact the timely completion of the EIS and the water delivery requirements of the Colorado River compact. I felt at the time, and still do, that the Secretary has adequate administrative authority to implement such interim operating criteria and that legislation was unnecessary. However, as was expressed in our April letter, should the Secretary choose not to exercise this authority, we would reserve the right to pursue a legislative remedy.

Which brings us to the amendment we are offering today. The objection to this amendment are merely procedural. In response to these objection I have two points: First, this legislation passed last year; and second, there is already authorizing legislation in this bill as it is reported out of the Appropriations Committee. In view of the importance of the need to protect this national treasure, the Senate should pass this legislation now.

Mr. President, I ask our colleagues here to please give some consideration to one of the Wonders of the World. I am deeply grateful to the chairman of the Appropriations Committee for the many things that he has included in this bill and in past bills that help the native Americans in Arizona, the park and BLM lands that are under his jurisdiction, of that committee. I hope he understands my reluctance to ask him for this assistance after so much he has done for Arizona. He is known in Arizona as the third Senator from Arizona for the sincere efforts that he has given to us so many times.

But I beg him to understand the necessity of this. The Grand Canyon is one of the great Wonders of the World, situated in our State, and the Senator from Arizona and I really feel that we have no other recourse but to move this on this bill.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DECONCINI. I am happy to yield.

Mr. BYRD. Mr. President, I do understand the Senator's position. I understand his desire to see this legislation attached to the bill. I am very sympathetic to his interests and very supportive of them.

But, in view of the assurances that were given by Senator JOHNSTON and Senator BRADLEY, I had hoped that the amendment would be withdrawn so as to save the time of the Senate. We have already taken some time now. I had hoped to save the time of the Senate, No. 1.

Second, as I stated, it is just another burden on the conferees when we go to conference. And I make the point of order apologetically. I did not seek to make the point of order on the basis that this was legislation on an appropriations bill because appropriations bills normally have some legislation on them. But, because they do, there is no reason to hesitate to make such a point of order against other legislation. I shall make a stronger point of order and for a better reason, as I have explained. This amendment would cause a loss in revenues of between \$10 and \$30 million. I think we have to do everything we can to protect the budget agreement, and it is for these reasons that I make this point of order.

Mr. DECONCINI. I understand.

Mr. BYRD. I hold no animus to the Senator; hoping his amendment will be enacted another day. But I hope Senators will vote against the motion to waive the point of order.

Mr. MCCAIN. Will the Senator yield? Will my colleague from Arizona yield?

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to thank my colleague from Arizona, Senator DECONCINI, for his very eloquent statement in support of the legislation and his efforts to protect the Grand Canyon, as well as many other natural treasures of the State.

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

The PRESIDING OFFICER. The yeas and nays have been ordered.

Is there further debate on the motion? If not, the question is on agreeing to the motion to waive section 401 of the Budget Act for consideration of amendment No. 1124 offered by the Senator from Arizona. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "no."

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 65, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—34

Bingaman	Gore	McConnell
Bond	Gorton	Pell
Brown	Grassley	Pressler
Chafee	Jeffords	Roth
Coats	Kassebaum	Rudman
Cochran	Kasten	Seymour
Cohen	Leahy	Smith
Craig	Lieberman	Specter
D'Amato	Lott	Symms
DeConcini	Lugar	Thurmond
Dole	Mack	
Durenberger	McCain	

NAYS—65

Adams	Fowler	Murkowski
Akaka	Garn	Nickles
Baucus	Glenn	Nunn
Bentsen	Graham	Packwood
Biden	Gramm	Pryor
Boren	Harkin	Reid
Bradley	Hatch	Riegle
Breaux	Hatfield	Robb
Bryan	Hefflin	Rockefeller
Bumpers	Hollings	Sanford
Burdick	Inouye	Sarbanes
Burns	Johnston	Sasser
Byrd	Kennedy	Shelby
Conrad	Kerrey	Simon
Cranston	Kerry	Simpson
Danforth	Kohl	Stevens
Daschle	Lautenberg	Wallop
Dixon	Levin	Warner
Dodd	Metzenbaum	Wellstone
Domenici	Mikulski	Wirth
Exon	Mitchell	Wofford
Ford	Moynihan	

NOT VOTING—1

Helms

So the motion was rejected.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, a parliamentary inquiry. I would like to know if section 401 of the Budget Act, which was just voted on, applies to this amendment also?

The PRESIDING OFFICER. The Senator's amendment does not violate section 401 of the Budget Act.

Mr. MCCAIN. My understanding is that the last vote we took was relatively meaningless because section 401 did not apply to my amendment, which is very interesting. I could force another vote on this, but the results would probably be the same. So I will not do so. But I think it of interest to this body that we just voted on an alleged violation of the Budget Act, which, according to the Parliamentarian, was not the case.

Mr. President, could I say again what has been done here is very interesting. I believe that the people all over this country are going to be outraged, and I hope that the Senator from New Jersey and the Senator from Louisiana understand the obligation that they have assumed to protect the Grand Canyon, and not tie legislation that is associated with other controversial issues to the Grand Canyon. They obviously can if they want to do so, but they should

not portray themselves as protectors of the Grand Canyon if they do so.

Mr. President, I guess the correct parliamentary procedure is to withdraw my amendment since the objection was not germane. Is that correct?

Mr. BYRD. Mr. President, the Senator would need to ask unanimous consent to withdraw his amendment because he got the yeas and nays earlier.

The PRESIDING OFFICER. Is the Senator seeking to receive consent to withdraw?

Mr. MCCAIN. I ask unanimous consent to vitiate my request for the yeas and nays.

The PRESIDING OFFICE. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, while the Senator from Arizona is on the floor, I wish to compliment Senator MCCAIN for his leadership on the issue. As a member of the Energy Committee, I feel that the Energy Committee should have jurisdiction over the issue.

I appreciate the commitment that Senators BRADLEY, JOHNSTON, and WALLOP have made. I tell the Senator from Arizona I will work energetically, first, to report the bill out and, second, to try to keep it separate from some of the other entanglements that we found in the past due to the Energy Committee.

I do not think this should be tied to the Bureau of Reclamation reforms that many are trying to make and which I may well support as well. I will work with the Senator from New Jersey on that. I think the Senator has a good bill, a bill that should be reported, and a bill that should be passed. I will work with him to make that happen this year.

Mr. BYRD. Mr. President, I think it ought to be said for the RECORD here, so that all Senators and others who read the RECORD may understand, the Chair was—may we have order? May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the Chair was correct in that the point of order that was made was not based on the appropriate section of the Budget Act. There was a great deal of confusion among the Parliamentarians and staff representatives of the Budget Committee as to whether the point of order should be under 401 or not, and, even while the rollcall was going on, those discussions were still going forward—some saying 401 was correct, some saying it was not.

I was advised that 401 was the appropriate section, and I followed that advice. After the rollcall vote had already started, it was decided that the point of order would appropriately ride on sections 601 and 602 of the Budget Act, in that the amendment would cause the bill to exceed its budget authority and outlay allocations. If the

Senator feels that he has been done in by the Senate or by me, I am very willing, if the Senator did not withdraw his amendment, to make the appropriate point of order under sections 601 and 602.

And I think the votes indicated by the rollcall would indicate that the proper point of order would have caused the amendment to fall. The RECORD now will show that the point of order was incorrectly made because the wrong advice was given to me by people around here on whom we depend for advice on such matters and who were not agreed among themselves. But because the rollcall vote had started, I could not call it off. It is my intention now to make the appropriate point of order, which would require 60 votes to waive, and I will do it yet, if the Senator wants to offer his amendment and have a rollcall vote on his waiver under the appropriate paragraphs of the Budget Act. I had urged him to withdraw his amendment earlier, but if the Senator wants to have another run at it under the appropriate paragraphs, I will be happy to have another vote.

Mr. MCCAIN. Mr. President, first of all, to explain to my distinguished chairman of the Appropriations Committee, I am not withdrawing my amendment. I asked to vitiate my request for the yeas and nays. The amendment is still alive at this time. If I might have a ruling from the chair, is that correct, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been vitiated.

Mr. MCCAIN. Thank you. I would like to help clarify that for the distinguished chairman.

Second, I thought it would be appropriate to point out that the last vote was relatively meaningless, because it did not apply as to how the Chair rules. It does not mean—and I stated so when I asked for the ruling from the Chair—that I would seek another vote on any violation of the Budget Act. I thought it was interesting that we just spent the time of the Senate on an issue which was not germane, in the view of the Parliamentarian.

I do not seek to withdraw my amendment. I will be more than glad to have a voice vote on this amendment and, certainly, as I stated previously, I tell the chairman, I do not seek another vote, because I have fully understood that there are technical—I emphasize technical—violations of this act, which also the distinguished chairman either does or should know, because this violation is clearly only technical in nature and does not cost the taxpayer one penny.

I hope the distinguished chairman understands, as well, that this is a pure technical violation, although under the rules of the Senate and the rules of the budget, is clearly in violation, because I venture the outcome would be the same—it would waste the time of the

Senate, if we repeated the exercise that we just completed. But I would ask for a voice vote on my amendment, rather than withdrawing it.

I yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1124) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks the floor?

Mr. BYRD. Mr. President, the bill is open for amendment. I urge Senators who have amendments to call them up.

EXCEPTED COMMITTEE AMENDMENT, PAGE 2,

LINE 21

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the committee amendment, page 2, line 21.

The committee amendment was agreed to.

EXCEPTED COMMITTEE AMENDMENT, PAGE 23,

LINE 5

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows:

On page 23, beginning on line 5, insert new language through page 24, line 12.

Mr. BYRD. Mr. President, I hope Senators know what the Senate is doing. The Senate is adopting committee amendments that were excepted.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the last vote be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, so that the committee amendment which has been agreed to is not yet agreed to; am I correct?

The PRESIDING OFFICER. Not agreed to, and is now pending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, we have several amendments that have been listed as being of interest to Members. I hope the respective cloakrooms will call Senators, those who have amendments, and urge them to come over and call them up. I hesitate to read the names at the moment of those who have indicated interest in amendments. Perhaps the cloakrooms will try to seek this information for us and we will know better how to proceed.

It is Friday morning at 11:45 on the clock. We have plenty of time. The majority leader has indicated he does not want any rollcall votes after 3 o'clock p.m. today. But we still have 3 hours and 15 minutes on that basis. I hope that time will not be wasted.

Mr. President, I thank all Senators.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, if there is not an amendment pending within the next 15 minutes, I am going to suggest the absence of a quorum and I will make it live so that Senators will have to come to the floor. Perhaps when we get them to the floor, someone will be ready and willing to offer an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

STATEMENT ON THE INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2686, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by \$663,000 and under its 602(b) outlay allocation by \$455,000.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 2686

INTERIOR SUBCOMMITTEE—SPENDING TOTALS		
(In billions of dollars)		
Bill summary	Budget authority	Outlays
H.R. 2686:		
New budget authority and outlays	12.4	7.9
Enacted to date	.7	4.2
Adjustment to conform mandatory programs to resolution assumptions		
Scorekeeping adjustments	0	0
Bill total	13.1	12.1
Senate 602(b) allocation	13.1	12.1
Total difference		

INTERIOR SUBCOMMITTEE—SPENDING TOTALS—

Continued

(In billions of dollars)

Bill summary	Budget authority	Outlays
Discretionary:		
Domestic	13.0	12.0
Senate 602(b)	13.0	12.1
Difference		
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total discretionary spending	13.0	12.0
Mandatory spending	.1	.1
Mandatory allocation	.1	.1
Difference	0	0
Discretionary total above (+) or below (-):		
President's request	.9	-.2
Senate-passed bill	NA	NA
House-passed bill	-.3	-.1

Mr. BYRD. Mr. President, 5 minutes ago I said that if an amendment were not offered within 15 minutes I would suggest the absence of a quorum and would make it go live. Ten minutes remain. At the end of that time, if an amendment is not pending, I will suggest the absence of a quorum, I will make it go live, and then we will see how many Senators want to go home early. If they do not show up, we might as well all go home. There is no point in my wasting my time, and Mr. NICKLES wasting his time, if other Senators are not going to call up amendments.

A live quorum will get most Senators over here and hopefully we will get some amendments up.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will tell the chairman we are working. I am trying to get some information. I believe Senator WIRTH has an amendment. I am not that familiar with it. We have asked the administration for some of their comments on it. Senator BUMPERS is here, and I know he has an amendment. I am familiar with that. I know that it will conjure up a little discussion this afternoon.

But I am happy to proceed with either of those amendments and we will continue trying to get some assessment and evaluation of those amendments from the administration during the discussion and the debate.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1125

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1125.

Notwithstanding any other provision of law, none of the funds in this or any other

Act shall be available before April 1, 1992, to accept or process applications for patent for any oil shale mining claim located pursuant to the general mining laws or to issue a patent for any such oil shale mining claim, unless the holder of a valid oil shale mining claim has received first half final certificate for patent by date of enactment of this Act.

The PRESIDING OFFICER. Is the Senator finished with the pending committee amendment?

Mr. WIRTH. Mr. President, this amendment addresses a longstanding problem regarding oil shale mining claims located prior to 1920. Both the Congress and the courts have long grappled with this problem. The House of Representatives has passed legislation to resolve the issue several times in the past few years, and in January 1990 the Senate Committee on Energy and Natural Resources unanimously reported a bill which addressed the problem in a somewhat different manner than the House.

Today I am offering an amendment to preserve the status quo so that the authorizing committees may finally resolve this issue, and both are very close to doing so.

There are approximately 1,600 unpatented oil shale mining claims located on approximately 240,000 acres in Colorado, Utah, and Wyoming. These claims were located prior to 1920 pursuant to the general mining laws of the United States.

The Senate has debated and will devote more time to debating the merits of the patenting provisions of the mining law of 1872, under which claimants who locate valuable mineral deposits on Federal lands can apply for and receive a patent to the Federal land and minerals. Today I would like to focus only on oil shale mining claims.

These oil shale mining claims are different than other claims in a variety of ways. In 1920, Congress enacted the Mineral Leasing Act, which provided for the leasing of oil shale, but grandfathered existing valid claims that were thereafter maintained in compliance with applicable law. All of the claims that we are now dealing with are over 70 years old, creating great difficulties in providing whether or not they were valid then, and how we should treat them today—much less what has happened in the 70-year intervening period of time.

In determining whether a claim has been maintained in compliance with the law, the courts have treated oil shale mining claims differently than other mining claims. The courts have also established a definition of what makes an oil shale claim valuable that is far different from that applied to other claims under the mining law today.

In 1987, we passed a moratorium on processing oil shale claims on the Interior appropriations bill, to give the Congress time to legislate a solution to this controversy, and find a fair way to

protect the public interest in these lands. That moratorium expired, but even so the Department of the Interior held off processing further applications for patenting oil shale.

However, they have once again begun to process pending oil shale patent applications. If action is not taken, 240,000 acres of Federal land may be sold for \$2.50 an acre. If these claims were made for silver or gold by a miner under the mining laws as we apply it to these minerals today, they would not be valid. Even under the special rules and legal rulings which apply to oil shale, the status of many of these claims is highly controversial.

This amendment provides for a 6-month moratorium on both the acceptance and processing of oil shale mining claim patent applications, and on the issuance of patent applications for which the first half final certificate has not been received. My colleagues will ask why we should do this now, when a legislative solution has eluded the Congress for the past 5 years? The answer is, the situation has, I believe, materially changed and the Congress can and will soon come up with a legislative solution.

Last year, the Senate Energy Committee unanimously reported legislation on the disposition of these oil shale claims, and just a few weeks ago, my colleague from Colorado, Congressman BEN NIGHTHORSE CAMPBELL, in whose district the vast majority of these claims lie, introduced legislation virtually identical to that reported by the Energy Committee unanimously last year.

For the first time, it looks to me as if the Senate and the House are far closer on this issue than they have ever been before, and that we can now move forward to reach an agreement and put it before the President for his signature. I strongly urge the Senate to adopt this moratorium and allow the authorizing committees finally to resolve this issue in a way that ensures the best possible protection of the public interest.

I might add, Mr. President, that this issue became highly controversial in the mid-1980's when some 83,000 acres of oil shale land was patented for the fee of \$2.50 an acre. The people receiving the patent turned right around and sold that land for well over \$30 million, thereby gaining overnight a \$30 million windfall. But more important, that land went, and nobody believes that it is going to be used for oil shale.

As the situation has changed, oil shale as a valuable resource for energy has just disappeared off the screen. We are not talking about oil shale anymore, and clearly what is going on in a lot of the areas related to oil shale lands are a number of things: Speculation for gravel, other surface rights, a whole variety of activities unrelated to

oil shale and unrelated to the purpose of the original mining law.

Another thing that has happened is that a vast amount, in this situation nearly 100,000 acres of prime hunting territory became private and was, therefore, fenced off. This had been some of the most valuable mule deer hunting area in the State of Colorado that suddenly disappeared from public access, something that we do not want to have happen here.

Another note, Mr. President, in answer to questions that were raised earlier about this amendment, is that what we have done with this is comply with the order of Judge Finesilver to make sure that the mining claims legitimately held by Marathon are recognized, and they would be under this amendment. That is why the language very clearly makes the distinction between those who have and have not received first half final certificate for patent. That takes care of the one group that everybody agrees has very legitimate claims. Those will go. We will deal in this legislation with the other very murky and controversial claims to the oil shale.

I have discussed this amendment with my colleague from Colorado, Senator BROWN. I note that almost all of the oil shale claims are in the State of Colorado. I had originally drafted this moratorium for a year's period of time. Senator BROWN suggested that we make it a 6-month period of time, which I have done in this amendment. None of these funds will be made available before April 1, 1992. That is the 6-month moratorium.

I think that makes sense, and we can certainly deal with that both in the Energy Committee in the Senate, doing what we did last year, and in the House of Representatives, and have this legislation passed.

So I hope this moratorium provides also a little greater leverage to BLM and the Department of the Interior, as they are attempting to deal with that and it makes it clear there is a distinction between the legitimate Marathon claims, and there could be as much as 240,000 more acres that could be gone from the taxpayer ownership, from citizen ownership, at a modest \$2.50 an acre for lands that really do not have any value that anybody suggests as an energy resource.

So I hope that we can accept this amendment. It is a constructive approach, and leads us right into the legislative solution which will be forthcoming, I believe, this fall.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, the committee amendment, which is pending, will be set aside so that the Senator may proceed with his amendment.

Mr. WIRTH. I thank the President and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want to commend and applaud the Senator from Colorado for this amendment. I think it is timely, and I think in light of the debate that will ensue in the next day or two, it is also very important this amendment was offered at this time.

As the Senator from Colorado recognized, oil shale, by an act of Congress, was taken out of the patenting process, as far as the 1872 mine law, about 1920. It was done by virtue of the fact that the prove ups of oil shale were taking place and people were using that land for purposes other than mineral exploration.

Even though Congress passed an act 70 years ago, as the Senator from Colorado mentioned, the facts still remain that litigation has been going on and on and on for decades. Members of the Senate will hear in the next few hours examples of mischievous conduct being taken as a result of the 1872 mining law. A vast majority of those mischievous actions relate not to precious metals, not to gold, not to silver, not to copper, but to oil shale, silica sand, things of that nature, which Congress prohibits, but it has still been in the courts.

We will hear at a later time about an example in one of the beaches in Oregon where there was a prove up of silica sand, but that was by virtue of the governmental agencies denying that patent. But the person went to court and the courts approved that. Now the land on the beach is worth lots of money.

The point the Senator from Nevada wishes to make is the fact that these acts that are so grievous do not relate to precious minerals, do not relate to gold and silver production, and other things of that nature.

I think the Senator's amendment will go a long way toward making sure people understand that, in truth and in fact, in the amendment I understand will be offered shortly, we will not be debating oil shale; we will not be debating silica sand; but rather we will be debating whether or not public policy of this Nation should allow for the exploration of precious metals.

So I commend and I applaud the Senator from Colorado in offering this timely amendment.

Mr. BUMPERS. Will the Senator from Nevada yield for a question?

Mr. REID. I will be happy to.

Mr. BUMPERS. Why is it bad for oil shale to be purchased for \$2.50 an acre and resold for \$2,000 an acre, but good for mining claims to be purchased for \$2.50 an acre and sold for \$13,000 an acre?

Mr. REID. The Senator from Arkansas asked a question that clearly can be recognized from the fact that if you are going to prove up on a, for example, someone exploring for gold, if you are going to prove up on a gold patent, the

acreage cost—the average cost; some are more, some are less—the average cost is about \$220,000 before the Government will issue that patent.

That is much different than these claims that go back prior to 1920, and these people spent literally no money proving up those claims. It used to be relatively inexpensive to prove up to a claim, whether it was for gold or oil shale.

Now I repeat, the average cost of proving up a claim for gold is about \$220,000, almost a quarter of a million. The issue is not whether or not the fair market value should apply because, as the Senator from Arkansas knows, that is a relatively small cost, \$220,000—if, in fact, somebody had to pay fair market value. That is not the question.

As I understand it, the Senator from Arkansas is going to offer an amendment to prohibit, during the next year's period of time, the issuance of patents, and we will debate that at some subsequent time. But the fact is you cannot compare oil shale claims where the prove up was done prior to 1920 and a prove up of a mining claim that is done in modern day where it cost \$220,000. There is a significant difference. It is a difference between night and day, apples and oranges.

Mr. BUMPERS. If I may pursue this a tad further and ask the Senator an additional question, in light of what the Senator has just said, if it costs \$220,000 to prove up a claim, for example, for gold—my amendment does not prohibit miners from mining that land. What it does is prohibit them from taking it for \$2.50 an acre and selling it for ski resorts, condominiums, or whatever at anywhere from \$2,000 to \$50,000 an acre. If you want to mine, you can still mine that unpatented claim that you have proved up under my amendment.

Now, I take it that the Senator from Nevada simply wants miners to have a right to prove that claim and be able to work that claim, is that correct?

Mr. REID. Is that a question of the Senator from Nevada?

Mr. BUMPERS. Yes.

Mr. REID. The Senator has asked two questions. Why is it necessary that there be fee title issued to someone who is attempting to prove up a mining claim for gold, for example? The answer is very simple. The production of gold in this country is like the production in other industries. It is expensive to get your product out. By virtue of the fact that it is expensive to get your product out, you have to borrow money normally. Banks, as we all know—I am sure the Senator from Arkansas went home during this 5-week break we had and people complained about how money is not being lent. Well, the fact is that it is the same in Nevada, Arizona, Idaho, all Western States where mining takes place; it is very difficult to get capital. You cannot borrow capital on a claim that you do not own.

You can, however, borrow money on land that you own, especially if you have already proven there is gold on it.

The Senator and I have had a number of conversations privately. There are probably 400,000 unpatented mining claims in Nevada, but in those claims you do not have to prove there is anything on them. On a patented mining claim, you have to prove to the Federal Government that there is mineral value in that land. You have to prove it. And it costs, as I said, up to \$220,000 to prove that. The reason you need the fee title to that land is so that you can produce capital for exploration.

Mr. BUMPERS. If I may interrupt the Senator at that point, because he is saying they cannot borrow money on the claim unless they own the land, how does the Senator account for the fact that banks all over this country loan billions of dollars to oil and gas companies every year for exploration on lands they do not own; all they have is a leasehold interest and the chance of their finding oil is 50-50. What is the difference?

Mr. REID. There is a significant difference, as the Senator from Arkansas should know. The difference is that with oil and gas production, they are loaning money, generally speaking, to companies that have assets in other areas. Most oil companies now own other businesses. The Senator will find very few loans in modern-day America on wildcat explorations. There are very few dollars now being loaned on oil and gas exploration in this country. One of the reasons is that the product is not there; it cannot be proven it is there.

Mr. BUMPERS. Let me ask the Senator a specific question. If a mining company has to have a deed to the land in order to borrow money, even though they have proved to the satisfaction of BLM that there is gold, silver, what else under that land, if that is the only way they can borrow money, how does he account for the fact that Newmont Mining Co. borrows money to mine land in the Senator's home State on a ranch on which all they have is a leasehold interest and, incidentally, are paying 18 percent royalty on? How do they borrow money on just a leasehold interest?

Mr. REID. I am not specifically aware that Newmont Mines—

Mr. BUMPERS. The Senator is familiar with Newmont Mine, is he not?

Mr. REID. Very familiar.

Mr. BUMPERS. The Senator is familiar with the ranch that they mine gold off of and he is familiar with the leasehold which says they will pay—they started off, I think, paying 12 percent; it goes to 18 percent, which is what they are paying right now, and then later pay 24 percent. The royalty is a separate issue. But let us just stick with the leasehold interest. How do they borrow money on lands with a leasehold interest that the Senator

says, if that is on Federal land, they could not do it?

Mr. REID. No, the Senator from Nevada did not say that Newmont Mines could only borrow money if they have a patented claim. They have other operations, just like the Senator mentioned oil and gas companies do around the world.

We will get specific detail on the ranch to which the Senator refers, but to my recollection the ranch about which the Senator speaks was adjacent to a very successful mining operation that had been going on for at least 15 years in Elko County, NV, and in that operation originally the ranch was purchased because simply it got in the way of the mining operation that was taking place. After they purchased the ranch, they found significant mineral deposits on the ranch, and now they have a very successful mining operation on that ranch. Prior to buying the ranch, as I recall, there was no knowledge that, in fact, there were mineral interests on that land.

Now, there are many operations in the State of Nevada and other places in the Western United States—this mineral patent law applies to all the Western part of the United States. And the fact is that one of the ways they develop capital is by virtue of mining patents.

So we do not have a misunderstanding, very few mining patents are issued. Last year, I think, around 50 were issued for the whole year. And remember, one of the reasons there are so few issued is because it is so expensive to prove those up. In fact, in 1980, there were 58 issued. We could go through the list. There are just a few issued each year. Last year there were 75 issued for the whole year, totaling approximately 20,000 acres.

Now, the State of Nevada alone is about 75 million acres, so it is a relatively small part of the land.

Mr. BUMPERS. Mr. President, if we could go back to the question about which we were originally in this colloquy, the argument that the Senator from Nevada was making was that you have to have a patent to the land in order to borrow the money to work the claim, and yet there are a lot more mines in this country, 2,000 to be precise, operating on unpatented mining claims. How are they doing that?

Mr. REID. I can explain that very easily. Having been raised in a mining community in the southern part of the State of Nevada, we have and still have interspersed through the searchlight mining district a number of patented claims and a number of unpatented claims. There are some of the unpatented claims that have been fairly successful, and usually the reason they are successful is that there is some type of product you can see on top of the ground or it was relatively easy to discover.

It is not always that way. There are a lot of times that you have to really work hard to find that value in the land. One of the ways you do that is, if you think there is something in the ground, you prove to the Federal Government there is something in the ground, and by virtue of that fact you have the ability to build a structure on the land. An unpatented mining claim, all you can build on it is a hoist house, some place to put your shipment. Because with an unpatented mining claim you really have no right to the surface of the land. You only have a right to dig into the land.

Mr. BUMPERS. Mr. President, I do not understand the sophistry of the response. You have 2,000 mines in this country operating on unpatented lands and yet the Senator's original argument was that they have to have a deed to the land; otherwise, they cannot borrow money. Now, those 2,000 mining operations in this country include gold, silver, and all kinds of underground mining. They are not things you can see on top of the ground. On the contrary, a majority of those are mining for something that is under the ground. This idea that you have to have a patent in order to borrow money is just another scam for giving people lands for \$2.50 an acre so they can turn around and sell it for \$5,000 an acre.

I would ask this question of the Senator from Nevada. Does he think it is right for somebody to prove up a mining claim just long enough to convince BLM to give them a deed to that land for \$2.50 an acre, and then turn around and sell it for thousands of dollars an acre? The Senator does not think that is right, does he?

Mr. REID. I am happy to respond.

Mr. BUMPERS. Let me ask as an old trial lawyer, could the Senator say yes or no and then, if he wants to explain it, explain it? Does the Senator agree with that?

Mr. REID. As a young trial lawyer let me respond in a way that I feel is appropriate. I want to answer the question. The Senator has used the word "scam," a statement that deserves some explanation on his behalf.

Mr. BUMPERS. I am happy to explain that.

Mr. REID. There have been instances, rare in nature, where there have been people who have gone in and through fraud and deceit perhaps, done things that they should not, and allowed the Federal Government to be a part of the scam. If in fact there are minerals in that land, they should have to use it for the purpose for which they claimed.

Let me just say this: The Senator has indicated there are 2,000 miles going on in our country today that are unpatented.

Mr. BUMPERS. Unpatented claims.

Mr. REID. There are a number of those in Nevada. No one is saying the

only way you can mine is through patented claims. It is a way to develop mining claims, through the patenting process.

I repeat to the Senator, the average cost of patenting the claim is \$220,000. There are very few people that have the ability to spend \$220,000 for some kind of a scam. There have been rare instances, and I am familiar with several of them, but it is so rare.

Mr. BUMPERS. Then the Senator's answer is no. He does not agree with people being able to get a deed and turn around and sell it for whatever purposes they want to, does he?

Mr. REID. If I could complete my response very quickly, there is no problem with the fact that the Senator from Arkansas seems to be hung up on the \$2.50 per acre.

Mr. BUMPERS. I will admit some of them have to pay \$5 an acre.

Mr. REID. And the Senator from Arkansas well knows that we could enter into an agreement immediately to change that to fair market value. Nobody complains about that. The Senator from Nevada, and I think all Western Senators would agree, believes that would be a fair thing to do. But that has nothing to do with the Senator's approach to, in effect, stop mining.

That is what would happen. Nevada mining, Utah mining, Arizona mining, all the Western States are doing well now. We are a net exporter of gold. It is one of the few things that we export.

Does the Senator from Arkansas—let me respond by asking a question—feel we should do away with mining and have all of our mining, like a lot of industries we have, go overseas if the company could go mine cheaper in Australia, Indonesia, Peru, and places like that? That is in effect what this amendment would do. It would stop the development and further exploration of mining.

Mr. BUMPERS. I just got through saying my amendment does not stop one single mine from operating, not one. I just got through saying there are 2,000 mines in this country operating on unpatented lands. I just got through saying my amendment does not prohibit that. I still do not know how the Senator feels about what is a scam where people may spend \$220,000 to prove up a claim and turn around and sell it for \$5 million.

I want to know from the Senator the answer to a simple question. I would like to have a simple answer. Yes or no. I think it is bad for people to buy lands from the U.S. Government for \$2.50 an acre and turn around and sell it for God knows what. I know the Senator, my good friend from Nevada. I consider him one of the finest men in the U.S. Senate. Surely he can give me a clear-cut answer on a question like that. The Senator does not approve of that, does he?

Mr. REID. If in fact there are abuses to the 1872—

Mr. BUMPERS. I have a catalog full of them. The Senator is familiar with this catalog.

Mr. REID. Again let me respond. The Senator does not have a catalog of abuses. He has a number of abuses, and I have seen them. I agree with my colleague that some of them are reprehensible.

Mr. BUMPERS. Some of them?

Mr. REID. Yes. Some are responsible. The point of the matter is, the Senator's amendment does nothing to solve the problem because we need to have mineral exploration. The moneys developed by the mining company—they are able to have these lands or moneys used for exploration. There are hundreds of millions of dollars spent each year in exploration. This money does not fall from the sky. This money has to come from someplace. One of the places it comes from is the fact that people need to own real estate. Real estate allows people to produce money.

Mr. CRAIG. Mr. President, will the Senator from Nevada yield?

Mr. REID. I would be happy to yield after making one statement.

Out of all the land in the Western part of the United States, there is just a fraction of a percent that has ever been put to patent. It has produced jobs in the State of Nevada. There are over 10,000 jobs, good jobs, not people flipping hamburgers, but good jobs as a direct result of these people being able to, for example, patent these claims.

Further exploration needs to take place. The average lifespan of the mine is less than 10 years. You need further exploration all the time so when one body of ore is gone, you can hopefully have another one. Again gold is something that we export and one of the few things we still export.

I respectfully submit to my friend from Arkansas, even though I know his intentions are well taken, I think the direction he is taking with the amendment that will be offered is wrong.

I yield to the Senator from Idaho.

Mr. CRAIG. I thank my colleague for yielding.

Mr. BUMPERS. Would the Senator allow me to make one statement, and I will get out of this debate for a second?

Mr. CRAIG. May I ask what the length of that one statement might be?

Mr. BUMPERS. Thirty seconds.

Mr. CRAIG. I yield.

Mr. BUMPERS. The Senator from Nevada says that of all these scams here, that he disapproves of some. Senator, I want to make this statement: If the Senator votes against my amendment, he is approving a continuation of the same thing because there is absolutely nothing in the law to keep this from continuing to happen unless my amendment is adopted.

Mr. CRAIG. Let me briefly say we have what is in my opinion two separate issues here. We have a Wirth amendment that deals with an ongoing

controversy in the State of Colorado that deserves to be addressed, apart from the kind of accusations that my colleague from Arkansas is making as it relates to the ability under the 1872 mining law to patent, to gain little for the purposes of mining development.

We are going to have plenty of time this afternoon and well into the evening to discuss whether the 1872 mining law as both public policy and concept ought to erode the economic base, the defensive base, the vitality of the mineral industry of this Nation which is our strength and our muscle.

So why do not we keep the two issues separate at this time, address the real fundamental question, long of controversy in the State of Colorado as it relates to oil shale and the ability to patent, and therefore the ability to gain title itself? Let us do that, and then let us move on to the amendment of my colleague from Arkansas, which I think, although they address the same area of the law, are fundamentally two separate issues.

I yield the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Just one observation. All of my colleagues who have read "Animal Farm" remember that great quote about "some pigs are more equal than other pigs." This argument about somehow or other scams in the oil shale industry are terrible, but scams in the hard rock mineral industry are OK kind of fits that "some pigs are more equal than other pigs."

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1126.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to read, as follows:

On line 2, strike the words "before April 1, 1992" and insert the following: "before July 1, 1992".

Mr. BUMPERS. Mr. President, this amendment is very simple. It simply amends the Wirth amendment to extend the moratorium from 6 to 9 months. I would prefer a year's moratorium, but my objection to the 6-month moratorium is that we would have only until April 1 to redo this. Everybody knows what happens around here when we come back into session. Half of the time, you do not get a chance to even offer an amendment until we have been back for 30 to 60 days. I do not think we can deal with

an extension or a change in the law. According to a bill I have pending, which I hope will be out of committee by then, 9 months is a more suitable time.

The reason for this is crucial. Here is an Associated Press story that came out this morning and says:

Environmentalists and wildlife concerns say they are working to prevent the scheduled sale of about 54,000 acres of public land in Colorado and Utah at \$2.50 per acre processing fees.

The U.S. Interior Department on July 24 said 27 oil shale mining claims in Garfield and Rio Blanco Counties in Colorado and Uintah County in Utah were considered for patents.

\*\*\* Tom Lustig, of the Colorado Wildlife Federation, was outraged. "The likelihood of these claims ever being developed is very small," he said. "These guys are ripping off the public with no real intention to develop oil shale."

I will go on here, and it says: "Wirth earlier proposed a ban on the patenting of oil shale claims, after the patenting of 82,000 acres"—of oil shale lands—"in Colorado in 1986,"—5 years ago—"much of which later sold for \$2,000 an acre."

Mr. President, I ask unanimous consent that this AP story be printed in the RECORD at this point.

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

[From the Associated Press, Sept. 13, 1991]

PUBLIC LAND SALES RAISING QUESTIONS AGAIN

Environmentalists and wildlife concerns say they are working to prevent the scheduled sale of about 54,000 acres of public land in Colorado and Utah at \$2.50 per acre processing fees.

The U.S. Interior Department on July 24 said 27 oil shale mining claims in Garfield and Rio Blanco Counties in Colorado and Uintah County in Utah were considered for patents.

Under that process a public land mining claim is turned into private property in exchange for the processing fees.

Tom Lustig, of the Colorado Wildlife Federation, was outraged.

"The likelihood of these claims ever being developed is very small," he said. "These guys are ripping off the public with no real intention to develop oil shale."

"What has the environmentalists concerned is that the public loses control of these lands when they're patented," he added. Today, "you and I have a say in what goes on. But as soon as that patent issues, we're told to shut up."

The Interior Department said a June ruling by a federal court in Denver gave it no choice but to issue patents on qualifying oil shale claims.

The activists are looking to Sens. Tim Wirth, D-Colo., and Dale Bumpers, D-Ark., to lead the battle against the move.

Wirth earlier proposed a ban on the patenting of oil shale claims, after the patenting of 82,000 acres in Colorado in 1986, much of which later sold for \$2,000 an acre.

But it died in a committee. Bumpers has legislation pending now that would ban patents, and offers as an interim measure a plan to freeze all patents for one year. While Wirth has expressed doubt about applying the freeze to all patents, he does

want to halt the patenting of oil shale claims.

An aide to Wirth on Thursday said the senator hopes to find another solution to the issue before voting on Bumpers' plan.

Mr. WIRTH. Mr. President, I thank the distinguished Senator from Arkansas for his support of this amendment. I hope that we will accept his amendment. That is probably a fair compromise. I originally had a year in here. Senator BROWN suggested 6 months. The splitting of 6 months and a year gives you 9 months. That would seem to be a reasonable thing to do.

Also, Mr. President, we are hoping that regarding these very controversial oil shale claims, we can deal with them legislatively. This has been going on for 70 years.

I point out that there are about 10,000 acres of claims which everybody agrees should not be held up. Those have been through the process in court and so on. The BLM would be allowed to process these under the Wirth amendment. The others would be expected to be dealt with legislatively. I hope we can do that rapidly.

Again, we passed oil shale legislation unanimously last year out of the Energy Committee. There was one objection on the floor, and it did not pass. The House is looking at very similar kind of legislation, and in this 9-month period of time I believe we can resolve this 70-year-old controversy once and for all.

I thank the distinguished Senator from Arkansas, and I thank the distinguished Senator from Idaho for his words of encouragement and support. I hope we can accept the Wirth amendment, as amended, and go on to the more controversial underlying issue.

Mr. NICKLES. If the Senator will yield, I am trying to see if we cannot conclude the Senator's amendment. Is it the Senator's desire, if we can get an agreement, to pass it by a voice vote?

Mr. WIRTH. It would be fine with me.  
Mr. NICKLES. That is my hope, and maybe we can move on to Senator BUMPER's amendment. I understand there is no objection from Senator BYRD on adopting the Wirth amendment.

Mr. REID addressed the Chair.

Mr. WIRTH. I believe the Senator from Colorado still has the floor. We have pending the Bumpers amendment to the Wirth amendment. I ask unanimous consent that the Bumpers amendment be considered as accepted.

The PRESIDING OFFICER. Is there objection?

Mr. REID addressed the Chair.

Mr. NICKLES. If the Senator will withhold, there is some who would prefer it to be 6. I am trying to dispose of the amendment, whether it be 6 or 9 months. Maybe we can hear from the Senator from Nevada.

Mr. WIRTH. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. I certainly have no objection. I think 9 months is probably better than 6 months.

I did want to respond to my friend from Arkansas. We are talking here about oil shale which is some 54,000 acres. During the last 10 years, there has never been a year when there has been half that much land that has been patented by mineral patents for essential minerals.

And so that the record is clear, this oil shale amendment has been offered by the Senator from Colorado, and a subsequent amendment, perfecting type amendment, offered by the Senator from Arkansas, has nothing to do with the issues that we are going to debate this afternoon. We are all glad, those of us from the Western part of the United States, that this issue will not get mixed up in the real issue at hand, and that is: What should happen in regard to the issuance of mineral patents as it relates to gold, silver, and other such things.

Mr. NICKLES. Mr. President, I know of no objection to the Bumpers second-degree amendment to the Wirth amendment. I hope that we will adopt both the Bumpers and the Wirth amendment, as amended.

The PRESIDING OFFICER. Is there further debate?

Mr. BUMBERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMBERS. Mr. President, the Senator from Nevada is correct when he says that the 54,000 acres that BLM is getting ready to patent, if we do not take action here, is a lot, and more than normal in hard rock minerals; that is true. But I can tell you that there is quite a difference in a few acres of land, 500 or 600 acres next to a ski resort, than a mountain of stone, which essentially what oil shale land is.

In the past 12 years, BLM has patented 66,000 acres of hard rock minerals, and 84,000 acres of oil shale. So they have been running neck and neck. And to suggest that if somehow or other we pass this, we are stopping a bad practice, but if you vote against the Bumpers amendment that would be bad, is so inconsistent, and I hope I would not even have to draw the distinction.

When it comes to the amount of land, you are talking about oil shale land which has no other suitable purpose, unless you can convince them that the oil shale goes on down into the soil and you get some nice topsoil, which they did in 1986.

As I say, it was sold for \$2,000 an acre. That is not all that much, compared to what they sell the hard rock mineral lands for.

Mr. REID. Mr. President, I know people are anxious to get things done, but I do not want to leave certain things unsaid. Yes, that is true, some 66,000

acres, I think, was the figure the Senator mentioned, have been issued in the way of patents in the past 10 years. Remember, the State of Nevada alone, not the largest Western State, has 74 million acres. The fact is that 0.3 percent of these public lands, out of approximately 701 million acres of public lands, have been transferred to private ownership since 1981 for agriculture, railroads, State grants, timber, desert, stone, desert lands, 0.3 percent out of 701 million have been for mining purposes.

To say there is no distinction between oil shale patents, which were outlawed by Congress in 1920, and patents for gold, for example, to say there is no difference is outrageous. There is a significant difference. What this moratorium does is allow there to be some stability in the issuance of these patents that are basically not issued by the Federal Government; they are issued by the courts.

These are cases pending in the courts for some 70 years.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I know of no objection to the Wirth amendment, as will soon be amended by the Bumpers amendment. I hope we proceed and agree to that amendment and then we can debate the other amendments.

The PRESIDING OFFICER. Is there further debate?

The Senator from Idaho.

Mr. CRAIG. Mr. President, a point of clarification. There seems to be some confusion on the first-degree and second-degree amendment. The Wirth amendment is being amended by our colleague from Arkansas in the second degree and that is to extend from 6 months to 9 months, is that correct, the moratorium that is being proposed by our colleague from Colorado?

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. CRAIG. Let me also add the concern that I think needs to be on the record as it relates to what the moratorium might do. Although I support what my colleague from Colorado is attempting to do, we had had a congressional or legislative moratorium that is off, but the administration up until a continued point of time continued to practice that.

In a judicial decision by Judge Finesilver that is being in part addressed by the amendment by our colleague from Colorado, there was a concern expressed about the concept of taking, whether in fact you have a patent, and that is a property right under our law, or you are in the process of gaining a patent through a legal claim, and you are, in essence, in the first half of the certification that is part of the process of patenting. You in fact have legal rights. In those legal rights if you even for a tentative period of time

block that, as these amendments would do, there is a legitimate question as to whether that is not a quasi-taking.

Mr. WIRTH. Will the Senator yield?

Mr. CRAIG. I will be happy to yield.

Mr. WIRTH. I excluded those. I refer the Senator to the last sentence of the amendment which reads "unless the holder of a valid oil shale mining claim has received first half final certificate for patent by date of action on this act," precisely the distinction applied by Judge Finesilver in his ruling. Those are excluded. They can go patent those lands.

Mr. CRAIG. I thank our colleague for clarifying that. It is important not only to this amendment but to the legislation that will be proposed by the colleague from Arkansas as relates to a blanket for moratorium including, I assume, that stage of the process as it relates to patent and that we, and I think it is important the record show, suggest that we may well be putting the Federal Government into a situation where they could provoke a snowstorm of lawsuits by people under the legitimate claim of the law that they have, in essence, a right and that right is being denied.

I am pleased that our colleague from Colorado has recognized that. It is important to show that this body does recognize the law and the right of citizens as it relates to their rights under it and that we would not attempt to block those rights or, in essence, to take. In the first Lutheran decision that has been clarified and the U.S. Supreme Court in fact said that if you are to block and/or prohibit the private citizen in the pursuit you have taken, and that is not the position that I believe this Senate would want to put the Government of this country in.

I am pleased that our colleague from Colorado has recognized that in the amendments as it relates to oil shale in his statement.

I yield back my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, for the benefit of the Senator from Idaho, who has made a perfectly valid point, I would like to say my amendment excludes those patent applications which have reached the cutoff point which the courts have said is point at which a miner has an equitable right to a patent. Those are excluded from my amendment.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question occurs then on the amendment in the second degree by the Senator from Arkansas.

The amendment (No. 1126) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the underlying amendment of the Senator from Colorado?

Hearing none, the question occurs now on the amendment by the Senator from Colorado as amended by the second-degree amendment by the Senator from Arkansas.

The amendment (No. 1125), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I said "all pigs are created equal but some pigs are created more equal than others." The actual quote is, "Some animals are created equal but some animals are created more equal than others," and that was a little expression propounded by the pigs. Let the record so reflect.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1128 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 21

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1128.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 21, in lieu of the material proposed to be stricken, insert the following: "Provided further, That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein and lode claims and section 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill

site claims, as the case may be, were fully complied with by that date."

Mr. BUMPERS. Mr. President, we are back at the same old stand where we were last year just before we left here. Much of what needs to be said, not all, and not a majority, but much what needs to be said has already been said in the debate on the Wirth amendment.

But for the memory refresher course for all of my colleagues who are generally familiar with the issue but who will have forgotten many of the salient points that I want them to remember, I will begin by discussing the 1872 mining law signed by Ulysses S. Grant about 120 years ago and which is still operative in this country, though one of the primary reasons for the law to begin with was to encourage people to move West.

I do not think Governor Wilson, our former colleague, would like to believe that is a rationale for the continued existence of this law, and that is to encourage people to move to California. It was designed for two or three reasons. One was to encourage people to move West and another to bring some order out of chaos in mining claims out West.

So here is the way it worked in 1872 and here is the way it works in 1991: You can go out to any State, particularly in the West, and put four stakes in the ground after you survey 20 acres of ground and you can take that 20-acre claim down to the courthouse and file it and that 20 acres is yours for use as long as you put in 100 dollars' worth of work a year on that claim.

Now, that is a separate issue. But obviously there are a 1.2 million claims in existence today. You think about it. There are 1.2 million claims with 4 rocks or 4 posts or some other identification on 20 acres of ground. And as long as you can convince BLM that you have done 100 dollars' worth of work on that 20 acres in an effort to determine whether or not it has commercially producible hard rock minerals, it is yours for another year.

Now, most people, obviously, do not do anything. They just send a little certificate in. BLM has testified before our committee time and time again they do not have time to go through them. To suggest that BLM goes out and checks 1.2 million claims to see whether or not work actually has been done or not is an absurdity. So people just fill out little affidavits. That is one of the reasons even the Bush administration wants to put an annual fee of \$100 for holding these claims. Out of the 1.2 million claims, making these people paying \$100 instead of just saying they did 100 dollars' worth of work when everybody knows they did not, making them pay that \$100 would probably reduce the number of claims immediately to 800,000.

Let us assume further, to make it interesting, let us assume you have 25

claims equalizing 500 acres of land. Keep everything easy so everybody can figure it. So you have a claim on 100 acres of land that is contiguous and you have recorded your claim down at the courthouse and you get serious about it. You decide that claim has gold under it. And so you begin to do some tests to determine whether or not that gold is there in sufficient quantities to warrant the kind of investment you would have to make to mine it.

Assume further that you decide that the mineral is there in a sufficient quantity, and then you go to BLM and say, "Look, I have decided that this land has gold under it and I want to mine it, but before I mine it, I want a deed. I want you to give me a deed to it."

If his proof is satisfactory, and it quite often is, to BLM, that he does indeed have gold under that 500 acres, Mr. President, they will give him a patent, which is the same as a warranty deed that you hold on your home and that I hold on my home; they will give him a warranty deed for the princely sum of \$2.50 an acre or \$5 an acre in case it is what they call a load claim. But \$5 an acre is the most Uncle Sam will make you pay.

So here is 500 acres of land. And assume under the worst-case scenario that they made him pay \$5 an acre. He now has \$2,500 invested. Now, bear in mind that if he convinces BLM that it has gold under it but that he is not particularly interested in getting a deed to it, or they for some reason or other do not want to give him a deed to it, they can still give authority to mine that land whether he has a deed to it or not. And they do it all the time.

Those of you who were listening to the debate on the Wirth amendment heard me point out that there are 2,000 operating mines in this country on lands for which a deed or patent has never been issued.

The scenario continues. They give him a deed for \$2,500 and he brings in his equipment and he starts to mine it and he finds the mother lode. And he is using this new heap leach mining system where they put I believe it is cyanide, it drips down through a huge pile of soil, it leaches the gold out into a trench on the side of this big dump and they can mine gold for less than \$100 an ounce. And even with the depressed price of gold right now—because everybody is afraid the Soviet Union is going to start dumping their gold on the market—about \$340 an ounce, even at the today's prices, Mr. President, you will agree that when you can mine gold for \$100 an ounce and sell it for \$340 an ounce, that "ain't" a bad profit.

Last year, according to most estimates, between 4 and 6 billion dollars' worth of minerals were taken off Federal lands. Do you want to know the sequel to that? Uncle Sam did not get

one penny in royalties. Not one thin dime.

Go back a moment. Let us assume that this same person who has 500 acres and a deed to it because he has convinced BLM that it has commercially producible hard rock minerals, namely gold, let us assume he decides he would rather sell it to a ski resort. Let us assume he decides he would rather sell it to a developer who wants to put condominiums on it for people to come and watch the sunset or to ski or whatever else. Or let us assume that he just wants to build a palatial mansion of his own on it. There is not one single prohibition in the law today that will keep him from doing just that.

Indeed, an awful lot of people have claims on 20 acres, make no pretense of mining it, have no intention of ever mining it. Some of them have held those claims for 100 years, handed them down from father to children, and they build homes on them. And all they have to do is send a little certificate every year saying, "Yes I stuck a spade in the ground and spent \$100 on this claim" and they have a 20-acre home site free, courtesy of Uncle Sam.

Mr. President, the third scenario. The company that has this 500-acre claim, not only are they going to mine hundreds of millions of dollars' worth of gold and not pay the U.S. Government a penny, chances are they will also leave when they have mined it and leave an environmental disaster for you and me to pick up the tab for cleaning up.

Incidentally, Mr. President, I just want to inject this before I forget it. I think I lost this amendment by two votes last year. I am a poor loser. In all the years I practiced law—this is not to be self-serving—I think I lost two jury trials, and it just drove me crazy. And losing here causes me to toss and tumble in my bed at night, and I think about what did I do wrong; why is it I cannot seem to make this point?

There are two things I have concluded. There is an old expression, "Everybody's business is nobody's business." You will hear virtually every Senator from the 8 to 10 Western States come over here to speak against this amendment. And the Senators from the other 40 States, I do not know whether it is just indifference; they do not care?

But I will tell you what I think it is. I think it is so bizarre and such a colossal scam, nobody believes it. But you have to stop and ask yourself, why would they not believe it when I have a GAO report here that validates every single thing I am saying?

When you file a claim in a forest, sometimes the Forest Service will require a bond to make sure you clean it up. BLM is beginning to write some regulations that are sort of haphazard. But do not buy that argument about State laws, because there are some

States that have no environmental requirements on Federal lands. So if you go get permission from BLM to mine land in Arizona and New Mexico, where Federal lands are not covered by their environmental laws, you can wreak havoc and leave it, abandon it for the taxpayers of the United States to clean up.

I promise you, we have billions of dollars' worth of those sites right now that have been abandoned. You see them all over the West. The rape, ruin, and run boys left it for us to pick up the tab to clean up.

Mr. President, on top of that: the fourth scenario. Let us assume that mining company N decides that the 500 acres that they just got a deed to really does not warrant the kind of investment they would have to make to mine it. But there is 500 acres adjoining it belonging to the XYZ ranch that they think contains the mother lode. What do they do? They go to the owners of XYZ ranch and they say: We would like to lease this land. We think it has gold under it.

The owner says, "Well, that is fine. I did not know I had gold."

So they cut a deal. He says, "I will let you mine it and I will give you a 20-year lease with an option to extend for 20 more if you want it. Here are the terms. No. 1, you will put up a bond of several million dollars to promise me that this is going to be cleaned up when you leave."

Or he says, "I am going to get so much out of this, I could not care less whether there is a bond or not. You are going to destroy my 500 acres, but am I going to get filthy rich out of it?"

So he cuts a deal and says, "Look, if you want to mine gold off my land, you are going to have to pay me 6 percent of the value of this gold for the first 2 years; 12 percent for the next 2 years; 18 percent for the next 2 years; and 24 percent for every year thereafter."

The guy claps his hands and says, "What a deal."

Is it not curious in that scenario—and that is an actual scenario—that these mining companies, and even some of the smaller miners, are willing to pay a private owner up to 24 percent in royalties for his gold, but come to the Senate floor and argue we will go bankrupt if we have to pay the U.S. Government a red cent.

It is just that simple. Mr. President, if we do not pass this moratorium for the next year and say to BLM, "You may not issue any patents in the next 12 months"—No. 1, I have a comprehensive mining reform bill. Congressman RAHALL has one in the House. We hope those bills will be out of committee before we leave here this fall, and may be on the Senate floor where we can address this in a comprehensive way.

What I am trying to stop are some of the scams that I will read to my colleagues here in a moment over the next

12 months, until we can deal with this in a comprehensive way. You have to bear in mind, my amendment does not stop one single mine from going into operation; not one.

I started this debate by saying that my amendment simply says you cannot get a patent on this deed and us face the chance you are going to take it and sell it for thousands of dollars an acre after we gave it to you for \$2.50, in good faith, for you to go mine on it.

But here is what is going to happen in the next 12 months if my amendment is defeated. There are about 350 patents pending right now. That was as of March 31. I do not know how many there are now. But as of March 31 of this year, BLM had 350 mineral patent applications pending.

Do my colleagues know how many acres are involved? 115,000 acres. Everybody said let us not even have a roll-call vote on oil shale, because there are 54,000 acres of oil shale that may be patented in the next 9 months. There are 115,000 acres pending for deeds from the U.S. Government for \$2.50 an acre this very minute, and probably more. As I say, that was as of March 31.

And even under my amendment, let me say for the Senator from Idaho, who raised this point a moment ago, 150 pending applications will be exempt from my amendment because the courts would hold that these have gone so far that the applicant has an equitable interest.

The GAO report said over the last 117 years, the Government has sold 3.2 million acres, an area about the size of Connecticut, for \$2.50 an acre or \$5 an acre. They have issued patents in the past 12 years totaling 66,000 acres.

Mr. President, we ain't talking about beanbags.

One night I was on the MacNeill-Lehrer show with a couple of very worthy opponents, on the space station: Senator GLENN and Senator GARN. As my colleagues know, the space station cost has gone from \$8 billion to \$40 billion and incidentally, I am serving notice now I will be on the same stand next year until we have killed that sucker.

Mr. ROBB assumed the chair.

Mr. BUMPERS. Mr. President, I made the point on that show that night that here we were about to appropriate \$2.1 billion next year just for the space station, which is certainly going to be killed at some point, so that \$2 billion is just wasted, and all day that very day I had been sitting in the Appropriations Committee trying to find \$20 million for the immunization program. It is always a question of priorities, is it not? And here the mining companies of America take between \$4 and \$6 billion out of the ground on Federal lands that belong to all the taxpayers of this Nation and do not pay one thin dime in royalties to the U.S. Government.

Mr. President, you heard my colleague, Senator REID, a moment ago,

when I asked him: Do you approve of these things? And I am not sure, but I think he said that he did not. He said he did not approve of all of them, anyway. So I will ask my other 98 colleagues: Do you approve of this?

Phoenix, AZ, 15-acre sand and gravel mining operation patented in September 1985 for \$38. BLM says the fair market value, not counting the minerals, is \$272,000.

Phoenix, AZ, a 19-acre granite operation patented in 1987 for \$47. There is hardly a person in this room who does not have \$47 in his pocket. Sold, \$3.8 million.

One Senator, incidentally—I have to say this; this is an amusing story. When I first started this fight 3 or 4 years ago, I came to the floor and said, "I need a Republican cosponsor of this amendment," and I told him what was going on. I asked "How about it?" He said, "No. I am going out West and start filing claims."

What I would not give to have been able to get that little old 19-acre tract out in Phoenix for \$47 and get \$3.8 million.

Phoenix, AZ, again, 40-acre sand and gravel operation: We are moving up the ladder; this one cost \$100. Fair market value, \$400,000.

Las Vegas, a city in the State of my good friend who has been an adversary on this issue, Las Vegas, 449 acres—we are skipping through the dew now—449 acres sand and gravel operation patented in 1981 for \$1,124. Somebody may have had to go to the bank to get that much money. Sold, \$2 million.

Las Vegas, 310-acre site, not being mined in 1988, close to a ski resort and hotel, got a patent in 1983 for \$775. Fair market value, \$1.2 million.

California, 9-acre active gold mine near a tourist town, the town of Jackson, CA, patented in 1983 for \$45. Estimated value—not too much—\$900,000.

California, 12 acres near West Point, patented in 1982 for \$62. It was for sale when the GAO auditors went to look at it. Estimated fair market value, \$125,000.

California, 34 acres near Sonora, cost \$170 to patent it in 1985, not being mined; estimated fair market value, \$510,000.

Colorado—here is a goodie—near Keystone, 160 acres patented in 1983 for \$400. Where can you buy 160 acres for \$400? In Colorado. No mining on it as of 1988 because there is a zoning ordinance in the community that prohibited mining. And 44 acres, I believe, have been sold; 44 acres are up for sale, not yet sold, \$11,000 an acre.

Of course, we have heard the one about the oil shale in Colorado in 1986, 1,700 acres of oil shale land, cost \$42,500. That is a lot, \$42,500 for 1,700 acres; sold, \$37 million. Not up for sale, sold.

Mr. President, Oregon sold land in an area called the Oregon Dunes National

Recreation Area. Think about it: 780 acres right in the middle of a national recreation area in Oregon. The reason they did it, they said this is just not ordinary sand. The applicant said this is a special sand, uncommon variety sand, not just your ordinary old river sand, an uncommon variety sand. You have to do that. You cannot just get a patent on sand. So this was an uncommon variety. And BLM was more than happy to sell them 780 acres right in the middle of a national recreation area. Can you believe that? They paid \$5 an acre for it, \$3,900 this family paid for that 780 acres.

There has been a firestorm out there and so now the Forest Service is trying to buy the 780 acres back. What do you think the asking price is by the family that bought it? The family that bought it, I believe, in 1987, for \$3,900, or \$5 an acre, they say they will sell it back to the Government now for \$12 million. And we will probably pay it.

That is a catalog, but that is not all of them, either. There is a rocky hill site outside Phoenix, the Pointe at Tapatio at Cliffs resorts. They cater to movie stars, tennis pros. They offer \$180 a night suites with marble trim and French doors opening onto tropical courtyards, mountain vistas, and city lights. The Federal Government sold the land in 1970 to Phoenix miner Frank Melluzo for \$2.50 an acre. Melluzo sold it in 1980 to a resort for \$400,000 and 11 percent interest in the resort.

Stefan Albouy, a miner in Aspen, CO, staked a claim to 10 acres in Forest Service land next to a downhill ski run.

He can patent that land for \$2.50 an acre, and that is not bad, where a quarter acre residential lot sells for \$776,000.

Another one. Keystone, CO, again. Ski resort. In 1983, the Forest Service sold miner Mark Hinton 160 acres of land for \$2.50 an acre for \$400 total. He turned around and sold it for \$1 million.

It is impossible, but as I say I think one of the reasons we cannot muster that extra 2 or 3 votes around here is nobody believes this. If you do not believe this Senator, call GAO. Most of what I have given you is in the GAO report.

Now, Mr. President, the real problem here is not mining. That is a diversion. That is a distraction. I have heard those arguments about how South Africa and the Soviet Union and Brazil, they are going to have the whole gold market. If my amendment passes today, there will not be one single miner in America lose his job. There will not be one ounce of gold that will not be mined. What there will be is a stopping, a cessation of people getting deeds to land from the U.S. Government on the pretext of being a miner and turning around and selling it for millions of dollars. It is just that simple.

The bill which I hope you are going to vote on late this year or next year covers royalties, reclamation, bonds, holding fees, the whole 9 yards. All this amendment does is say BLM, do not give out any more deeds until we have a chance to address this problem.

The director of the Bureau of Land Management, Cy Jamison, a perfectly nice guy—sometimes I get terribly agitated with him like when he spends \$4,500 on a dossier telling the people of the BLM we have to start an advertising crusade essentially to stop the Bumpers bill. Now, what on Earth is going on? But I asked him, I said Mr. Jamison, once these people come to you for an application for a deed to this land and you give them the deed, do you ever monitor what happens to it after that? He said no, we do not care what they do with it after that.

Let me repeat that. Mr. Jamison, does BLM care what happens to this land after somebody comes to them with a mining application and says I want to mine this land and I would like to have a deed for it for \$2.50 an acre? Do you know or do you care what happens to that land after you give him a deed to it? Answer. No.

It is so absolutely unreasonable and outrageous. I am like a lot of my colleagues, I have a hard time believing it, too.

You will hear arguments here about how we export gold, how many miners are involved in this, how much money they spend developing these claims. That is fine. I am not refuting that. Let them go ahead and mine. But do not let them take it and sell it for \$1 million the next day to a ski operation.

What a scam. I know my colleague from Nevada takes exception every time I call it that, but I just do not know what else to call it. A rose by any other name smells the same.

You will hear people say, well, GAO is blaming the messenger instead of the message. Nobody has refuted the central point of the GAO report, and that is the fair market value of the land is nothing. The law of 1872, 117, 118 years old, said you can have it for \$2.50 an acre.

Now, some of the other things that we've talked about, the fact they do not pay Uncle Sugar a red cent, that is not in my amendment; the fact they do not actually perform a dollar's claim work every year, that is not in my amendment; the fact that they do not put up a reclamation bond to assure the American people that they are not going to have to pick up the tab for an environmental disaster, that is not in my amendment. All my amendment says is you cannot give anybody a deed for \$2.50 and risk the chance of them going out and selling it for a bonanza.

The argument is made these people cannot borrow money if they do not have a deed. Well, how are these 2,000 mining operations going? They do not

have a deed. They are operating on unpatented lands. How about oil and gas companies that drill on my and Betty's land, we did not give them a deed to it. We gave them a right to go out there and drill a well. And if they find something, I am going to get three-sixteenths of it. Where do they borrow money? They do not own this land; I own it. How do they borrow money? Why, they borrow money just like these miners do. Another diversion, distraction.

This is a digression, Mr. President, but do you know one of the reasons we cannot get our house in order? This country is constantly being diverted or distracted by trivial issues or trivializing important issues.

I read a story: In 1954 a famous World War II general said, "My wife and I have a lot of problems in our life." He said, "She has almost driven me insane at times." The thing that drove him the craziest was that she squeezed the toothpaste tube in the middle. He wanted her to squeeze it at the end.

I confess I have a little of that in me. I get so exasperated over little things like that.

But he said, "You know, we have had big fights over the fact she squeezed the toothpaste tube in the middle." He said one day he went to the doctor, and he said, "You have cancer of the lung. You will be lucky to be alive 6 months from now." He said "Suddenly, I didn't give a damn where she squeezed the toothpaste tube."

That is the way it is around here. We allow ourselves to be diverted by inane, elemental, simplistic, and fallacious arguments. Nobody can define this, nobody. You can make those arguments. Somebody may raise a point of order of this being legislation on appropriations. Let me read you something. Incidentally, this is in the House bill. The language is precisely the House language. Section 306 of this bill:

None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest.

Is that legislation? I promise you some Senator can answer that for you. I do know who put it in, but that is important to some Senator here. And if that is not legislation, I will eat this sheet of paper.

Section 310:

None of the funds provided by this Act \*\*\* may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

That is just fine. I do not want them hunting on the Loxahatchee Wildlife Refuge either. So I am willing to eat that little legislation on this bill.

Section 311: No funds herein may be used for the harvesting of the giant sequoia trees. I am for that. Is that legislation? While the Parliamentarian could not keep a straight face on any of these, the bill is full of them.

One time I was in a conference committee, and the chairman of the House committee on the other side said that is legislation on appropriation. We could not allow that in the House. This was a long conference; lasted several weeks. I had my staff work on it. How many amendments do you think were in that bill, in the House bill, that had legislation on appropriations? Forty pages—not 40 amendments—40 pages. Why everybody in here knows if you are against something and the question of legislation on appropriations or germaneness comes up, to give you a little something to hang your hat on, it goes on and on. We have done this before.

This is not virgin, not new. We had moratoriums in 1986 and 1987.

Incidentally, it was back then when I first realized what was going on in this mining operation. That is when I begin to think about introducing legislation.

Mr. President, when I mentioned a moment ago how we postpone, trivialize, divert ourselves—the space station is going to get killed, in my opinion the B-2 bomber is going to get killed. But only after we have spent billions and billions of dollars because nobody wanted to face reality and go home and face that old argument about he is weak on defense.

When I think about all the defense arguments that have been made on this floor every year since I have been here, I do not believe I have ever seen more than 3 to 4 percent of the defense budget contested. We all agree that 95 to 98 percent of the defense budget is just hunky-dory. But sometimes when there is a multibillion-dollar weapons system in there that we do not think fits our force structure, that we do not need, the costs of which we cannot afford, those are what the debates are about.

It took me 8 years, 8 long years—I have only been on this 3 or 4 years—took 8 years to get BLM to start leasing oil and gas lands by other means than the lottery. For crying out loud, all these years we have been violating the criminal laws of this country by letting people pay \$10 to put their name in a hopper and play bingo with it. If their name was pulled, they got an oil and gas lease sometimes worth millions for \$1 an acre. It took 8 years to go to a competitive system. You know what is really curious about it? Everybody who argued against that, including BLM, now thinks that competitive bidding on oil and gas lands is the hottest thing since night baseball.

Mr. President, you are not talking about bean bag here. You are talking about megabucks. If you do not think the mining industry will spend millions, which they have already done, to defeat not just this but especially my mining reform bill, they will spend millions. They write letters to the editors all over the State of Arkansas to tell them what a bad actor I am. And

the people of Arkansas do not have a clue as to what this is about.

One of the reasons we will never get scammed is because I offered a quick amendment in here to exclude Arkansas from this kind of tommyrot. I remember when Shirley MacLaine was saying quartz crystal would cure cancer and all those things, you rub it just right. You know where the biggest quartz deposit in the United States is? Ouachita National Forest in Arkansas.

We had people all over the United States in the Ouachita tearing the place apart, garden tools, scraping up those quartz crystals and they were very valuable. And the Forest Service called me and said what are we going to do? I said I tell you what we will do. We will get the Ouachita Forest excluded from the 1872 mining law so you can charge them and regulate it. We did it.

That was also about the time I began to realize what was happening in this whole thing.

Mr. President, I will not take any more time. Frankly, I think I have said about all I want to say. I will wait until others speak and respond, and then we will vote, whatever you want to do.

Incidentally, this has nothing to do with my amendment, but I want you to bear in mind, when the bill hopefully comes up later this year or early next year, what I consider one of the most specious arguments of all which is the royalty provision. I have never understood, and certainly the Senator from Nevada did not give me any satisfaction this morning, why the mining companies are perfectly willing in the Senator's home State of Nevada to pay an 18-percent royalty for every ounce of gold they take out, and they mine lands on Federal lands in the same State and do not pay a red cent.

I am not just picking on that particular company. They will argue that they will go broke. They will go broke if they have to pay a royalty on Federal lands, but they are happy to pay it on private lands. How much longer is Congress going to permit that?

You know, one time Sam Donaldson, I forget that show they do, "20-20," "Nightline," whatever it is, they did a big story on this. Just about every big exposé television show in the country has done a piece on this very thing, showing graphic scenes of the environmental disaster, and so on. One Senator called and said, "For God sakes, put me on as a cosponsor. My phone has been ringing off the wall this morning." He voted against the amendment last fall. There must be something in the water.

I yield the floor.

Mr. REID addressed the Chair.

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

Mr. REID. Mr. President, my friend from Arkansas, and he is my friend, I

have great respect for him, has made an effort, and it has been a successful one, to confuse the issue. He has done a very good job of that. He has used on a number of occasions—in fact I have kept track—seven or eight times the word "scam." I would submit to my friend from Arkansas his liberal use of the word "scam" could also be directed toward his argument, which in effect is a scam.

We have here, Mr. President, a situation, and let us make it clear. The big problem that we have with my friend from Arkansas is he cannot get, in his own committee, a bill out. You know, in Congress, in the House and the Senate, we have a procedure. That procedure is a very simple one. You take a bill, it is introduced, and it is referred to a committee. This mining reform bill that he has talked about, that he has wanted to get passed for 10 years, whatever the figure is, is a bill that was referred to the Energy and Natural Resources Committee.

On that committee there are people from all over the United States represented. Senator BUMPERS is the second in seniority. Only the chairman of the committee has more seniority than he has. It would seem to me that is the place he should be talking about these things that he is concerned about.

He said, "What did I do wrong?" He is on the wrong side of the issue which is one problem that he has. The reason he has some sleepless nights is he is on the wrong side of this issue.

Mr. President, if someone says something long enough, even though it is wrong, people tend to start listening, and it may be right, or at least people think so. In this instance, my friend from Arkansas has said time after time after time, how all these things are wrong.

What he does, very cleverly, is confuse the issues, like he is confusing the fact that this legislation should be considered on an appropriation bill. It should not be. It should not be considered on an appropriation bill. It should be handled in the Energy and National Resources Committee and come here; that is the authorizing committee. He has not done it. I do not know why my friend has not worked that committee and had a bill come in here in its natural course.

What he has done—he has had a whole year, and this is the most powerful, the most senior man in that whole committee network. It would seem to me he should be able to get a bill out of the committee, if it has any merit. Maybe this is lacking in merit, and that is why we do not get it through the normal process.

We should not be debating this legislation on an appropriation bill. It came up last year. On that basis, it was turned down.

Also, my friend from Arkansas has confused this issue. Let us understand,

in the West there are a couple of ways to go into a mining operation. The first is, you can go out into the land and see a place that looks like you might want to mine. You can go and locate a claim. As the Senator said, you can put the markers and file a location notice, and then you do work every year. That is called an unpatented mining claim.

The Senator from Arkansas keeps getting the two confused and keeps talking about unpatented in one breath and patented in the next. On an unpatented mining claim, anyone can go locate that claim—anyone. If he does do that, there is no ability, by law, to build a house on that land, or put a mobile home. The only thing he can do is put personal property on that real estate to further his mining operations—maybe a hoist house, maybe a toolshed. But that is the only way he can use the surface of an unpatented mining claim.

So I want Members of the Senate to understand that these are two different things Senator BUMPERS is talking about. He is interchanging them. We are talking about the second issue here today—a patented mining claim. Under the 1872 mining law, a person could go find a piece of land, and he then would go to the governmental authorities and say: I can show you that there is mineral value in that land. The Government would then come out, and there has to be a mineral survey; there has to be a showing that there are minerals in that land, and after that is done, a patent is issued.

As I stated earlier today on another matter before the Senate, the average cost of obtaining a mineral patent in the United States today is \$220,000—let us say a quarter of a million dollars is the average.

An unpatented claim that my friend from Arkansas keeps talking about may, as has been indicated here, not cost very much. We are not talking about unpatented claims.

We all agree that the committee of which my friend from Arkansas is a member—and he is the chairman of one of the subcommittees—should do something and review this law, have hearings, witnesses, and produce something out here that we can debate, and not bring it up on this, which is not a relevant piece of legislation.

The Senator says that the patented and unpatented are the same, at least for the purpose of debate, and we know they are not. The authorizing committee of which he is a member, the one of which his is the ranking member, should look at this law, this 1872 mining law, and see if there should be a reversionary interest, fair market value. He said he wants to bring to this floor a comprehensive reform bill.

I would love to work with him in that regard. To show how the argument of my friend from Arkansas could be—the word he likes to use so freely and lib-

erally—a scam—is the fact that he goes back to the time of Ulysses S. Grant, a President of the United States, and says that the legislation has not been changed since then. Absolutely wrong. That legislation has been changed 37 times.

Also, I think it is of note, before we get off of the subject, that he said: If the Senator from Nevada supports the oil shale amendment, how possibly could he not support this amendment?

Let us look at this oil shale program. Let us make sure that we understand what we did earlier today. All of the claims that we offered in our amendment, which was adopted, applied to claims that were located between 1913 and 1920, when oil shale, by law, was a locatable mineral under the mining law.

Following the enactment of this act, the Department of the Interior began an aggressive campaign of contesting thousands of oil shale claims that had been filed. In 1930, though—in the 1930's—the U.S. Supreme Court—not once, but twice—ruled that while the Department could determine that a claim is valid for lack of discovery, it had no authority to invalidate an oil shale claim, based upon the failure to not do the assessment work. As a result, between 1935 and 1960, claims covering 350,000 acres were patented to private parties.

In the sixties, Interior reserved its efforts to invalidate these claims. In 1970, again the Supreme Court limited the basis upon which claims could be invalidated to situations where there was a failure to substantially comply with assessment work.

Remember, assessment work has nothing to do with what we are talking about here today on the amendment offered by the Senator from Arkansas. Assessment work is only as it relates to gold and silver claims, unpatented mining claims. We are not talking about that here today. It is where you have to do \$100 a year in work, or whatever amount the statute says. The Supreme Court said in 1970 that you could not hold up an issuance of a claim because there had not been substantial complaints.

In 1980, they found oil shale valuable for purposes of grant and title, and rules that Interior could not invalidate claims, and that they had no present commercial value. Judge Finesilver, in 1985, directed the Government to transfer all title to the 82,000 acres of claims to the claimants, including the entire subsurface mineral estate.

This is a real abuse, not done by Congress, but done by the courts. That is what the amendment offered by my friend from Colorado is directed toward; that is, to put a moratorium on that until we can pass a law to undo some of this harm.

So anyone that thinks the oil shale amendment is like the amendment

here today, it is not. Let us not confuse the issues like my friend from Arkansas has tried to do during this entire debate.

I was born and raised, Mr. President, in a rural community in the West. I have learned to very much appreciate other parts of this country, as I hope other people appreciate the western part of the United States. It is different—different topography, different way of life than in Richmond, VA, as an example, or in Little Rock, AR, or in Bar Harbor, ME; it is different.

I appreciate, respect, and admire the many different parts of this country. I appreciate so much the great food belt we have in this country. There are only three places in the world that have fine soil, the best soil in the world for growing things. In the West, Iowa, Nebraska, those areas. We hear so much about the Baltic States—the Ukraine is another. And the other area is in Argentina. The point is that I do have respect for the manufacturing meccas of this country, the maritime interest of this country. I do not understand them very well, but I try to learn from my friends that have significant interest in the maritime industry. Farming.

So I am here today with others that understand the West perhaps more than people living in Massachusetts and Florida. And all I ask them to do is to try to understand and appreciate the western part of this country.

I guess putting it in real earthy vernacular, I am here to defend, in this instance, the western way of life, because you see, Mr. President, the western way of life is really under attack.

Do not be misled by many of the arguments made here today because, you see, a 1-year moratorium on mining patents would not satisfy people who do not want mining. They do not want mining of any kind. Why? Because if you dig a hole in the Earth there is a hole. It scars it. Some people do not want a hole punched in the Earth for any reason. So a 1-year moratorium to some is only a method to stop mining totally.

The fact is there are people who do not appreciate, do not understand, and in many cases never have been to a Western State in their entire life.

As I indicated here a couple times today, I was born in the western part of the United States in a rural community. My father was a hard rock miner. He worked years and years of his life basically in the dark, underground. And I grew up watching him work in the mines. And the mining has changed in the years since then.

There are not many mines anymore like those my dad worked in. The mines now are bigger operations. The hole is a big open pit, hundreds and hundreds of feet deep in some instances. But it is a hole in the ground in an effort to get the minerals out of the ground.

Mining means a lot, not only to someone from Idaho, from Montana, from Nevada, from California, Arizona; mining means a great deal to every one of us. Why does it? It means a lot because most people pass their days with no thought of what the role of mining plays in their lives. They know where to buy things they want, but seldom consider the origins. Food comes from a grocery store, electricity comes from a wall socket, tools from a hardware store, cars from a dealer, appliances from a department store, and so on.

If we think of how things are created, many of us probably think well of farms, factories, and power stations. In fact, every one of the things that I have mentioned—and I am reading from a publication entitled "What Mining Means to America"—in fact, they all begin with mining.

Without minerals we could not till our soil, build machines, supply energy, transport goods, or maintain any society beyond the most primitive. Our horn of plenty starts with a hole in the ground, with mining. But extracting minerals from the earth is only part of this miner's job, whether it is a miner like my dad underground or the modern miner above the ground with a truck and something to scoop up the earth.

Protection of the environment, the air, we would like to think—and we will show during the course of this debate—is part of every mining operation today whether the miner wants to do it or not. When my dad mined, the environment really was not a big concern. They did not have the controls then that they have now. But every mining operation today, any place in this country—contrary to what the Senator from Arkansas says—is bound by strict environmental standards in every State.

Not only are there Federal rules and regulations but every State has reclamation laws—every State. And not only that, Mr. President, but all the Federal agencies require bonding.

The Senator from Arkansas is absolutely correct. The Bureau of Land Management, I think, was very dilatory and late in coming up with bonding requirements. Now they have them. I know they have them because I get complaints from my folks in Nevada all the time. Why the BLM is requiring these huge bonds? Because they have the authority under law to do so and they have done it.

Most Americans probably have never seen a mine except perhaps a rock quarry or gravel pit. Yet mining touches everyone's life. How different modern society would be without the automobile, television, or telephone, or the fuel, electricity to make them work, more than half of which is generated from coal mined in the United States.

Few people realize that an automobile contains about 15 different min-

eral materials. Each automobile we drive, 15 different mineral materials; a color TV set, 35 different mineral materials; a telephone, about 40.

Coal, oil, and uranium fuel our cars, light our homes, provide heat and air conditioning for our comfort. All require minerals, whether you are digging coal, manufacturing turbines, stringing transmission wires, or capturing solar light or cutting firewood with a saw; all require mines.

Construction, all railroads, mines. Whether foundation, shingles, plumbing, wiring, ducts, insulation, kitchens, homes and offices, they all require minerals. Kitchen appliances, computers, toys, typewriters, stereos, photocopiers, transportation, cars, trains, trucks, planes, subways, bicycles, bay shuttles, all require minerals.

National defense. All require minerals. Machineguns, missiles, helmets, submarines, tanks, field hospitals, communications. I could go on. But I think the illustration has been made, Mr. President.

Mining does mean something to America, all Americans. Mining is important to the whole western part of the United States and by virtue of being brought to the western part of the United States, that is for jobs.

It is also important to the rest of the country for the reasons I have already mentioned.

The industry created by mining is being threatened by virtue of this amendment here today.

Again I ask why we cannot have this brought in a normal course. My friend from Arkansas did not just get here, as I have heard him say, did not just get off the turnip truck. I heard him say that he did not just get off the turnip truck. Why did he not bring this before the Senate in the ordinary regular process by going through the Energy and Natural Resources Committee? Why would he bring it on an appropriation bill? Is it because the legislation is weak? I do not know, but I have a good idea.

In a State like Nevada, mining is the second leading industry, second only to tourism. The people that hold these jobs have been targeted, I submit to this body, by punitive—and that is what this legislation is, punitive shortsighted legislation.

It seems there are certain groups, people, in this country, and perhaps a few in the Congress, that do not like success. Let me tell you. Mining, gold mining, is a success. We are exporting gold. We have not always exported gold. Only in the last couple of years have we been able to export gold. Why? Because we have much competition. We have tremendous use for gold here in our country. Now we are producing more than we can use here. We are shipping it overseas.

But we hear so much about the trade deficit, balance of payments. And once

we get where we are, pushing out a product, then we come and try to turn it back? Why?

I think this legislation is punitive. It is shortsighted. The jobs the industry created by mining are threatened. The livelihood and the very way of life are in danger.

Mr. President, there was a survey conducted a little after 1980 that dealt with what has happened to jobs. It is unbelievable the increase in jobs in the gold, silver, molybdenum industry.

If we look at the gold industry alone, it is easy to see the role that the West plays, in particularly Nevada. Last year, Nevada produced 62 percent of all the gold in the United States. Nevada right now has 155 million ounces that we have discovered, and there is about 300 million in other parts of the United States. But this will be gone shortly. There must be additional exploration that goes on.

There is also, I think, important information that shows not only is mining important in Nevada, but in Alaska, in Arizona, in California, in Colorado, Idaho, Montana, South Carolina, South Dakota, Utah, and Washington. But I submit to my colleagues here in the Senate just because I have only mentioned about 10 or 12 States does not mean this operation called mining is not important to us all. There is not a thing that we have done today that involves personal property, that involves the way we got to work, the way we make a telephone call, the way we copy a piece of paper, that does not involve minerals. It could not be done without minerals. And that is what this debate is all about.

If you take a State like Alaska, during the 3 years from 1986 to 1989, 6,600 jobs, new jobs, were created in Alaska because of mining; 6,600 jobs in a small State like Alaska is a lot. We could go through other States. It is not necessary other than to say that in those States I have mentioned, we have had thousands of new jobs created in just 3 years.

And if we look beyond Nevada to the national level at the economic future of this industry, there is concern that should be shared by everyone. Recent information suggests that current mining operations in this country may be attainable at the current level for only 7 more years. That is the crux of this debate with the Senator from Arkansas. That is, there must be, on a daily, a weekly, a monthly, and a yearly basis, continual work done on exploration. It used to be it was done by a man on a donkey riding out in the desert. Now it is done with airplanes, with all kinds of fancy electronic equipment, fancy drills, using diamond bits and other such things that are very expensive.

So every day that a mining operation is in operation, they must also have, in addition to the ore they are taking out

of the ground, they must have other operations exploring the minerals they hope they can find someplace else. This makes the patenting process even more important in the overall scheme of the mining exploration operation, so there can be maintained the favorable position that we, the United States, occupy in the current world market.

We look at some of the facts about the future role of mining exploration at the national level as they relate to access and security of tenure. You will see that access and security of tenure are the most important things that we have in the industry.

In order for the United States to remain a viable world leader and to ensure that American citizens continue to enjoy a high standard of living, the vast mineral and raw material potential of the public domain must play a key role in the future economic development of the nation. For this to happen, the public domain must be available for mineral exploration and it must be possible to gain access to mineral deposits that are discovered.\* \* \*

The risky financial nature of mineral exploration and development is why U.S. miners need secure tenure—

That is what we are talking about here.

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

Mr. PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I ask unanimous consent that a vote on this amendment or in relation thereto occur at 2:30 p.m. today, with the understanding that Mr. BUMPERS would have 2 minutes, Mr. CRAIG 5 minutes, Mr. REID 2 minutes, Mr. BRYAN 5 minutes, and Mr. BURNS 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding the Senator from Nevada will move to table. Thereafter, if that does not prevail, the Senator from Nevada would have further debate on this amendment. I just wanted to make sure the record is clear in that regard for other Senators.

I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is the Senator from Nevada asking unanimous consent?

Mr. REID. I did do that.

Mr. BYRD. Yes. If the amendment to table fails, the amendment may still be

debated. I hope that will be understood as well.

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

The Senator from Montana is recognized.

Mr. BURNS. Mr. President, it will not take me long to sort of recap what we are trying to do. We want to accommodate the chairman and move this amendment so we can move this bill. We understand the time constraints he is under.

I do not think anybody could make the argument any plainer than the Senator from Nevada [Mr. REID]. The problem with this moratorium—and that is basically what it is—is we just do not know what effect that will have on the mining industry as a whole. There are two different bills now pending in the Energy and Natural Resource Committee, of which he is a member and I am a member, to be acted upon. One is a 2-year study to find out what happens in reform of the National Mining Act. We all refer to it as the 1872 Mining Act. That is not the title of the act. It was the National Mining Act. That happened to be the year it was passed. Since then it has been amended many times to reflect the times and the changes that occurred in this country—as it should have been.

Now, let us talk about just a couple of things. Let us put this in perspective on Western mining. We have some Federal land out there that is costing taxpayers dollars. It may be just a wasteland; there is not anything that would grow on that. I do not care if you got 40 inches of rain, 2 tons of fertilizer, you could not raise an umbrella. And it is worth zero because there is nobody going out there buying it. You could put it up for sale and you would not have one bid on it because it is a wasteland, until somebody files a claim and goes out there and picks around on a Sunday afternoon and maybe comes up with something.

Ownership of this land does not change hands until two things happen: No. 1, there has to be a discovery; No. 2, it has to be proved up as to being a viable economic enterprise. Then and only then does the deed change hands.

Remember, you have this 1 acre of land in the West that is worth zero? In fact, it costs the taxpayers dollars and dollars, and thousands of dollars to administer these lands every year. If you do not think so, just look at the BLM budget. And no dollars come back from it. Zero. It is worth zero. A man files a claim. It is still worth zero. If there is a discovery, the value goes up a little bit. If it is found economically valid, then the value goes up again. Then mining has to take place.

What have we done? We have taken a liability to this country and the American taxpayers, and we have turned it into an asset. Maybe \$2.50 or \$5 an acre,

it does not make any difference. But what we have done, we have created taxes, capital gains taxes. Ask the other side. They do not want to give us capital gains taxes. When the owner sells it for \$1 million, 30 percent is going to come to the Government.

Remember we are doing this on an acre of land that was not worth anything. It was not producing anything. And that comes to the Government. All those payroll taxes come to the Government, all the FICA taxes go into Social Security, off an acre of land which, up until 5 years ago, was doing nothing or not adding anything to the GNP of this country. Those are facts. I cannot lay them out any plainer.

Mr. SYMMS. Will my colleague yield for a question?

Mr. BURNS. I will yield.

Mr. SYMMS. I thank my colleague for the points he has made regarding this amendment. Fundamentally, this is a private property issue. We have mines in the Coeur d'Alene mining district in Idaho that would be affected by this amendment just as you have described. The Lucky Friday mine is one example.

The PRESIDING OFFICER. The time of the Senator from Montana has expired.

Mr. BURNS. Mr. President, I ask unanimous consent for 3 or 4 more minutes just to respond to the question, and then I will wrap up.

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

Mr. SYMMS. In the case of the Lucky Friday mine, the patent lay dormant and then was claimed. It was 79 years from the time that the first claim was staked to Lucky Friday, until the first shaft was sunk to start opening the production of the mine. Countless millions of dollars of galena ore have been mined. Thousands and thousands of families have been raised, millions of dollars have been paid in taxes; exactly what the Senator said. But without the tenure and ownership from this system, they would have never sunk a shaft thousands of feet in the ground to find the ore body. You have to have that. It is fundamental to what this issue is about. I would urge colleagues to vote to table this amendment. This is an improper time and place to consider it.

Would the Senator not agree that is a critical point?

Mr. BURNS. I agree with the Senator from Idaho, and I appreciate his making that point. I want to wrap up quickly because I know there are other Senators who want to speak.

Yes, there has been a violation, but that is an enforcement problem, it is not the law. Nobody likes to see anybody break the law, and it should be enforced. I would be the first one to jump on the wagon and do that. But there are also law violations in every social program that we run in this

country. The papers are full of articles about people who violate the laws on all kinds of welfare programs. Do we hear anybody jumping up and wanting to lead the reform on that, or do away with the program? I do not think so. And they cost us money, too.

Be very, very cautious on this, because there is a fundamental American right here that could be violated if we go into a moratorium, because nobody knows what effect that is going to have on the mining industry. Be very cautious, or it could be a surrogate issue for something else that has not been identified yet.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, the general mining law has helped spur America's industrial growth and continues to help U.S. manufacturers keep up with foreign competition.

The reason given for the moratorium on patents is that this law is a ripoff. That just is not true. The case just has not been made that this law is broken.

The administration is working to fine tune this law to keep up with modern mining practices and has done so. The Bureau of Land Management has recently announced new regulations requiring new bonding requirements designed to ensure reclamation on all mining operations on BLM lands. BLM Director Cy Jamison has told me that his goal is to require reclamation bonding for all mining activities on Government lands.

Mr. President, these new regulations will be added to the burden on mining companies that exist from a myriad of costly State and Federal environmental regulations, laws, and permits required for mining operations. The sponsor of this amendment ignores these facts.

Environmental laws enacted in the past two decades have had a profound effect upon activities under the mining law and provide a good example of the flexibility inherent in the mining law and how it adapts to changing circumstances. State reclamation statutes typically cover both exploration and mining. Permits are usually required before mining starts and an operation, or reclamation, plan must be approved in order to obtain a permit. There are specified reclamation standards, provisions for performance, and reclamation bonds resulting in a comprehensive program of regulation.

The Federal Land Policy Management Act and Forest Service Organic Act grant the Federal Government more than ample opportunity to require reclamation of mining sites on public lands and such reclamation is being accomplished.

Both the Bureau of Land Management and Forest Service have issued separate sets of comprehensive admin-

istrative surface-management regulations governing mining activities. These comprehensive regulations impose substantial requirements on anyone attempting to prospect for minerals on public lands, and to develop any valuable deposits that are discovered.

Activities under the mining law must comply with all of the following laws: The Clean Air Act; the Clean Water Act; the no-net-loss wetlands policy; the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Toxic Substances Control Act; the Endangered Species Act; the Archaeological Resources Protection Act, and numerous others. Also, the National Environmental Policy Act requires the preparation of an environmental-impact statement whenever a Federal agency has to take a major action significantly affecting the environment. Generally, the development of a mine will require some Federal permit, license, or right-of-way that will result in the preparation of an environmental impact statement under NEPA.

Now, I do not know what else we can do to stop mining on Government land in this country, but this amendment is a good first step. I do not believe that mining law is broken and I do not think this amendment is needed to give the Senate time to think more about changing this law. I would urge my colleagues to oppose this amendment.

Mr. CRAIG. Mr. President, in the overall debate on this amendment of our colleague from Arkansas, instead of dealing with and discussing in a broader way the issue of the law itself, and what my colleague is attempting to do with his amendment to establish a moratorium on patents, let me go to some of the issues that my colleague has addressed as they relate to what he suggests is a gross, and unacceptable, giving of Federal property at some \$2.50 an acre.

One of the things that has been so profound in our Nation for over 200 years is the concept of private ownership, and that at one time most of this land was held by the Government. During certain periods it was given out, granted out, acquired by private interests for the purpose of generating wealth.

I thought it was unique that President Gorbachev was returning from the Crimea to meet with representatives of the Republics of the Soviet Union for the purpose of signing a treaty of the unions, or a union treaty. And to my colleague from Arkansas, one of the clauses in that treaty was to return to the Republics greater control over the development, and the utilization, of their natural resources.

In the history of the mining law, there have been some 3 million acres in which we have granted private rights

for the purpose of development; 3 million acres nationwide, all 50 States. In the State of Arkansas, the Federal Government has given to that State approximately 11,936,834 acres, not for \$2.50 an acre, not for \$1.50 an acre, but for nada, nothing, Mr. President.

The Senator from Arkansas represents a State in which the Federal Government turned over to that State and private interests over 11 million acres of land. Why? To strengthen the position of the State; to promote the economy, to create and generate human enterprise. Private property ownership is the basis, and the foundation, of this country's great wealth. It always has been and it always will be. How do we fund the schools of Arkansas? We fund them from 933,000 acres of land that the Federal Government gave to the State of Arkansas for not one penny. There are some 196,000 other acres for schools. Those railroads, those private interest railroads, those profit making railroads, were given 2.5 million acres of land in the State of Arkansas.

I think the point I am trying to make, if it is not now obvious, is the fact that you can make all of the accusations you want, but there is another side to the story. And the other side to the story is that this Nation has had a history of seeking to develop its wealth, and generate wealth, through the utilization of its public land resources. What we are talking about is the method by which it is accomplished, Mr. President, and how we seek to continue to do that. It is fundamentally important.

Let us look at the mechanism of the law itself. We are not changing the 1872 mining law. We are simply saying to the employees of the Bureau of Land Management that if someone comes into a field office, out in the State of Idaho or Nevada, and they have an application for patent, that State and Federal employees cannot take the application. The law is still there. I can still insist that they do it because the law says I can go to patent on a claim if I can prove certain things exist.

Why does our colleague not go before the authorizing committee and change the law instead of tying the hands of the employees of the BLM who, by law, are required to administer this law? I will tell you why, because he has tried and that committee has said no. On more than one occasion they have said no, in large part because, thank goodness, this Congress still believes that our public lands ought to be allowed to be utilized when valid for the purposes of the generation of this kind of national wealth.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. That is the issue. The question is, Is the amendment credible? I say it is not because it is not appreciable in a practical consent.

Mr. HATCH. Mr. President, I stand in strong opposition to the amendment offered by the senior Senator from Arkansas. There are several good reasons for opposing this amendment, and I would like to briefly discuss those reasons.

First and most important, the use of the appropriations process to make a substantive change in the mining law of 1872 is objectionable. The appropriations process is an improper vehicle to amend the mining law piecemeal. The public policy implications of such action needs to be evaluated in the larger context of comprehensive mining law reform. In both the House and Senate, authorizing committees with jurisdiction over the mining law are holding hearings on mining law reform legislation. The issue of patents and whether the patent process should be modified is an integral part of these deliberations and should not be preempted through the appropriations process. My esteemed colleague from Arkansas is attempting to engineer an end run around the authorizing committees whose responsibility and current actions are addressing this exact issue. In fact, they are assessing his own bill.

The right to a patent is one of the most important aspects of a miner's security of tenure under the mining law. After a mineral discovery is made, and the Government has determined that sufficient mineralization is present to justify development of a mine, a patent is issued that transfers ownership of the mineralized claims to the miner. The patent establishes fee ownership. This ownership is particularly critical for large-scale mining operations that may face a great variety of operating conditions over a period of as long as 100 years. Economic cycles, temporary closures, and changing land-use patterns all result in significant risks to a mine's existence unless real land ownership exists.

Without the ownership protection provided by a patent, miners throughout the West will have difficulty in bringing a mineral discovery into development. Banks will be reluctant to finance mines, and miners will hesitate to expend the large amounts of money needed for exploration. As a simple analogy, would a bank loan a person money on his or her home if he or she was merely a renter?

Some have argued that our existing mining law enables companies to control vast amounts of land in the American West. However, the issuing of patents under the mining law has in no way been a land grab situation that needs the drastic remedy of a moratorium. The facts speak for themselves: Since 1781, over 700 million acres of Federal public lands have been transferred to private ownership for agriculture, railroads, mining, State grants, timber, stone, and desert lands. Of that 700 million acres, only 3 million

acres have been patented for mining since 1781.

Some have asserted that a moratorium on patenting is needed now to avoid a "rush to patent all mining claims in sight." The BLM statistics on patent applications and patents issued invalidate this assertion. In fiscal year 1990, only 75 patent applications were filed for a total of 1,225 mining claims; and only 34 patents for only 447 claims were issued, covering slightly over 8,000 acres. This small number of patents was issued in spite of the fact that currently there are over 1.2 million mining claims in the United States.

The popular press and certain Members of this body have indicated that the public is being ripped off by miners who can buy public lands for as little as \$2.50 to \$5 per acre. As my esteemed colleague from Arkansas knows, this is a bogus argument. In order to demonstrate to the Government that an ore body is worth developing, miners must complete extensive exploration work that often costs hundreds of thousands or even millions of dollars per claim. The \$2.50 to \$5 charge is a patenting fee and is not at all associated with the cost of purchasing the land. It becomes quite tiresome to constantly hear these low fees being used against the mining industry when in fact miners pay huge sums of money to develop a mine, to create jobs where there were none, to keep their mine going through tough economic times, and to pay significant taxes.

I urge my colleagues to oppose this patent moratorium amendment since it would create chaos with respect to good faith mining applications that are now pending before the Government. A patent application represents many years of diligent exploration and investment. It would be unjust for a patent moratorium to be enacted by Congress for applicants who have expended scarce dollars in their endeavor to secure a patent. Furthermore, a patent moratorium would stop an important part of the present mining law debate in its tracks. A moratorium could lead the Government to the permanent elimination of patents through a series of extensions, as is the case for such moratoria in general. At risk are the new mines this Nation must have to sustain its minerals production capabilities and the jobs that would be created.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, time is already allocated to certain Senators under the order of the Senate.

Mr. BRYAN. Mr. President, if I might inquire.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 5 minutes.

Mr. BRYAN. I thank the Chair. Mr. President, I rise to express my strong

opposition to making a fundamental change in the 1872 mining law through an amendment to the Interior appropriations bill. Mining law reform is a complex issue and it deserves steady deliberation in this body, a process that is presently underway in the appropriate committees.

The language to ban the expenditure of funds by the Bureau of Land Management to process applications and to issue patents under the mining law of 1872, as amended, will severely harm a critical U.S. industry and one that is particularly important to my own State.

A basic tenet of the existing mining law includes a right to apply for, pay applicable fees and to receive a patent to the land and minerals within a mining claim after establishing—Mr. President, I think it is important to note this—after establishing that an economically viable mineral deposit has been located.

Investment in mining operations tends to be inherently risky. Volatile world commodity prices and the vast capital requirements for the development of mining operations create business risks for mining operations. I might note parenthetically, Mr. President, that in the past few weeks, the world has been astonished and by and large pleased at the results of what has occurred in the Soviet Union as the forces of reform have gained over the forces of oppression. That same instability, however, has had a direct impact upon the price of gold on the international market. Speculation mounts that the Soviet Union, because of its own domestic crisis, may have to unload substantial amounts of gold on the international market, and that has caused the price of gold to decline. Those are factors that are beyond the control of the domestic mining industry in this country and adds to that uncertainty of which I just spoke.

The right to secure title to mineral deposits discovered is essential in order to ensure continued ability to prospect for, finance investments and to mine essential resources. It should also be noted that obtaining a patent or mining claim is not a routine or inexpensive or a pro forma procedure as has been suggested by some on this floor. The actual granting of the patent occurs at the end of a complex, time consuming, expensive and infrequent process that may require years or decades of expensive research and development.

In the current fiscal year, despite mining activity in Nevada being at or near an all time high, only three patents, Mr. President, have been issued, totaling some 728 acres. Over the past 23 years, a total of only 33,000 acres in Nevada have been patented. These patents, occurring at a time of vigorous mining exploration, comprise about 5/100ths of 1 percent of the more than 560 million acres of federally owned land in

the State of Nevada. Thus, rather than being abused, the patenting process in my State has been rarely used.

The patent process merely is used to protect the security, tenure and title to the claimant after investing an enormous amount of time and a vast resource of money in developing a mineral resource. By some estimates, preparing a claim for patenting may cost as much as \$12,500 per acre, an investment in the property that would not occur if there was not the ability to patent the land.

On the subject before you, rescission of this historic mining law of 1872 is complicated and the issue is a sensitive one for those of us who are both concerned about the economy of the Western States, as well as the status of our public lands.

The 1980's have witnessed a remarkable rural economic renaissance in my State largely because of our entry into the third era of world class minerals protection in Nevada.

The earlier eras were the Comstock Lode boom of 1860-90's, and the Goldfield-Tonopah boom of 1905-15.

Nevada is known for its gold and silver production, but copper production sustained the economy in the Ely area from the turn of the century until the 1970's. Nevada also possesses substantial resources of molybdenum, lithium, barite, tungsten, iron, gypsum, and a variety of specialty clays, all of which are important strategic minerals.

Many of these resources are largely undeveloped but will become important to Nevada and the Nation in the future. We also have active exploration for platinum. Total nonfuel minerals production in Nevada in 1990 was nearly \$2.6 billion, about 12 percent of the total gross State product. We produce more than 6 million ounces of gold, about 62 percent of the United States production, about 11 percent of the world's production. Nevada's gold production reduces the Nation's trade deficit, since we are a net exporter of gold.

Mining companies have invested \$5 billion in Nevada in the last decade; employment in the industry has increased from 6,000 jobs in 1985 to a peak of 16,000 last year; State and local taxes paid by the mining industry have increased from \$21 million in 1986 to about \$90 million annually.

Thus, mining is an integral, and critical element of the Nevada economy. Much of that activity would have been hindered if the companies involved could not be assured of the ability to patent and perfect their mining claims.

There is currently pending in the Senate a very responsible legislative approach to revising the mining law. I am an original cosponsor of Senator BURN's bill, S. 785, which would provide for a balanced and comprehensive study of the industry, existing Federal and State regulatory and taxation schemes, and is intended to produce

substantive recommendations to update the mining law. I believe this is a responsible approach because of the rapidly changing conditions in the minerals industry and our economy.

For instance, Nevada's first general mining reclamation law was passed by the last session of the Nevada Legislature in 1989, and only became effective on October 1, 1990. The impact of that legislation, which was adopted with the cooperation of the mining industry—a historic first for my State—are only now becoming apparent and will no doubt affect both the economics and environmental implications of the Nevada mining industry. Likewise, a host of other environmental laws and regulations have grown around the basic parameters of the mining law, and their impact should be considered as well.

However, I also recognize and appreciate the efforts of Senator BUMPERS and others who have legitimate concerns about revising the mining law of 1872. I know that some isolated abuses of the mining law for nonmining purposes have been described, and I believe there is a broad consensus within the industry as well as outside to prevent such abuses. But for those of us who represent public land States—Nevada is comprised of nearly 86 percent federally owned land—it is critical that mining reform not spell the demise of our mining industry.

Often the Federal ownership of vast tracts of land does little to benefit the residents of a State like Nevada, and efforts to create more private ownership have been slow. The use of these lands for mining, however, contributes much to the host state. Where abuses have occurred, change may be warranted, but the approach advocated by Senator BURNS is reasonable and I urge your consideration of that legislation.

In any event, it is apparent that efforts will be made in this Congress to fully address this issue in a substantive fashion, and working through the relevant committees is the proper way to do so. Action in this matter through the appropriations process is not good legislative policy. I have strongly defended and appreciated the historic general mining law, and Nevada has benefited from its provisions as well as its philosophical approach. I intend to be closely involved in the legislative process, and to defend against proposed changes that would adversely impact Nevada.

As I have indicated, Nevada is the leading mining State in our Nation. We lead the country in the production of gold, silver, and barite. Mining contributes many jobs to our economy, and is the third largest source of State tax revenues. I believe we can affirmatively state the case for Nevada that the fundamentals of the mining law should be retained so that our mining industry continues to prosper.

The mining law has served the Nation well. It should not be altered without careful consideration by this body. To propose a fundamental change now, on the appropriations bill, simply is not a wise decision. I urge my colleagues to reject this amendment, as they did last year, and to fully debate this issue in the relevant committees.

Mr. BUMPERS addressed the Chair.

Mr. BRYAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas [MR. BUMPERS] is recognized. Mr. BUMPERS has 2 minutes.

Mr. BUMPERS. Mr. President, first of all, I want to say this amendment is not directed, nor is my personal concern about this issue directed, the legitimate mining companies of this country. They do a superb job. The fact that they do not pay royalties and do not put up reclamation bonds is not their fault; it is our fault. But on this particular amendment, all I am saying is the people who are not legitimate miners, the people who get lands from the Federal Government for \$2.50 an acre with no intention of mining, but of capitalizing and selling it for thousands of dollars an acre and taking advantage of this 117-year-old law are no friends of mine.

When it comes to getting us out of the authorizing committee, the Senator from Nevada suggested maybe there is a lack of merit to this bill. There is not a lack of merit. There is a lack of non-Western Senators on the Energy Committee, and that is the reason I have to utilize this method of trying to stop a scam that 90 percent of the people of America, including legitimate miners, deplore. I yield the floor.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Nevada, Mr. Reid, has 2 minutes remaining.

Mr. BAUCUS. Mr. President, I ask unanimous consent to be able to speak for one-half minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I will vote against the amendment proposed by the distinguished Senator from Arkansas, but I do so with great reluctance. Given the mining industry's importance to Montana, I believe it is best to proceed with caution. I believe the best course of action would be for the Energy Committee to report legislation to the full Senate.

I realize that the Senator from Arkansas has waited for years for this to occur. He has worked hard. He has been patient. The Senator is right in contending that it defies logic to claim that a 119-year-old law can meet the environmental challenge of regulating the modern mining industry. Moreover, there is not a doubt in my mind that most Americans and most Montanans would be dismayed to learn that fee

title to Federal lands is being sold for \$2.50 per acre.

While reasonable people may disagree about how the general mining law should be changed, there is little doubt that change should come.

It is time for some interests within the mining industry to stop resisting change. It is time for the mining industry to sit down with the Senator from Arkansas and talk reasonably about a comprehensive mining law that is good for the mining industry, good for the environment, and good for the American taxpayer. Mr. President, patience is thin. If we do not resolve this by this time next year, I will vote for the Senator's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Nevada [MR. REID] is recognized.

Mr. REID. Mr. President, I do not justify the abuses that have place with this 1872 mining law. There have been some. We have explained in detail this should be approached in the proper committee of jurisdiction.

I state publicly to the Senator from Arkansas, the second-ranking member of that committee, I will work with him. The Nevada mining people will work with him to talk about reversionary interests, fair market value, and the other things that perhaps would improve this legislation.

But let us not throw the baby out with the bath water. That is what my friend from Arkansas is trying to do, is to throw the baby out with the bath water. His amendment is not good. I therefore move to table.

Mr. DOMENICI addressed Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The Senator from New Mexico.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I wonder if the Senator from Nevada would yield for 1 minute? I was going to ask unanimous consent to speak for 1 minute. I already checked with the managers. They saw no problem. One minute. And then the Senator will have the floor under my request for the motion the Senator just made.

I am opposed to the inclusion of a patent moratorium on an appropriations bill. The 1872 mining law is a very complex piece of legislation which deserves the full consideration of the authorizing committee.

Two bills are currently being considered to amend the law (S. 433 Bumpers, and H.R. 918 Rahall). Over 250 people have given testimony on those 2 bills this year. To include a moratorium on the appropriations bill would circumvent their reasonable expectation that the bills will have the benefit of full legislative procedures.

I believe a moratorium on patenting is not the answer to the problems most often attributed to the mining law—the problems of the public not receiving a fair price for patented lands and the problem of lands patented under the law being resold for other purposes at large profits.

The fact is only a small percentage of lands have been patented under the 1872 law—just 0.3 percent of all public lands transferred to private ownership since 1781. To apply a moratorium on patenting is like swatting gnats with a baseball bat.

Security of tenure is a necessity for obtaining financial backing on mine enterprises. A patent can be secured only after the applicant has invested a considerable amount of time and money in diligent exploration and development.

Mr. President, if you were going to change the mining law, what is before us now is the very worst change you can make unilaterally. You are telling those who are trying to turn a mining claim into a business that when they have come to the end of the line and are ready to finance and go to work, for a year we are just going to, willy-nilly, without regard to where, who, or why, say you have to stop. We are telling business people all across America that we do not expect them to succeed, we do not care about them.

We ought to change the law in an overall way, not picking and choosing, and in so doing pick the very worst place to start this reform.

Mr. DECONCINI. Mr. President, I rise today in strong objection to the amendment being offered by my friend, the Senator from Arkansas.

This Senator does not find it easy to disagree with Senator BUMPERS. However, I believe that the ramifications of what he is proposing are significant and will, in my opinion, seriously jeopardize the mining industry in this Nation. While it may be his intent to go after a number of large mining corporations, the impact of his legislation will be felt by many working-class citizens of my State.

I shall take a moment of the Senate's time to relate to you the importance of mining to the economy of the State of Arizona. The 11 major mining Western States account for over 70 percent of U.S. production of metallic minerals. Arizona alone produces in excess of 61 percent of the total copper production in the United States. This is a strategic mineral, essential to our national defense.

The mining industry contributes almost \$5.67 billion to Arizona's economy. Mining has a particular impact on the economically distressed rural areas of Arizona. In Greenlee County, AZ, for example, the mining industry is responsible for 70 percent of the personal income in this economically depressed area of my State.

Mr. President, I refer my colleagues to a map and several charts that put the impact of the amendment offered by the Senator from Arkansas in perspective. As you can see, Mr. President, almost 83 percent of the total land mass in Arizona is public lands. This includes 25 percent of Indian lands and 45 percent administered by agencies such as the Forest Service, Bureau of Land Management, and the National Park Service. Twenty-five percent belongs to the State of Arizona. This leaves only 17 percent of the land in Arizona in private ownership. On the map, the private land is indicated in the white.

On the other hand, in Arkansas, for example, 88 percent of the land is private. You may ask what does this have to do with this debate. Mr. President, Arizonans depend on the public lands for their livelihoods. If you take into consideration the public lands that are off limits to multiple-use because they are in national parks or designated as wilderness areas, and combine this with limited amount of private land, there is simply not much land available for Arizonan's to make a living with. On the other hand, with over 88 percent of Arkansas in private hands, there is much more of an opportunity for the residents of that State to earn a living through industries such as agriculture and timber. As far as I am concerned, the Bumpers amendment further restricts the ability of Arizonans to utilize the lands in our State to provide economic opportunities.

It seems to me that the major argument in support of the amendment is that it will stop the wholesale giveaway of our Federal lands by preventing claim holders from patenting mining claims. Much has been made about the administrative processing fee for the patenting of mining claims. It ranges from \$2.50 to \$5. Mr. President, while it may sound good to suggest in floor statements that your Government is giving away land at \$2.50 an acre, it is simply not the case. As the Senate knows, patents are only issued when there has been a discovery of valuable minerals and only if it can be proven that these minerals exist in economic quantities. The real cost of patenting a mining claim is reflected in the thousands and sometimes millions of dollars spent in the discovery and delineation of a potential ore body.

It is not a free giveaway of our Federal lands. If it were, why have there not been more patents granted? In 1989, out of over 15,000 applications pending, only 15 were granted. In fact, Mr. President, only 3 million acres of public lands have ever been patented under the mining law. By comparison, 288 million acres of public lands have been converted into private ownership as agricultural homesteads.

Senator BUMPERS also makes the argument that the elimination of patents

will not prevent claimholder's from developing them. This is not entirely correct. Security of tenure is essential to the success of any mining operation. If a miner were unable to obtain fee title to the minerals and the surface area necessary to conduct mining operations, an element of uncertainty would be introduced. As you know, financial institutions, when making financing decisions, look for certainty and predictability. Eliminating patents would have the likely effect of jeopardizing the financing of mining operations. This will have a particularly detrimental effect in my State. As I mentioned previously, Arizona is the largest copper producing State in the Nation. The security of title provided by a patent is necessary to protect the enormous investment required to open and operate a competitive domestic copper mine.

As many of my colleagues know, the Senator from Arkansas currently has a bill pending before the Energy and Natural Resources Committee that would virtually rewrite the mining law. In his justifications for the need for that bill, the Senator from Arkansas raises a number of issues. These range from the unauthorized occupancy of mining claims to the inadequacy of the \$100 in annual assessment work required by the current mining law to maintain a valid claim. I believe that many of the issues raised by the Senator from Arkansas deserve attention. The abuses that Senator BUMPERS outlines are troubling to not only this Senator, but to legitimate hardrock miners as well.

However, the approach adopted with the amendment we are considering, a patent moratorium, is comparable to curing a headache with brain surgery when aspirin would have been sufficient. I believe that the issues raised by the Senator from Arkansas are better addressed in the bill currently before the authorizing committee. Because of its impact to the domestic mining industry, this issue deserves full and careful consideration as opposed to an 11th hour amendment to an appropriations bill.

I ask that the Senate reject the Bumpers amendment.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise today to speak against a moratorium on mineral patents under the mining law of 1872. Several of my colleagues have already spoken against this amendment. They have very ably explained why this moratorium is not needed. Rather than repeat their arguments, I would like to focus on the bigger picture and speak briefly on the problems facing the minerals industry in general as a result of single interest opposition to mining on the public lands. That is what this debate is really about. A very vocal, very powerful, minority of our population is opposed to mining. Period.

Mr. President, our Nation has come so far that some have lost touch with the land. But they don't see it that way. They are blinded by a desire for a nonexistent utopia. They drive to work in cars built of steel and powered by gasoline but they oppose mining and oil drilling. They eat steak dinners in snug houses and write letters to oppose grazing and logging. They have truly lost touch with how we exist as a society. We exist because we are able to wisely manage the abundant resources of our land.

Mr. President, approximately one-third, 720 million acres, of the total land in our Nation is owned by the Federal Government, the vast majority of which lies in the Western States and Alaska. It is in those same States where the largest part of our mineral resources are concentrated.

Over two-thirds of these public lands have been withdrawn or restricted from mineral development. This shocking withdrawal has occurred largely as a result of Congress and the Executive failing to consider the cumulative impact of multiple public land withdrawals when acting on individual land withdrawal proposals.

Consistently, proponents of the withdrawal tout the merits of each withdrawal proposal and characterize an area as only a small part of the United States, or of the public lands system, or of the public lands within a particular State. But these individual withdrawals which our Government has allowed to accumulate make up the two-thirds of public lands now withdrawn from mining.

A serious concern is the fact that too many wilderness areas and other land withdrawals have been established without adequate regard for access to the area's minerals or access through the wilderness area to the minerals of an adjacent area. In fact, some wilderness areas have even been established specifically to prevent known mineral potential from being developed.

Mineral development in this country has suffered from the deliberate shift in public lands policy from multiple use to no use. This no-use lands policy, implemented on an incremental basis and ostensibly in the public interest, has hampered our ability to compete abroad, contributed to our trade deficit, and caused our Nation to become dangerously dependent on foreign sources for our minerals needs.

Our dependence on foreign sources for critical minerals is directly related to our public land policies and our overregulation of the mining industry. Thirst for public land withdrawals and environmental regulations, which are incrementally piled one on top the other without regard to our Nation's mineral security, is drying up our domestic minerals industry.

We cannot afford to take a similarly narrow view of mining law reform. The

Senate's consideration of mining law reform must go well beyond a discussion of difficulties or abuses in the administration of the well-developed and dynamic 1872 mining law. The overall impact of any reform proposal on our domestic minerals industry and our Nation's mineral security must be considered. I can assure you any of the changes this Senate may make in mining law will have far-reaching effects on our nation and Alaska's future.

A case for legislative reform must be made. Before we undo a system that has been carefully refined over more than 100 years of application and around which many other Federal and State regulatory schemes have been built—not to mention the investments of private individuals—we must be absolutely certain of the need for reform and its potential impact.

Any consideration of mining law reform must include looking for ways to revitalize our minerals industry by providing increased exploration and development incentives. In this regard, the single most important action we can take to reduce U.S. dependence on insecure imports of minerals would be to reform the process by which access is granted to Federal lands for mineral exploration. At present, vast areas of these lands have been closed to exploration and development because of restrictive land-use policies. These policies pay no regard to the potential importance of the minerals that might be found.

Any consideration of revising the 1872 mining law should cause us to take a second look at the mineral potential lost now that over 88 million acres of wilderness have been closed to mining. Incentives and access for mineral exploration on the public lands goes to the very heart of the 1872 mining law. Mining law reform should be specifically addressed and fully debated by this body and should include exhaustive committee hearings and a comprehensive analysis of the history of public land withdrawals, an assessment of the mineral development opportunities foreclosed as a result of such withdrawals, and the disincentives created by the current regulatory framework within which mineral development must take place.

We should not enact a far-reaching moratorium that will have a very real, and I submit, a very negative effect on the U.S. minerals industry as a provision of an appropriations bill. If this body chooses to address the mining law of 1872 it should be done through the established procedure and deliberative framework of the Senate Energy and Natural Resources Committee.

In closing, I ask my colleagues to reflect on the important place minerals have in our daily life—bridges, buildings, lights, cars, dental and medical uses, and the thousands of essential industrial uses that we take for granted.

Should we work to make mining more difficult? Let us proceed with great care and caution befitting the importance of minerals to each of us.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. GRAHAM], the Senator from Iowa [Mr. HARKIN], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mr. GRAHAM] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Texas [Mr. GRAMM] and the Senator from California [Mr. SEYMOUR] are necessarily absent.

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

The result was announced—yeas 47, nays 46, as follows:

(Rollcall Vote No. 191 Leg.)

YEAS—47

Baucus	Ford	Murkowski
Bingaman	Fowler	Nickles
Brown	Garn	Packwood
Bryan	Gore	Reid
Burns	Gorton	Rudman
Byrd	Grassley	Shelby
Chafee	Hatch	Simpson
Cochran	Hatfield	Smith
Conrad	Heflin	Specter
Craig	Helms	Stevens
D'Amato	Inouye	Symms
Danforth	Kasten	Thurmond
DeConcini	Lott	Wallop
Dole	Mack	Warner
Domenici	McCain	Wirth
Durenberger	McConnell	

NAYS—46

Adams	Hollings	Moynihan
Akaka	Jeffords	Pell
Bentsen	Johnston	Pressler
Biden	Kassebaum	Pryor
Boren	Kennedy	Riegle
Bradley	Kerrey	Robb
Breaux	Kerry	Rockefeller
Bumpers	Kohl	Roth
Burdick	Lautenberg	Sanford
Coats	Leahy	Sarbanes
Cohen	Levin	Sasser
Cranston	Lieberman	Simon
Daschle	Lugar	Wellstone
Dixon	Metzenbaum	Wofford
Exon	Mikulski	
Glenn	Mitchell	

NOT VOTING—7

Bond	Gramm	Seymour
Dodd	Harkin	
Graham	Nunn	

So the motion to table the amendment (No. 1128) was agreed to.

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

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

the motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 2, LINE 21

The PRESIDING OFFICER. The pending question is the committee amendment on page 2, line 21.

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

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, Mr. JEFFORDS and Mr. METZENBAUM have an amendment which they will jointly offer having to do with grazing fees. The matter has been discussed with both of them. It is not anticipated that action would be completed on that amendment at all early Monday. It would be, I should think, into the evening before action would be completed, and I have been told there will be a tabling motion on it.

So I have every hope that the matter would be disposed of on Monday evening in time for the Senate—I have discussed this with the distinguished majority leader also, and if it is agreeable with the distinguished Republican leader—in time to go to, if we cannot finish this bill Monday evening, then following the disposition of the grazing fee amendment, that we would go to the transportation appropriation bill, possibly complete it that evening. If not, it could be completed Tuesday, and the MilCon appropriations bill could be completed on Tuesday. That way, then, on Wednesday, which is the Jewish holiday, we could go back on this bill, which I am managing and Senator NICKLES is joining with me in managing, we would go back to this bill then on Wednesday and at least get within sight of completing it, stack any votes for Thursday that might be ordered on it.

AMENDMENT NO. 1138

Mr. BYRD. Having said that, and I know it is agreeable to the distinguished majority leader and with Mr. NICKLES and with other Senators here and with the two authors of the amendment, I ask unanimous consent that the amendment by Mr. JEFFORDS and Mr. METZENBAUM be made the pending business at this point with no action on it to occur today; that if there are other amendments called up today, and there may be some that can be disposed of by voice vote, or perhaps the two managers can accept some of the amendments, that there be no action on the Jeffords-Metzenbaum amendment today but it be made the pending amendment before the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. And I ask unanimous consent that it be in order that it be made the pending amendment.

The PRESIDING OFFICER. The Chair hearing no objection to the unanimous-consent request propounded by the distinguished Senator from West Virginia, without objection it is so ordered.

Mr. BYRD. Mr. President, I have suggested what we hope to be the plan of rotation among the various appropriations bills. But that will be for the leader to determine after he and Senator DOLE talk about the matter. But at least we now have an amendment—and it is a controversial amendment, probably the only remaining controversial amendment, certainly the most controversial amendment that remains on this bill—that is pending. I hope that we can dispose of it Monday evening. And then it is my hope that, if the two leaders can agree, we could proceed to take up the transportation bill, which Mr. LAUTENBERG has indicated he is prepared to go with, and the MilCon bill, which I am sure Senator SASSER is prepared to go with. Those two could be disposed of on Tuesday if not Monday evening.

So I thank all Senators. I think we have had a good day. We have disposed of two controversial amendments today, one very controversial amendment. So I am prepared at this point, and I believe Mr. NICKLES is, to discuss any other amendments that Senators may have. We do have an en bloc amendment which we will be glad to offer, which I think has been agreed upon.

Mr. NICKLES. Will the chairman yield for a little further clarification? So all of our colleagues will know, we are going to try to dispose of the grazing amendment on Monday, so that Senators who wish to debate it either pro or con will be on the floor. We plan on having a busy, active day on Monday, with votes Monday evening.

I might also mention to the chairman and to other colleagues, we have contacted Senator HELMS. I believe he has an amendment dealing with NEA that may come up on Monday as well. And hopefully we will deal with other amendments, if we happen to have time on Monday, intervening with the grazing amendments and that we could also dispose of those amendments at the same time or maybe stack the votes or whatever is necessary for Monday evening.

Mr. CRAIG. Will my colleague yield?

Mr. BYRD. I yield the floor.

Mr. CRAIG. Mr. President, let me inquire, the Senator spoke of debate on the grazing amendment on Monday with a vote later on in the day. Have you yet determined when that vote might occur? I think it is important that we establish somewhere near the time, at least after a given hour, because there are a good number of our

colleagues who will be en route. And, of course, as the chairman said, fundamentally, it is probably the most controversial and important amendment to this bill and I think that would be important to understand.

Mr. NICKLES. In response the Senator's question, I think the general agreement or outline by the majority leader was that we will not have votes on Monday before 5 o'clock. And so it is my guess that we may have one or more votes stacked after the hour of 5 o'clock. Certainly the grazing amendment will be after 5 o'clock because Senator JEFFORDS is the principal sponsor and I am told he will be attending a funeral and will not even return until about 4:30. So my guess is there will not be a vote on the grazing amendment until 7 o'clock or sometime later in the evening.

Mr. WALLOP. Mr. President, will my colleague yield to me for a question?

Mr. NICKLES. I am happy to yield.

Mr. WALLOP. I realize we have already entered into a unanimous-consent agreement, but it seems now patently unwise. If Senator METZENBAUM is going to be in the Thomas hearings and Senator JEFFORDS is not going to return from the funeral until 4 o'clock, those of us who are opposed to it will have nothing to debate in their absence. I would just say to my friend if that proves to be the case and there is nobody here to debate, this Senator will not intend to allow that to come to a vote, realizing, of course, that the chairman of the committee or the Republican manager can move to table. But that does not seem a fair way to treat a thing that has the livelihood of so many of the men and women of the public land States at stake.

Mr. NICKLES. As my friend and colleague from Wyoming knows, we were not successful obtaining a unanimous-consent agreement for a vote at a time certain; and maybe precisely for his reasoning. We hope to be able to finish the amendment sometime. We expect to give all sides ample opportunity to participate in the debate to the degree necessary. But also we would like to wrap it up at some point.

Mr. WALLOP. If my colleague will yield again, the normal pattern is for the proponents of an amendment to explain its rationale before those who oppose it are set in opposition. It would appear we will not be in much of a debate until after Senator JEFFORDS returns from the funeral. Is that a rational proposition? I do not know who we would debate; the proponents will not have even been here for the laying down of their amendment, and the rest of us will be debating into the sky. I do not think that is an appropriate consequence for an amendment that is so vital to the livelihood of many of the people of my State and other Western States.

Mr. NICKLES. Again I appreciate the concern of the Senator from Wyoming

and I doubt he will be debating a straw man. But his arguments are legitimate. We will try to proceed. That is one of the reasons why I mentioned we may have additional debates dealing with NEA, or several other amendments. We have a list of about 30-some-odd amendments that have not been agreed to. Hopefully, we can dispose of those as well on Monday. Maybe some will require rollcalls, maybe some will not.

Mr. WALLOP. I thank the Senator. I raise the point just because it is my intention to have this something other than a rote environmental vote. This is a vote about people's lives and I intend to have it sincerely debated. I know that is the Senator's intention, too, but I had not realized the principal proponents would not be here until so late in the afternoon.

Mr. NICKLES. I understand. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, at the moment, there is no amendment before the Senate that action can be taken on. Senator NICKLES and I and some other Senators are working on some amendments which we hope to dispose of before the day is over.

#### MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that at this time there be a period for the transaction of morning business for not to exceed 10 minutes and that I may speak therein.

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

#### A PAUSE FOR PEACE

Mr. BYRD. Mr. President, yesterday President Bush publicly reiterated his request that Congress delay debate on Israel's request for \$10 billion in loan guarantees for absorption assistance for 120 days. The President strongly believes that the request for loan guarantees should not be considered now because the world stands—and I use his words—"on the brink of a historic breakthrough" that could "launch direct peace negotiations between Israel and the Arab States, something the State of Israel has sought since its inception."

Mr. President, is not this exactly what every successive President since 1948 has sought: Direct peace talks between Israel and its Arab neighbors? I believe that our chief concern, as Members of the United States Senate, is to

take no action that would interfere with or negatively affect the prospects for a regional peace conference and the possibility of direct talks between Israel and its Arab neighbors. Peace—stable, long-lasting peace—in the Middle East should be our goal—a goal we share with the President, with Israel, and with our allies worldwide.

It is a goal for which we have completed the largest deployment of U.S. forces in two decades, to fight a war with an Arab State for the first time in our history. Those who seem anxious to throw a peace conference into confusion, and risk its fragile prospects ought to remember the commitments that we have just fulfilled to Israel and to stability and to peace in the region. No other power in the world could have done this, and we did so with the help of our British allies and others, with stunning, overwhelming success. Those who would so easily break with the President on the most crucial issue of peace today—peace in the Middle East—might well step back a bit and contemplate the stakes in this and the great success for which we have all praised the President and our Armed Forces. The President is to be commended for his courageous and decisive policies in that excruciatingly difficult situation to date. And so, Mr. President, let us give the President a chance on this one. Let us give him at least the benefit of the doubt. He has taken on a task of historic importance, and such opportunities are not available everyday. They come seldom, and I think that we ought to nurture them carefully when they come, as in this instance.

I do not believe that 120 days is an unreasonable period of time to wait to allow the peace process to go forward. The President has merely requested a pause for peace. There is no question about whether the Congress will consider Israel's request. The issue is whether we rush to consider it now, on the eve of convening the peace conference, and run the risk of our action being seized on by those who are intent on thwarting negotiations, or whether we give the President the time he needs to move this process forward.

This morning, on the "Today Show," Israeli Defense Minister Arens reiterated Israel's commitment to the peace process. He said: "You know, we need peace more than anybody else."

We have been the victims of five wars. We've lost some of our best sons in these wars. And if we can make some progress towards peace, that is Israel's primary interest."

Should that not be our primary interest as well, Mr. President? I support the President's request for a 120-day "pause for peace" and I urge my colleagues on both sides of the Hill to do so as well.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### THE CALENDAR

Mr. BYRD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the consideration en bloc of Calendar Order Nos. 209, 215, and 216; that committee amendments, where appropriate, be agreed to; that the bills be read a third time and passed; a motion en bloc to reconsider the passage of the items be laid upon the table; that any statements relating to these Calendar items appear at the appropriate place in the RECORD; and that the consideration of these items appear separately in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### NONDEVELOPMENTAL ITEMS ACQUISITION ACT OF 1991

The Senate proceeded to consider the bill (S. 260) to provide for the efficient and cost effective acquisition of nondevelopmental items for Federal agencies, and for other purposes, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Nondevelopmental Items Acquisition Act of 1991".

##### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—

(A) reducing or eliminating the need for research and development;

(B) reducing acquisition lead time by making use of existing production lines and facilities;

(C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and

(D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;

(2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and

(3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this Act are to—

(1) establish a preference for the use of performance specifications and the acquisition

of nondevelopmental items by Federal agencies;

(2) require training of appropriate personnel in the acquisition of nondevelopmental items;

(3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and

(4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

#### SEC. 3. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

##### "ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace."

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items."

#### SEC. 4. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(1) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) WARRANTIES.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or

(B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) PAST PERFORMANCE.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) DEFINITIONS.—As used in this section—

(1) the term "commercial item" means any item of supply that—

(A) requires no modifications or only minor modifications to meet the needs of the procuring agency;

(B) regularly is used for other than Government purposes; and

(C) is sold or traded to the general public in significant quantities in the course of normal business operations; and

(2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(a)).

#### SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or amendments made by this Act shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

#### SEC. 6. IMPLEMENTATION.

(a) TRAINING.—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonable which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) NONDEVELOPMENTAL ITEMS ADVOCATES.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

(c) REGULATIONS REQUIRED.—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirement shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) IMPROVED MARKET RESEARCH.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Governmental-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 260), as amended, was passed as follows:

#### S. 260

*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 "Nondevelopmental Items Acquisition Act of 1991".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

- (1) the acquisition of nondevelopmental items can lower Federal agency procurement costs by—
  - (A) reducing or eliminating the need for research and development;
  - (B) reducing acquisition lead time by making use of existing production lines and facilities;
  - (C) opening competition for Federal agency contracts to thousands of manufacturers who sell products in the commercial market; and
  - (D) increasing Federal agency access to the market-driven innovations and efficiencies available in the commercial market;
- (2) the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements on simple commercial and off-the-shelf products; and
- (3) legislation is needed to reduce impediments to the acquisition of nondevelopmental items and encourage increased acquisition of such items.

(b) PURPOSE.—The purposes of this Act are to—

- (1) establish a preference for the use of performance specifications and the acquisition of nondevelopmental items by Federal agencies;
- (2) require training of appropriate personnel in the acquisition of nondevelopmental items;
- (3) require Federal agencies to designate personnel responsible for promoting the acquisition of nondevelopmental items and challenging barriers to the acquisition of nondevelopmental items; and
- (4) reduce impediments to the acquisition of nondevelopmental items by Federal agencies.

#### SEC. 3. NONDEVELOPMENTAL ITEMS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

##### "ACQUISITION OF NONDEVELOPMENTAL ITEMS

"SEC. 303H. (a) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall require that, to the maximum extent practicable—

"(1) the requirements of Federal agencies with respect to a procurement of supplies are stated in terms of—

- "(A) functions to be performed;
  - "(B) performance required; or
  - "(C) essential physical characteristics;
- "(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(3) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(4) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(b) As used in this section, the term 'nondevelopmental item' means—

- "(1) any item of supply that is available in the commercial marketplace;
- "(2) any previously developed item of supply that is in use by a department or agency of the United States, or a State or local government;
- "(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or
- "(4) any item of supply being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace."

(b) TECHNICAL AMENDMENT.—The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Acquisition of nondevelopmental items."

SEC. 4. COMMERCIAL ITEMS.

(a) SIMPLIFIED UNIFORM CONTRACT.—(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

- (i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;
- (ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and
- (iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that, except as provided in subparagraph (B), a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

- (i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in subcontracts under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) WARRANTIES.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

- (1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or
  - (B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and
  - (2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.
- (d) PAST PERFORMANCE.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.
- (e) DEFINITIONS.—As used in this section—
- (1) the term "commercial item" means any item of supply that—
    - (A) requires no modifications or only minor modifications to meet the needs of the procuring agency;
    - (B) regularly is used for other than Government purposes; and
    - (C) is sold or traded to the general public in significant quantities in the course of normal business operations; and
  - (2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

(i) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator for Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2325 note) in lieu of the uniform contract and subcontract clauses developed under this subsection.

(b) WARRANTIES.—The Federal Acquisition Regulation shall require that, to the maximum extent practicable, Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(c) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

- (1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use; or
- (B) been satisfactorily supplied under current or recent contracts for the same or similar requirements; and
- (2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(d) PAST PERFORMANCE.—The Federal Acquisition Regulation shall provide guidance to Federal agencies on the use of past performance of products and sources as a factor in award decisions.

(e) DEFINITIONS.—As used in this section—

- (1) the term "commercial item" means any item of supply that—
  - (A) requires no modifications or only minor modifications to meet the needs of the procuring agency;
  - (B) regularly is used for other than Government purposes; and
  - (C) is sold or traded to the general public in significant quantities in the course of normal business operations; and
- (2) the term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 472(a)).

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act or amendments made by this Act shall be construed to impair or affect the authorities or responsibilities conferred by section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) with respect to the procurement of automatic data processing equipment and services.

SEC. 6. IMPLEMENTATION.

(a) TRAINING.—The Administrator for Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental

items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of appropriate personnel in—

(1) the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(2) market research techniques and the drafting of functional and performance specifications.

(b) **NONDEVELOPMENTAL ITEMS ADVOCATES.**—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

“(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.”

(c) **REGULATIONS REQUIRED.**—Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(d) **IMPROVED MARKET RESEARCH.**—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(1) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(2) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including use of existing Government resources; and

(3) such recommendations for changes in law or regulation as the Comptroller General may consider appropriate.

#### LINDY CLAIBORNE BOGGS LOCK

The bill (S. 627) to designate the lock and dam 1 on the Red River Waterway in Louisiana as the “Lindy Claiborne Boggs Lock,” was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 627

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

#### SECTION 1. DESIGNATION.

The lock and dam numbered 1 on the Red River Waterway in Louisiana is designated as the “Lindy Claiborne Boggs Lock”.

#### SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the lock referred to in section 1 is deemed to be a reference to the “Lindy Boggs Lock”.

#### SILVIO O. CONTE FEDERAL BUILDING

The bill (S. 1418) to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the “Silvio O. Conte Federal Building,” was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1418

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

#### SECTION 1. FINDINGS.

Congress finds that—

(1) Silvio O. Conte, during his 32 years in Congress, embodied the true spirit of public service;

(2) Mr. Conte dedicated his entire life toward helping those individuals less fortunate than himself; and

(3) Mr. Conte's presence in Congress will be sorely missed.

#### SEC. 2. DESIGNATION.

The Federal building located at 78 Center Street in Pittsfield, Massachusetts, is designated as the “Silvio O. Conte Federal Building”.

#### SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the Silvio O. Conte Federal Building.

Mr. BYRD. Mr. President, I thank my friend, Senator NICKLES, for his cooperation.

#### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, Senator NICKLES and I are still hoping to shortly adopt some amendments that are ready on behalf of Members, and accordingly, I suggest the absence of a quorum in the meantime.

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

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NOS. 1129-1137

Mr. BYRD. Mr. President, I have a list of amendments which have been agreed to by Mr. NICKLES, he has the list before him, and by other Senators.

Mr. President, I wish to propose for adoption the following en bloc amendment package which includes amendments offered on behalf of the following Senators and for the following purposes. These amendments have been cleared on both sides:

An amendment offered by Senator GORTON related to Kamp Kiwanis in Olympic National Park.

An amendment offered by Senator DECONCINI related to land management stewardship contracts in the Forest Service.

An amendment offered by Senators BENTSEN and GRAMM to strike sections 113 and 114 of the bill related to the management of a National Wildlife Refuge on Matagorda Island, TX.

An amendment offered by Senators INOUE and SEYMOUR allowing the use of interest from the San Luis Rey settlement fund to administer the settlement agreement.

An amendment offered by Senators LEAHY and MITCHELL transferring funds appropriated for the Forest Legacy Program from the Forest Service Land Acquisition account to the Forest Service State and Private Forestry account.

An amendment offered by Senator HATFIELD for \$250,000 added to the Bureau of Land Management Construction account for initial planning and design of a cost-shared End of the Oregon Trail Visitor Center.

An amendment offered by Senator BOREN requiring a report from the Secretary of the Interior on what is being done to protect and restore murals which are located in the main Interior building.

An amendment offered by Senators ADAMS and GORTON shifting funds for the Bureau of Indian Affairs from one project in the State of Washington to another project in that State.

An amendment offered by Senator CRAIG providing \$100,000 within available funds for the BIA to lease space in a facility to be built by the Nez Perce Tribe.

Mr. President, that concludes the list of en bloc amendments.

Mr. President, I ask unanimous consent that these amendments be considered en bloc; that they be agreed to en bloc; that statements explaining the amendments appear appropriately in the RECORD; and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The amendments considered and agreed to en bloc are as follows:

#### AMENDMENT NO. 1129

At title I, page 23, line 22, of the bill, after “Y.M.C.A.” and before “at”, insert the following: “, and for reconstruction of the main lodge at Kamp Kiwanis.”

#### AMENDMENT NO. 1130

On page 72, line 21, insert the following new paragraph:

[F]or the purpose of achieving ecologically defensible management practices, the forests in the Southwest and Intermountain regions are authorized to apply the value of a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting,

silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects. Timber removed shall count toward meeting the congressional expectations for the annual timber harvest. The value of the timber removed shall be considered as money received for the purpose of computing and distributing 25 per centum payments to local governments under 15 U.S.C. 500.

## AMENDMENT NO. 1131

On page 55, strike line 12, starting with "Sec. 113" through line 21, ending with the period.

Mr. BENTSEN. Mr. President, Matagorda Island, TX, is a unique barrier island ecosystem under separate management of the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department. The State of Texas is currently working with the Fish and Wildlife Service for joint—Federal and State—management of the entire island. This amendment will allow those proceedings to continue and to allow for a management plan to be reached and signed. The Governor of Texas, the Texas Parks and Wildlife Department, and the Fish and Wildlife Service are currently working on that plan and are enthusiastic about the prospects of a comprehensive plan to develop and maintain the resources of Matagorda Island.

## AMENDMENT NO. 1132

On page 56, before line 10, insert the following new section:

"SEC. . . Section 105 of Public Law 100-675 is hereby amended by adding the following new subsection:

"(c) AUTHORITY TO DISBURSE INTEREST INCOME FROM THE SAN LUIS REY TRIBAL DEVELOPMENT FUND.—Until the final settlement agreement is completed, the Secretary is authorized and directed, pursuant to such terms and conditions deemed appropriate by the Secretary, to disburse to the San Luis Rey Indian Water Authority, hereinafter referred to as the Authority, funds from the interest income which has accrued to the San Luis Rey Tribal Development Fund, hereinafter referred to as the Fund. The funds shall be used only to assist the Authority in its professional development to administer the San Luis Rey Indian Water Settlement, and in the Authority's participation and facilitation of the final water rights settlement agreement of the five mission bands subject to the terms of the Memorandum of Understanding between the band and the Department dated August 5, 1991. The Secretary shall not disburse any funds from the Fund in amounts greater than as provided in a budget of the Authority approved by the Secretary, less any other funds provided to the Authority from any other source; provided that, under no circumstances shall any funds disbursed pursuant to this subsection be distributed to the bands, or members of the bands not directly associated with the Authority."

## AMENDMENT NO. 1133

On page 61, line 7, strike "\$84,210,000" and insert in lieu thereof "\$78,210,000".

Delete text beginning on page 61, line 9 with the semi-colon through the word "section" on page 61, line 17.

On page 61, line 17, delete the word "further".

On page 56, line 21, strike "\$193,332,000" and insert in lieu thereof "\$199,332,000".

On page 57, line 7, before the period, insert the following text: " Provided further, That \$6,000,000 shall be available for necessary expenses of the Forest Legacy Program, as authorized by section 1217 of Public Law 101-624, the Food, Agriculture, Conservative and Trade Act of 1990: Provided further, That the Forest Service shall not, under authority provided by this section, enter into any commitment to fund the purchase of interests in lands, the purchase of which would exceed the level of appropriations provided by this section".

## AMENDMENT NO. 1134

On page 5, line 16, strike "\$15,518,000" and insert in lieu thereof "\$15,768,000".

## AMENDMENT NO. 1135

(Purpose: To require the Secretary of Interior to report to the Congress on the restoration of the Native American murals on the penthouse floor of the Department of the Interior building.)

On page 56, between lines 9 and 10, insert the following:

SEC. 118. The Secretary of the Interior, in consultation with the Administrator of General Services, shall submit to the Congress, within 60 days after the date of enactment of this Act, a report on any action that has been taken, or is proposed to be taken, to restore and protect the South Penthouse Native American murals located in the main building of the Department of Interior in Washington, DC.

## AMENDMENT NO. 1136

(Purpose: To provide funds for the purchase of McGlynn Island, the development of a plan to reclaim the Skokomish River Delta, and for increased funding for the Squaxin Island tribe's fisheries.)

On page 32, line 6 strike "\$801,089,000" and insert in lieu thereof "\$801,364,000".

On page 37, line 6, strike "\$107,010,000" and insert in lieu thereof "\$106,735,000".

Mr. BYRD. Mr. President, based on information provided by Senators ADAMS and GORTON the amendment shifts money from the purchase of the Skokomish River Delta to the purchase of the McGlynn Island property, the development of a plan to reclaim the Skokomish River Delta, and for increased funding for the Squaxin Island Tribe's fisheries.

The amendment provides funds to purchase a property similar to the Skokomish River Delta called McGlynn Island. This property is adjacent to the Swinomish Tribe's reservation but is privately owned. The Swinomish Tribe and every political and environmental organization in the State of Washington support the purchase of this land.

The amendment directs that the Skokomish Tribe receive \$175,000 of the money originally designated for the purchase of the land to develop a plan for reverting the land to its natural state. The amendment also provides \$100,000 for the Squaxin Island tribal fisheries program.

## AMENDMENT NO. 1137

(Purpose: To make funds available for leasing a facility owned by the Nez Perce Tribe in Lapwai, Idaho.)

On page 35, line 12, before the period insert " Provided further, That within available funds \$100,000 is available to lease space in a facility to be constructed by the Nez Perce Tribe in Lapwai, Idaho: Provided further, That the Bureau of Indian Affairs will incorporate General Services Administration Market Survey findings into the final lease agreement."

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business was closed.

Mr. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending business is an amendment to be offered by Senator METZENBAUM pursuant to the unanimous-consent request ordered earlier by the Senate.

Mr. BYRD. I believe the amendment is to be offered by Mr. JEFFORDS and Mr. METZENBAUM.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

## AMENDMENT NO. 1138

Mr. BAUCUS. Mr. President, I rise today in opposition to the amendment offered by the Senator from Vermont and also offered by the Senator from Ohio [Mr. METZENBAUM]. There are three problems with this amendment. It is antiagriculture, it is antimultiple use, and it is antienvironment.

It is an antiagricultural amendment because it would drive ranchers off the land. These are good, hard-working people who do care about the land and their community. These ranchers also make an enormous contribution to the economy of the American West. For example, in my home State of Montana it is estimated that grazing off public lands generates \$125 million per year in total economic activity. That is big money in a State with just over 800,000 people.

Of course, some may question the wisdom of subsidizing the economies of Montana and other Western States. Fair enough. But is the current grazing fee a subsidy? Absolutely not. First, the current fee is indexed to livestock prices. When the markets go up, so does the grazing fee. That is important to understand. When the market goes

up, so does the grazing fee. That is fair. That is the way it should be.

I certainly do not want anybody to realize the windfall from a resource that belongs to the American people.

But Federal grazing permits are far from a windfall. In addition to the cost of the grazing permit, ranchers must pay for a number of additional expenses: fencing, water improvements, predator control, and roads, just to name a few.

Moreover, most Federal grazing allotments do not cover fertile bottomland. It is important to understand that. Most Federal grazing allotments do not cover fertile bottomland. Rather, most of our Federal rangelands are in arid country, or high elevation mountain pasture. It can require as much as 50 acres to sustain one cow on some of these lands—50 acres for one AUM. That is one animal unit, one cow. It is neither cheap nor easy to manage livestock over such large areas.

All of this says nothing—absolutely nothing—of the bureaucratic hassles and headaches that many ranchers must endure. As much as I respect the professionalism of the Forest Service and the BLM, it is not always easy to deal with Uncle Sam when you are a rancher.

This amendment is also antimultiple use. Its net effect is to price the rancher right off the land. Antigrazing activities—the “No Moo in ‘92” crowd—would never succeed in eliminating grazing as one of the multiple uses listed in the Multiple Use-Sustained Yield Act. And they know it. Instead, they have opted for this back door approach.

Again, grazing is one of the uses under multiple use. It is in the statute. It is intended. We need it. It should be there.

If you believe in the Multiple Use-Sustained Yield Act—and I think everyone in this Chamber does—and if you believe there is a place for grazing on public lands, vote against this amendment.

Contrary to what some claim, this amendment would actually hurt the environment. That is right. This amendment would actually hurt the environment. Well-managed grazing can actually improve range conditions. Cattle aerate the soil and spread seeds. Wildlife also benefit from stock water improvements. Wildlife benefits when ranchers put out a stock pond or waters his livestock in other ways; wildlife also utilizes those services;

Perhaps more importantly, let us think for a moment about what will happen if the rancher is driven off the land. That is not a small item. Ranchers are on the brink. They are close to extinction. Some ranchers—not all, of course, but some will be driven off the land. And what will happen? First, more fences will go up between public and private land. The section lines be-

tween checkerboard lands pictured on the map will become more real. They will become lines of barbed wire.

Wildlife migration patterns will be disrupted. Many game species will find it difficult to move freely from high summer range, mostly on public lands, to lower lying winter range on private land.

Second, I am deeply concerned about the impact that this amendment will have on many of the scenic valleys of western Montana and other western public land States. In Montana, places like the Stillwater, the Madison, the Beaverhead, and the Big Hole.

Today these valleys—places with fertile low-lying private lands, higher elevation Federal rangelands and rugged peaks off in the distance—remain largely agricultural. These valleys with the vistas, the wonderful beautiful vistas on the sides and off in the distance, themselves are largely agricultural.

And because of this, they possess a wonderful openness. Pay one visit to any of these places, and you will know why they call the State of Montana the Big Sky State.

But what happens to the character of these valleys if we pass this amendment and drive the current permittees, the ranchers, off of the land? Can most of these ranchers sustain economically viable cattle operations on their deeded acres alone? The answer is no, they cannot.

With no economically viable alternatives, many landowners will be forced to subdivide their acreage and sell their lands. Where there was once green, open space providing good winter range for wildlife, there will be double-wide trailer houses; there will be subdivisions; where there was once healthy range with cattle widely disbursed over the land, there will be horses grazing the land down to the bare dirt.

Is that the future we want for these scenic valleys? Of course not. But that is the future we will most assuredly get if this amendment is adopted.

It is for all these reasons, Mr. President, that this amendment is poison—a fatal dose of poison—to Montana and to the American West.

I urge my colleagues to take a stand for agriculture; to take a stand for the environment; and take a stand for balanced multiple use.

If there are abuses in the grazing of public lands—and there probably are some abuses—then the professional foresters, the Forest Service, and the BLM should set conditions on those permittees so the land is not overgrazed. That is the solution to overgrazing. That is the solution to abuse where abuse does occur. The solution is not to increase the grazing fees to such a degree that ranchers are driven off the land, and so these areas are no longer grazed. That is the solution.

This is, as I said, a backdoor approach to prevent ranchers from grazing on public lands, grazing done properly. And where there are abuses, we should stop it. But done properly, it is not only a permissible use, it is necessary to achieve the goals for multiple sustenance.

I strongly urge my colleagues to vote against this amendment. It is very shortsighted. It is myopic, nonsensical, and I urge its defeat.

I yield the floor.

I guess the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WIRTH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Jeffords-Metzenbaum amendment to the Interior appropriations bill.

Mr. WIRTH. And that has been laid down, is that correct?

The PRESIDING OFFICER. That has been laid down. That is correct.

Mr. WIRTH. Mr. President, I cannot say how strongly I oppose this amendment, for a whole variety of reasons related to the environment of my State as well as to the economy of my State and much of the Rocky Mountain West. This is an amendment that will have an absolutely draconian effect on the cattle industry in the State of Colorado and in the State of Wyoming and in all of the Rocky Mountain States. Let me explain why.

The purpose of this amendment is to dramatically raise the fees charged in individuals who graze cattle on the public land. Currently those fees are a little less than \$2 per animal unit month. And the thrust of the amendment is to effectively increase those by a factor of 4 over a relatively short period of time.

Presumably there is a purpose behind this amendment. We have not had any hearings in the U.S. Senate on this amendment anywhere. I sit on the Energy and Natural Resources Committee which has jurisdiction over this issue. There has not been 1 day of hearings on this in the Senate. We have not heard from the sponsors about the purpose of the amendment. We have not heard from anybody in the agricultural community about their reaction to the amendment. We have not heard from any of the impacted States about the amendment.

I assume that there is a set of purposes to the amendment but those have not been clear nor have they been laid out to anybody. There is no record anywhere about the purposes of this amendment.

But I assume there is one of two purposes in this. We can only look at it

and assume if you are going to raise the grazing fees by a factor of 4 times, maybe what people are trying to do is to raise revenue. If this is a way of raising revenues, certainly that is justifiable. Then what we ought to be doing is look to raise revenues from a whole variety of other sources.

I do not know how many Members of the Senate have gone out and said they do not want to raise revenue. But whatever the rhetoric may be that has been out there we should realize that this amendment would raise what is in fact a very small amount of money for the Federal taxpayer, \$30 or \$40 million a year. But this has not been laid out, how much this will raise, where it comes from, and what its purpose is.

Perhaps the purpose of this is to "protect the public lands in the West." If that is the purpose, this amendment is severely misguided. As one who has spent a great deal of time on concerns about the environment and what our environment is going to be over this coming decade and into the 21st century, I want to explain in very brief terms why the unintended consequences of this amendment are absolutely devastating for the environment is much of the Rocky Mountain West.

Let me explain. Most of the mountain valleys in Colorado and in the mountain West were settled by ranchers. Most of the valley bottoms, lands where the water is, are not national forests or Bureau of Land Management lands. The areas in the bottom of the valleys are private lands. Those ranchers chose the best land. That is the land where you can grow hay or alfalfa; that is the land where you can have irrigated pasture; that is the land where you can probably winter cattle.

The economics of agriculture in this part of the world are such that individuals who are attempting in these small mountain valleys to make a living in the cattle industry, must summer their cattle on the public lands and then winter their cattle on their private lands in the valley bottoms. That is generally the way this works. That is generally the way it operates for almost all of the small ranchers in the Rocky Mountain West.

It is a very marginal business. If you are a new rancher getting into the business, it is practically impossible to do so.

Given the price of cattle and all of the costs of raising cattle, you cannot break even and make the payments on a ranch as well. There is no way in the world you can do that, even if you can grow more hay and alfalfa than you need yourself and you get very good prices for hay, very good prices for alfalfa. But even if there is a good market for that out there, you cannot make a go of it unless the ranch happened to be handed down from one family to another.

So we do not find young ranchers going into the business. It is too mar-

ginal to make it work. It does not go that way, Mr. President. There simply are not all kinds of people making scads of money at taxpayer expense. It is a very difficult and a very marginal business.

What does happen, Mr. President, is being able to graze cattle on the adjoining public lands—on the national forest or on the BLM lands—allows these people to come close to breaking even if, in fact, they already own their ranches. If, in fact, they are not making interest payments on the land; if they do not have the mortgage payments, then the economics can about break even.

I am not speaking now about very large cattle operations on private land in Florida or on private lands elsewhere where almost all of the cattle in the country are raised. I am talking about the small operators in the Rocky Mountain West, family-owned ranching operations.

If this amendment goes through, what is going to happen is that those ranchers who are raising a few hundred head of cattle, and using an allotment on BLM or an allotment on the Forest Service for summer grazing for their cattle, if those fees are raised by a factor of four times, a lot of these individuals are going to be driven out of business. They will no longer make a go as ranchers in the mountain valleys. And then what happens?

If you are a rancher in a mountain valley in the State of Colorado, and your grazing fees are raised dramatically, your cost of business goes up and you effectively cannot make it in the cattle business, then what are you going to do? You have one resource remaining, and that resource is your ranch with its water rights. You have that one resource remaining; that land and the water that goes with it.

So what are you going to do, if you have that one resource? You have one of two choices then remaining. One of those choices is to sell your water rights.

If we sell water rights out of these high mountain valleys, the result will be the destruction of these mountain valleys, having exactly the opposite environmental impact that the people say this amendment will have, which is to save the environment. It is going to have just the opposite effect.

Any individual who has driven through South Park in Colorado or the Via Grande in New Mexico will be familiar with areas that have been dewatered because people went in and bought the rights and sold them to big cities. Those valleys are gone forever. They will never be restored.

What this amendment is going to do is to force any number of ranchers to precisely that conclusion and that has exactly the opposite impact of what the framers of the amendment, I think, are suggesting they want to do. They

would suggest that this is an environmentally benign amendment. It is just the opposite.

If those ranchers, Mr. President, do not sell their water rights, they have one other choice remaining, and that is to subdivide their land. In the State of Colorado, you can subdivide into 35- or 40-acre "ranch estates." You can do that under State law without having to get any kind of zoning permission. You are allowed to do that.

What is that impact of that? Just precisely the opposite of what the framers of this amendment presumably intended. That destroys the environmental values in all those valleys as well. In fact, you are destroying the integrity of these areas in that way as well.

The two major unintended consequences—and I assume they are unintended—of this particular amendment offered by the Senator from Ohio and the Senator from Vermont are going to be, one the sale of water rights and, second, the subdivision of these high mountain valleys.

Anybody who has been in this part of the country knows we are spending an enormous amount of effort and money trying to preserve our mountain country, through the good efforts of the chairman of the Interior Appropriations Subcommittee, Senator BYRD, to purchase various pieces of Federal land to preserve areas through wilderness designation, to acquire in holdings.

What we are trying to do is preserve these areas and not go in the opposite direction. This amendment, Mr. President, goes precisely in the opposite direction. It is going to have a devastating impact on the environment of the States of Colorado, Wyoming, Montana, and the rest of the Rocky Mountain West. Of course, we have not had a day of hearing on this.

I suspect the people offering the amendment have no idea this is going to happen; they do not know about the economics of the cattle industry in the West; they do not know anything of what happens with water rights and why western water law is different from what happens in the State of Ohio or the State of Maine. We have enough 40-acre ranchettes in the State of Colorado to last three, four, five generations. We do not need more. We do not need to subdivide more ranches. This is simply devastating to our environment—which we spend, on the other hand, a vast amount of time, money, and attention attempting to preserve.

This amendment does just the opposite of what I suspect its framers would suggest it is going to do.

Not only, Mr. President, is there this serious set of unintended, very damaging impacts on the environment; it has a very negative, economic impact as well.

I will cite one example. The largest part of the economy of the State of

Colorado is agriculture. That is the single most important element in the economy of my State. The second most important is tourism and recreation. The third is small manufacturing.

Agriculture is the most important, and of agriculture, cattle makes up 65 percent of the total. Not all the economics of the cattle industry are the public lands ranchers. Some of those are large feedlots, but I cite the 65-percent figure only to illustrate the fact that this is a very important industry to the State but most important to rural communities in the Rocky Mountain region, small rural communities that are already struggling to survive.

We all talk a great deal about what happens in the rural areas of the country, and we want to preserve small town America; we want to preserve the family farm; we want to do a verity of these things that practically everybody in this body has spoken about. There are important values related to this, values related to these communities and the structures and the societies of those communities. These communities are also very important to the viability of whole regions of rural America.

The cattle industry makes up an important part of the fabric that holds these communities together. Unfortunately, Mr. President, the impact of this amendment is going to kill many small towns in the Rocky Mountain West. It is going to kill many of the small communities that hold together that whole region of the country.

The amendment offered by the two Senators from Ohio and Vermont will have a devastating economic impact on rural areas of the Rocky Mountain West.

Has that been understood? Has that been discussed? Again, we have not had a moment, a minute, an hour, a morning, a day of hearings anywhere in the U.S. Senate on this issue.

Mr. President, this is an amendment that sounds good if you say it fast enough. What is being said is that cattle are ripping off the land. There is, in some cases, a bad history of mismanagement of public lands in the West, particularly in the arid desert West. But the Forest Service is getting better, and I believe also that the Bureau of Land Management is getting better now, too.

This is an amendment that sounds good if you say it fast enough. We are going to repair these public lands by not having cattle graze on them. It sounds good if you say it fast enough, but does not take into account what this is going to do to those high mountain valleys. It does not take into account what the impact of this is going to be on the sale of water out of these areas and a drying up of the whole part of the West. It sounds good if you say it fast enough, but does not take into account the impact this is going to

have on small towns throughout the Rocky Mountain West.

Mr. President, there are a lot of changes that ought to occur in the management of our public range lands. There are a lot of things we ought to do. One of the things we ought to do is to be very good, careful, and prudent about the way in which the BLM and the Forest Service manage these lands. There are other things we should perhaps consider.

Maybe one of the amendments we ought to have would say that the money that comes in from the grazing fees to the BLM and the Forest Service ought to go right back to those agencies so they can better manage the land. But right now this money goes into the black hole of the Federal budget and pays for MX missiles or pays for SDI or pays for the debt.

If we are going to be serious about managing these public lands, why not take the funds that are raised by any grazing fees and have them go directly back to the agency so they can better manage the land. That seems to me a very good idea. Not in this amendment. We do not have the opportunity to bring it up because there was not one day of hearings.

Maybe we ought to be making a differential between the various kinds of lands that are impacted; there are significantly different kinds of land in the Rocky Mountain West than the desert Southwest, significantly different problems in the management of the BLM and the management of the Forest Service, significantly different kinds of problems, and those ought to be recognized. But not this amendment. That could not be in this amendment because we have not had a chance to have a discussion about it, no possibility of saying anything about it.

Maybe we ought to make a distinction, Mr. President, between range corporate ranching interests—and there are a few of those—that may be using the Tax Code to write off various losses that they are incurring in the agriculture or ranching area, and the small rancher who is struggling to stay alive. Maybe we ought to make that distinction.

It seems to me that maybe a pretty good idea, too, but we do not have an opportunity in this amendment to do it because we have not had a single day of hearings, and have not taken the time to consider this.

My colleague from the State of Colorado, Senator BROWN, has proposed that maybe what we ought to do is to develop a formula—he and I were talking about this the other day—in which investments made by cattlemen on the public land, such as fencing or water developments maybe the investment they make should come off the fee. Maybe that ought to be part of a formula.

There is no chance to do that in here, Mr. President, because we have not had

a single day of hearing or suggestion about what this is, what would work and what does not work.

There are a whole variety of things that we might do. Maybe we ought to have as well, Mr. President, some kind of a cost-of-living escalation in here. Maybe that is something that ought to be included. That might be something that is fair and reasonable. Maybe we might base that on last year or we might base that on when this formula was originally set up. But we do not have a chance to give that serious consideration because this amendment is upon us without a moment of hearing or discussion.

Mr. President, I obviously have a very deep parochial interest in this, and I admit that. The Rocky Mountain region in my State, high mountain country, is absolutely beautiful country, and a lot of those high mountain valleys are dependent on and maintained by ranching families.

I do not want to see that part of the country subdivided. I do not want to see those small ranchers forced to sell their water to Denver or Los Angeles or San Diego.

We have also millions of people in this country who travel to that part of the country because they want to see what was extraordinarily beautiful for our forefathers. They do not want to drive up these valleys and see subdivisions. They do not want to drive up these valleys and see them dried out like the Via Grande or dried out like South Fork. Not under this amendment, Mr. President. This amendment would be absolutely devastating to that.

Mr. President, this is a very bad idea. It is bad economics. It is bad environmentally. It is bad for our legacy in this country, and it is bad for our future. This amendment should not be supported by Members of the Senate.

This amendment should not be supported by those in the State of Florida or those in the State of Massachusetts who understand the importance of recreation. This amendment should not be supported by any of those who understand and are concerned about the environment and what our environment is going to be. It should not be supported by anybody who has any concern about a reasonable economic basis for rural economies in our country. I ask all of my colleagues to oppose this amendment.

Mr. WIRTH. Mr. President, I strongly oppose this amendment.

An increase in the cost of grazing cattle and sheep on BLM and Forest Service lands of this magnitude, Mr. President, would spell economic disaster for many ranchers in Colorado and throughout the West. It would be especially devastating for smaller ranchers, for the family which has built its life around raising cattle or sheep on a ranch which simply would not work at

all without using the public lands around it.

Many ranchers in Colorado are dependent on the public lands for their livelihood—and so are countless communities across the State. According to Colorado State University, grazing on the public lands contributes \$200 million and 4,700 jobs to my State's economy every year. I want to emphasize to my colleagues that most of those dollars and those jobs are concentrated in rural communities, where they are an important factor in the very survival of those communities.

If the current fee level was a subsidy, Mr. President, I would support it, as a reasonable, inexpensive and positive way to keep those rural communities alive and well. I frankly think that is a worthwhile goal, and one the Congress should support.

#### IS THE FEE A SUBSIDY?

But is the current grazing fee a subsidy? The dictionary defines "subsidy" as "monetary assistance granted by a government to a person or a private commercial enterprise." The grazing fee is not a payment from the government to the ranchers, it is a fee the ranchers pay the government.

We do subsidize other agricultural enterprises, and those subsidies are supported by the Congress for good reasons. We have price support programs under which the government guarantees rice farmers, corn farmers, wheat farmers, and dairy farmers a price for their product, and the government pays out millions to farmers for that program. We do not do that for beef, and that is not what we are talking about here. The government is not paying these ranchers—they are paying the government.

The question is, I guess, are public lands ranchers paying enough? Do they pay enough to cover the Government's costs in running its grazing program? Yes, I think they do, and the Director of the Bureau of Land Management has testified that they do. For while the total costs of range programs run by the Bureau of Land Management and the U.S. Forest Service are considerably higher than what we take in in grazing fees—though it is not by anyone's calculation as high as the amendment would take the grazing fee—a great part of what is included in those programs do not serve the rancher—they are various programs the Congress or the executive have required these agencies to do, whether or not there is livestock grazing. They include baseline ecological inventories, and wildlife management work, and other functions that BLM estimates make up 40 percent or more of their range budget. The BLM has testified that the grazing fee does, in fact, cover their costs of administering grazing on the public lands.

Is the grazing fee unfair because public lands permittees are not paying as

much as ranchers who lease private lands? I believe that the current fee is fair, and does not give the public lands rancher an advantage over his competitors on private lands. For while private lands leases may sell for considerably higher annual rental rates than the grazing fee, that higher price leases a very different package than you get when you graze on public lands.

When you graze on private lands, you rent not only forage but facilities that the private owner has paid for—fences, water supplies, roads, and other amenities—and you get them exclusively. You get their full use, and you don't have to share them with anyone.

When you graze on public lands, you pay only for the forage—and you can not get it without having invested in private land to qualify for Federal grazing rights. You are required by the leasing agency to invest in the facilities on public land. Those facilities, too, are not designed just to maximize grazing benefits—they are designed to meet other standards as well, including standards to protect wildlife, to allow other public uses, and to accommodate other public values. And you pay for that. And you don't get exclusive use of the lands—you coexist with recreationists, miners, loggers and anyone else who wants to participate in the multiple use of public lands. You can only hope they close the fence behind them.

Not that that is bad. It is multiple use, and it is good. It is the very principle we prize most about the public lands. They are public. But we should recognize that renting cotenancy on the public lands is very different from renting the exclusive use of private lands.

Others of my colleagues will, I am sure, lay out some of the calculations of comparable costs done by academics who have studied private and public land leasing side-by-side. Their calculations generally show that the total costs of ranching on public lands exceeds that of ranching on private lands.

The Members should understand that most public lands ranchers have no alternative. They do not have the option of leasing private lands. They are a captive audience, if you like, and if faced with a 400-percent increase in fees on public lands they do not have the luxury of going elsewhere. Some may survive, but for most of these permittees, the result of a fee increase of this magnitude will simply be to force them out of business, and out of their homes, and out of their communities.

So we are not talking about giving people a choice between paying the government a vastly increased fee, or going elsewhere. We are talking about making a difficult business—ranching on the public lands in the west—impossible.

Are public lands ranchers getting rich off the Federal Government? No,

Mr. President, they are not. Most of the permittees on Federal lands are small, family-owned operations which provide a living, but not much more. They have good years, when beef prices are high, and bad years, when they are low. The number of permittees is shrinking, for the simple reason that most of these cattle operations are only marginally profitable.

#### GRAZING FEES AND THE ENVIRONMENT

Mr. President, I particularly want to talk about the effect of this proposal on the environment—a subject of great personal importance to me, as my colleagues know. The proponents of a grazing fee increase propound a theory that the grazing fee increase is needed to protect the environment. I think they are wrong.

It is certainly true that there are examples—too many examples—of bad grazing management in the West: of overgrazing, and of negative impacts of grazing on the riparian areas so critical to our western wildlife.

But there are many more permittees who are doing their best to be good stewards of the public lands they use. If you are a family rancher who has inherited your ranch and your range permit from a previous generation, and who wants to be able to hand it to your own children, your ability to do so demands that you plan to improve the condition of the public rangelands you use. The future of that ranch depends on it.

There are many permittees who have gone well beyond just being good lessees, and who have spent lifetimes working successfully with the BLM and the Forest Service, and on their own, to improve range conditions on lands that suffered greatly from abuse in the days of open-range grazing and the great cattle booms of the last century.

This fee increase penalizes these permittees as well as the few bad actors we should be encouraging the BLM and the Forest Service to pursue.

Mr. President, that makes no sense. It is bad public policy.

Some proponents of this amendment have said that it is needed to end overgrazing on the public lands. Does it make sense to you that by increasing the fees charged to a marginally profitable business and making it even more marginal, you somehow make the businessman more amenable to taking care of environmental amenities and long-term environmental values? Of course not.

In fact, no one has ever shown me any evidence that raising the grazing fee would have any effect on overgrazing, except to the degree that it makes ranching of any kind impossible. This proposal does not improve grazing management on the public lands—it just ends grazing whether it is being done well or not.

Mr. President, I think that is bad public policy.

What would be the result of this amendment on the environment in the West? As near as I can see, this amendment would hurt wildlife and environmental quality on public and private lands alike throughout the Western States.

That is because its clear impact would be to force many, perhaps most, public lands ranchers out of business.

What would that do? Well, for some ranchers it would mean they would sell their land for second-home development, replacing ranches with subdivisions and roads, and taking private river bottom lands now used to grow hay, alfalfa and other winter feed for cattle which graze on public lands in summer out of agricultural production. But those private lands are an important source of food and shelter for wildlife of all types in virtually every area of the West. They are key winter habitat for deer and elk, and are used by a boundless variety of western wildlife.

The less financially fortunate rancher would be the one in a community where there was no market for residential development. That rancher would have no one to sell his ranch to. The local bank holding the mortgage of it and two dozen like it would probably fail. And the community itself would shrink, or perhaps disappear.

And with the disappearance of that ranch there would also disappear something else that is very important to the public lands surrounding it—the rancher, and his personal presence on that public land.

The presence of that rancher is something that is not in the regulations, and it's not in the agency land use plan, and it has never been covered by an environmental impact statement, but it is something that is very important to the environment.

Let us take the example of erosion causing gullying on some public rangelands. To a BLM district manager, or a forest supervisor, this is something he will never likely see. The average BLM district or national forest is more than a million acres in size, and the BLM does not have the time, personnel, or interest to keep a careful eye on it on an acre-by-acre basis. But to the rancher who leases that land, that gully is cutting into the land he uses. He sees it. He cares about it. He will get BLM or the Forest Service to pay attention to it, and he will act with them to stop that gullying.

That personal presence and personal involvement is something that in most cases will be lost forever if we force that permittee out of business. Is that good for the public lands? Is it good for this vast and important piece of the environment? No. In fact, Mr. President, I think it is very bad for the environment. I think it would be a tragedy.

A MATTER FOR THE AUTHORIZING COMMITTEE

Mr. President, I would hope that my colleagues will consider the fairness of

taking an action of this magnitude by amendment to an appropriations bill without so much as a hearing by the authorizing committee.

This proposal, I believe, would have serious social, economic, and environmental consequences for the West. I strongly believe that the thousands of families and communities directly affected by this proposal deserve, at the very least, an opportunity to testify on their own behalf and that the Congress should not act prior to giving this issue a thorough scrutiny.

This amendment represents, to me, a very destructive instance of legislation on an appropriations bill, and I urge my colleagues to reject it.

I urge my colleagues to vote against this amendment, as poor public policy and as an inappropriate way for the Senate to address an issue of serious social, economic, and environmental consequences throughout the West.

Mr. President, I ask unanimous consent that supporting documents be included in full in the RECORD, including a small sample of the letters I have received from ranchers in Colorado, and from rural banks.

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

#### HOUSE JOINT RESOLUTION 91-1018

Whereas, legislation has previously been introduced in the Congress of the United States to raise grazing fees on public lands administered by the U.S. Forest Service and the Bureau of Land Management to an unaffordable level and similar legislation is currently pending; and

Whereas, such legislation threatens to force family ranchers to sell out to developers and ruin the greenbelt environment of Colorado and the West; and

Whereas, the General Assembly supports the concept of multiple use of public lands and recognizes livestock grazing as one of the traditional uses of land in Colorado; and

Whereas, grazing on public land has historically been used as a tool to manage such land and to stabilize the western livestock industry as well as counties and communities throughout the West, and not as a means to balance the federal budget; and

Whereas, there have been two multi-million-dollar studies conducted by federal agencies to determine the fair market value of grazing rights, both of which studies have endorsed the grazing fee formula in the present federal "Public Rangelands Improvement Act" (PRIA) of 1978 which is also supported by economists, the Congress, and an executive order of the President of the United States; and

Whereas, grazing on public land is a viable use which supports Colorado's economy by contributing over two hundred million dollars per year and providing over four thousand seven hundred jobs for Colorado residents; and

Whereas, studies indicate that in 1991, considering both the cost of grazing fees and other costs associated with the grazing of livestock, which are estimated at twelve dollars and twenty-nine cents per annual unit month by a Utah State study, permittees will be paying fourteen dollars per annual unit month, which is far above the amount paid for private land leasing; and

Whereas, private lands are cultivated and irrigated and have fenced meadows, and therefore should not be compared with public land leasing; and

Whereas, laws and regulations require permittees to own base property to obtain the privilege of grazing their livestock on public lands, requiring a large investment; and

Whereas, permittees' base property furnishes habitat for game animals for five or six months out of the year, upon which private habitat such game animals are dependent and in connection with which the permittees receive no compensation for the resulting loss of grass; and

Whereas, permittees have spent thousands of dollars and great effort improving the ranges by obtaining "Section 4" permits, which are one hundred percent paid by permittees, and in cost sharing projects, which are fifty percent paid by permittees, and have maintained improvements, including water development improvements, all to the benefit of wildlife and the enhancement of range lands; now, therefore,

Be It Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

(1) That the General Assembly supports the present grazing fee formula now contained in the federal "Public Rangelands Improvement Act" (PRIA) of 1978, which sets forth a workable, equitable, and fair method of arriving at fair market value; and,

(2) That field hearings be held on any legislation which will change or override the present formula; and

(3) That the base, indices or indexes used in the PRIA formula not change without documented proof; and

(4) That the General Assembly hereby requests that another study be conducted prior to any change in the present formula.

Be It Further Resolved, That copies of this resolution be sent to the Governor of the State of Colorado, the executive director of the Colorado Department of Natural Resources, the Commissioner of Agriculture of the State of Colorado, and the United States Secretary of the Interior, the Secretary of Agriculture, the members of the Colorado congressional delegation, the House Committee on Interior and Insular Affairs, and the House Committee on Agriculture.

MEEKER, CO,  
August 26, 1991.

Senator TIM WIRTH,  
Russell Senate Building, Washington DC.

DEAR SENATOR WIRTH: The Halendros Family Ranch began as a dream in the mind of a five year old peasant boy named Regas K. Halendros as he was tending sheep in the middle of Greece around the turn of the century. The dream of going to America, the land of hope and opportunity haunted Halendros until 1912. Then, he alone, with 60 cents in his bundle arrived on the New York harbor boat docks. Speaking two words of English and mimicking what he saw others doing, Halendros eventually found his way to Utah and worked in the coal mines. In 1922 Halendros left the coal mines to be a sheepherder in the valley of the White region near Meeker, in Western Colorado.

Many uncertainties faced the young Greek as he quickly learned that sheep and those related to the livelihood of raising sheep were not welcome in the cattle country of Meeker. The Colorado State Militia opened the road-blocks setup by angry cattlemen in order to prevent sheepmen and their herds from grazing on their claimed open range. In the winter time sheepmen moved their herds

toward Utah to graze in the somewhat milder climate for open range pastures. The competition for available grass among sheep herds resulted in the harsh treatment of the Public Lands during the early 1930's.

After 7 years of working for a rancher, Halendros bought enough sheep to establish his own herd and homesteaded near Meeker, Colorado. The Taylor Grazing Act put an end to the open range wars and life for Halendros improved in several ways. First, Halendros received his geographical piece of Federal grazing land and second, he was able to improve his homestead property by purchasing some irrigated private land to enhance the public land he was using. Halendros had to do what was necessary to manage and improve his private as well as his public lands in order to survive. Without proper stewardship the soil, water, and grass would be lost.

Regas Halendros was in the mainstream of the American way-of-life. His ranching properties began to blossom as he began the costly and constant toll of improving and upgrading his pastures. He did not look upon the public land being different than his private land, both needed care and improvements; fences had to be built, water reservoirs had to be made, brush controlled, roads had to be built, and grass seeded. The cost for all the improvements both to private and public land were personally paid for by Halendros and occasionally, a Federal cost-share program would exist. The management practices applied by Regas Halendros were passed on to his sons. In 1989 the two Halendros brothers received Conservationist of the Year Award for Range Management.

All that began as a dream for a five year old Grecian boy in 1912 became a reality for Regas Halendros, my father. It was through his hard work, perseverance, and his range management skills, that my brother and I (first generation born Americans) own and manage 5,000 acres of private land and 150,000 acres of public land. We have a year-round sheep operation of 2,500 head.

The proposed increased grazing fees of \$5.90 and the \$8.70 per AUM will be the death "nail" of the Halendros Brothers' Ranch. My family and my brother's family live jointly on the 5000 acres of private land. Our private land is not fertile enough to produce enough grass to support 2,500 head of sheep year-round. Our sheep business would be drastically reduced by at least 80% and one or both families would be forced to sell or to seek employment elsewhere. The problem is, where do we go for work in Western Colorado with limited industry and service companies? Do we become part of the exodus from rural America? You do not sell 5000 acres, displace two families, pay off debt, and start over again in midlife overnight!

The economic impact of the proposed fees will have a far reaching effect and it will not be isolated to rancher. Schools, stores, small businesses, and social center for seniors in the Western States will suffer from the impact due to loss revenue from ranch operations. Families in the business of ranching contribute to their communities just like anyone else. Can the US government continue to force families from the rural areas into the urban areas? What happens to a nation when basic food production businesses (farmers and ranchers) can no longer afford to be in the business of producing food? Can we import it all?

The current formula for Grazing Fees is a good balance for a rancher. It is important to keep the grazing fees in balance with the cost and income it takes to operate a sheep business or cattle ranch. Right now sheep

prices are very depressed and the increased fees will push myself and others out of business.

Please help maintain the current grazing fee formula as you prepare for your debate on the Senate floor.

Sincerely,

GUS HALENDROS.

COST OF IMPROVEMENTS, HALENDROS  
BROTHER'S RANCH

The cost to improve and maintain both the public and our private land comes directly from the family income.

Sheep-tight wire fences, \$8,000 per mile.  
Reservoir structures lined with sealant, \$700-800 each.  
Brush cutting, \$35 per acre.  
Grass seeding.  
Cost of machinery, labor.

ALAMOSA, CO,  
August 20, 1991.

TO WHOM IT MAY CONCERN:

The Oliver ranch is a family operated ranch. My wife, myself and two sons run the ranch with little or no hired help.

We put up hay all summer to winter approximately 600 cows and 450 yearlings.

Our summer grazing on deeded land. Our monthly grazing fee on deeded land is approximately \$8.00 per head per month for cow and calf and \$7.00 per month for yearlings. This includes all pasture, corral facilities, fencing, salt and unloading cattle on an oiled highway. One man can service the cattle, checking in one day. There is a horse pasture on the ranch for my riding horses. The death loss is minimal—maybe 1 percent.

This compares to our Federal grazing permits. I have 310 cows and calves on a Forest permit and 125 units on B.L.M. This necessitates an extra person to ride these cattle.

The fee is \$1.97 per month—death loss 4-5 percent per year and \$2000.00 to \$2500.00 per year. Hauling over gravel roads 110 mile to one permit \$12.00 per cow and calf—furnish and pack my own salt, \$250.00 per year—maintain the fences—\$350.00 per year. There is pickup and horse trailer to check cattle and horses—\$1.00 per head.

Our mountain permits are high in elevation leading to a high altitude disease called big brisket which in some years is devastating.

I feel that an increase in grazing fee per month is not justified in lieu of all the expenses on Federal Land. Our Federal Forest Service and BLM personnel are good people to work with. We get along great.

We value our permits to balance our cattle operation. Our cattle know the range and it is their summer home.

But, we can't survive with an exorbitant increase in fees it costs to run on the range!

Sincerely,

ED OLIVER.

FEDERAL LAND BANK ASSOCIATION  
OF SOUTHWEST COLORADO,  
Montrose, CO, August 5, 1991.

Senator TIM WIRTH,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR WIRTH: The Federal Land Bank Association of Southwest Colorado represents over 1,200 borrowers in the southwestern part of the State. Approximately 40 percent of our loans are with cattle and sheep operators and a high percentage of these rely on assured grazing on Federally owned lands. Recent legislation, primarily Bills H.R. 944 introduced by U.S. Representative Mike Synar of Oklahoma and H.R. 481

introduced by U.S. Representative George Darden of Georgia together with a very recent bill introduced in the House by Representative Ralph Regula of Ohio, are of a major concern to the livestock industry in Western Colorado. All three of these bills would allow the grazing fees to increase to levels which will force the cattle and sheep operators out of business in our area, as they will not be able to pay the grazing together with the other expenses that go along with operating on assured Federal leases.

As representatives of the agriculture community, we are firmly in favor of multiple use of public lands, and studies continue to show that the present grazing fee formula provides a very competitive fee structure for livestock owners operating on public lands as the operating expense for grazing on public lands is considerably higher than on leased fee-owned property. Cattle and sheep operators using the forest and BLM assured leases must continually monitor and move the herds in order to protect the public lands.

Also, the operators of these assured leases have put many improvements at their own expense on the public lands. These improvements are of a permanent nature and there is no way to be repaid for these improvements if the operators lose the permits or cannot afford to pay for the permits on the public lands. We are located in an area of heavy recreation, but it has been proven that the recreators and the livestock industry can both utilize through multiple use programs all of the lands which are presently under the BLM and Forest Service jurisdictions. There simply is not enough private land to lease in our area, and any significant increase in assured lease fees will cause a large number of cattle and sheep operators to be forced out of business.

Also, the Federal Land Bank has always considered assured leases in our lending guidelines as both collateral and income producing assets. As the cattlemen and sheepman are forced off of assured leases, these permits will have no value and will severely impact the collateral base and income earning base of borrowers with both long-term and short-term loans. Therefore, the board of directors of this Association are unanimous of their support as being firmly against any move by the Senate or the House to change the existing formula for calculation of assured grazing permit fees.

If you have any questions, please feel free to contact us at any time.

Yours Truly,

John R. Kroeger, Board Chairman, Durango, CO; Kirk Alexander, Vice Chairman, Norwood, CO; William E. Guerrieri, Director, Gunnison, CO; Clay V. Bader, Director, Mancos, CO; Robert F. Fury, Director, Dove Creek, CO; and Frank Garcia, Jr., Director, Montrose, CO.

BACA STATE BANK,  
Springfield, CO, August 20, 1991.

Senator TIM WIRTH,  
Senator HANK BROWN,  
U.S. Senate, Washington, DC.

DEAR SENATORS: Allow me to visit with you regarding the legislation that is presently coming before you concerning the increase in dollar amount the grazing fees are facing our ranchers who graze on Federal Lands here in Baca and Las Animas counties here in southeast Colorado.

We have a total loan portfolio of \$9,145,467.00 here at Baca State Bank. Our ranch customers who have grazing permits

on the Comanche National Grassland have 20.8% of the total portfolio, which we have on our books this date.

The impact of the proposed increase of 1/4 in cost this next grazing year, will surely cause our ranch customers to change their way of doing business. Trying to manage the resources of livestock, grass and water, will certainly make the job of having a positive bottom line much more difficult.

If the price of grass goes higher and higher, it comes a time when ranchers will be unable to cope and therefore go out of the ranching business as a livestock operator. The story that follows we all know, the land does not produce income to carry its weight in taxes. Thank you very much for listening.

Sincerely yours,

RICHARD H. PATTERSON,  
President.

1ST SECURITY BANK OF CRAIG,  
August 20, 1991.

To: Hon. Senator Brown.

DEAR SENATOR: In regard to the proposed increase in grazing fees, we feel very strongly against any additional costs that will attribute to the failure of our livestock operators in Western Colorado. The Sheep Industry can not stand any more adversities. Most all sheep operators have substantial losses with the current price of grazing fees. Cattle prices have been abnormally high in recent years but increased costs coupled with a down turn in the market, will put severe pressure on this industry as past history has indicated. Increased fees for most of our sheep customers, that are barely surviving will put some of our customers out of business.

Our Loan Portfolio of approximately \$16,500,000.00 is mixed with Personal, Installment, Commercial and Agriculture Loans. \$3,600,000.00 of our agriculture loans are directly involved. The balance is indirectly affected. When our Agriculture customers loose income this stresses the rest of our customers income as well as putting direct pressure on the banks Quality of loan Portfolio, which increases costs of funds to our customers.

We all seem to forget the mid 70's and again in the mid 80's when the agriculture sector was in a depression. The sheep industry is currently in that cycle again and with any deterioration in the cattle market coupled with increased grazing fees, a large portion of our customers could be in financial danger again this year.

We would encourage you to vote against any legislation that would attribute to the demise or harm to the livestock industry.

Respectfully Yours,

MICHAEL K. DARVEAU,  
Senior Vice President.

Mr. WIRTH. I realize that the time is late on a Friday afternoon. There is going to be more debate on this on Monday. I understand now the plan is that there be a vote on this on Tuesday. I assume we will have a unanimous consent on that soon. I know that many of my colleagues from elsewhere in the Rocky Mountain West will be speaking, perhaps more calmly than I, on the subject. I realize that this is something that is incredibly important to my State. It is incredibly important to my region in the country. And it is wrong. It is fundamentally wrong.

Mr. President, I yield the floor.

I thank the Chair.

Mr. RUDMAN. Mr. President, I rise today to express my concern over the committee's recommendation for fiscal year 1992 for the Department of Energy, energy conservation programs.

Since coming to the Senate, I have strongly supported DOE State and local assistance programs, particularly the weatherization program. Over the years, the Congress and the Committee on Appropriations have consistently supported weatherization funding and I want to compliment the Senator from West Virginia, the chairman of both the committee and the subcommittee for his leadership in this regard. This year, however, even while recognizing the tight budgetary constraints facing us, I believe the proposed appropriation is unreasonably low. The committee recommendation of \$177.6 million represents a 12-percent cut from the fiscal year 1991 level.

The DOE Weatherization Assistance Program provides for the installation of insulation, storm windows and doors, and other energy efficiency improvements to reduce heat loss and conserve energy in the homes of low-income citizens. By improving energy conservation, the program saves consumers billions in heating costs, and reduces the demand for energy assistance programs and other programs aiding those in need. The program has served millions of homes, saved millions of gallons of fuel, and created countless jobs.

I was disappointed with the administration request of \$24,000,000 for the Weatherization Assistance Program, a dramatic reduction of 88 percent below the level appropriated in fiscal year 1991. The argument that energy assistance programs should be funded by the States using moneys disbursed to them through the petroleum overcharge fund is hollow. Congress has wisely never accepted this attempt to justify the virtual elimination of this program. The fact is that the oil overcharge refunds are a dwindling resource. A recent report of the National Consumer Law Center indicated that 100 percent of the oil overcharge funds have been allocated, with a vast amount of the funds obligated and most spent. Moreover, oil overcharge was meant to supplement not supplant these programs. While energy assistance funding is reduced, energy costs continue to rise, leaving many citizens no choice but to pay the terrible consequences.

The volatility in fuel oil prices over the last several winters has made the country more concerned over our energy vulnerability. The weatherization program not only enhances our energy security but also leverages other dollars by serving as seed money. In New Hampshire, during the past winters, retail customers saw their heating bills rise by over 60 percent. A dramatic rise in energy prices affects everyone in so-

ciety; in particular, the elderly, handicapped and low-income families. Unfortunately, Mr. President, purchasing heating fuel is not an option or a luxury. It is an essential part of survival.

Mr. President, we have a responsibility to provide adequate energy assistance to those who most need it. Full weatherization of homes in America is achievable and I believe that it is in our interest to attain this needed goal. To do so, Congress must continue to provide sufficient funding for the DOE Weatherization Assistance Program. Accordingly, I urge the Senate to recede to the House level of \$200 million in conference.

STATE AND LOCAL ASSISTANCE PROGRAM  
FUNDING

Mr. GORE. Mr. President, I want to express my admiration for the remarkable balance of interests and priorities that the Interior Subcommittee has achieved in this bill. I appreciate the very difficult constraints the subcommittee operated under. Many tough choices had to be made, and I congratulate the chairman, my distinguished colleague from West Virginia, Senator BYRD for his success in beginning, and maintaining, many vital initiatives in this bill.

However, I have one remaining set of concerns which a number of my colleagues share and which I would like to mention to the distinguished chairman and ranking member. Simply put, the cuts in the Department of Energy's State and Local Energy Conservation Programs, including the Low-Income Weatherization Program, the Schools and Hospitals Program and the Energy Extension Service, will have serious consequences if they are not changed during House-Senate conference.

Where the bill provides \$200 million for these programs, the House provides \$248 million. Fiscal year 91 funding was slightly over \$246 million. Support for these programs is very strong in this body. On June 3, 1991, I was 1 of 50 Senators signing a letter to the subcommittee urging that these programs be increased by 25 percent. Instead, this bill calls for a 10-percent cut.

This cut in funding is particularly troubling in light of the decreases in funding these programs have already experienced. In fiscal year 1979, \$558 million was appropriated for these programs. Even if our goals was only to maintain this level of spending in real terms, today we would be appropriating \$1 billion for these programs.

Mr. President, there is a slowdown in all energy conservation funding and activity in all sectors of the economy, and the poor are especially hard-hit. Funding for low-income weatherization, the State Energy Conservation Program [SECP], the Schools and Hospitals Program [ICP], and the Energy Extension Service [EES], come from several Federal and State sources and are combined with DOE moneys to im-

prove the energy efficiency of low-income housing, small businesses, the transportation sector, the industrial sector, and so forth.

In the recent past, the largest source of funds for these initiatives was the petroleum violation—or oil overcharge—fund. The revenue in this fund has now been entirely committed, and will not be a serious factor in fiscal year 1992.

There are also far fewer funds available at the local level for weatherizing housing units. In my home State of Tennessee, for example, funding is less than half the level of 4 years ago. And many other States are faced with similar funding constraints.

Mr. President, the bottom line is that these programs are a good investment of Federal dollars. Weatherization serves the extremely poor, and for many, it is their only chance to reduce their energy bills and properly heat their homes.

In addition, the programs require direct matching funds of up to 50 percent, so they are a way for us to leverage our investment and achieve important gains that could not be achieved with Federal dollars alone. All four programs attract matching energy investments in the tens of millions of dollars from utilities, landlords, businesses, and other governmental entities. When we cut the Federal base, we lose the private sector match, and thus, a golden opportunity to improve the homes of the poor and to cut energy consumption in businesses, hospitals, schools, and residences throughout the country.

Moreover, because they lead to reduced energy consumption, these programs actually save money over time. In fact, paybacks in energy savings from these programs are generally less than 3 years. Weatherization, for example, has been shown to save approximately 20 percent of the average client's usage or about \$240 each year. This amount exceeds the average fuel assistance payment, and the improvement is permanent. Clearly, cutting back on conservation dollars here would only waste money.

In my home State of Tennessee 1,426 buildings have benefited from the schools and hospitals program, and energy savings from the projects has produced an estimated \$28 million in energy savings. Projects implemented range from simple lighting and insulation retrofits to wood burning heating system installations and waste heat incinerator programs.

The Tennessee Energy Office also operates an energy and water conservation program that helps detect water system losses, conducts training classes and helps keep water use and energy use down. Through July 30, 1991, the program targeted 295 water systems statewide at a cost of \$2.7 million—but produced benefits roughly 11 times

greater than that cost. In addition, the State has implemented a Community Energy Partnership Program which helps local governments reduce their energy usage through training and technical energy audits. This program has achieved reductions in energy expenditures of some \$2 million, and the savings are permanent.

Mr. President, cutting programs for the poor, cutting programs for our schools and hospitals, cutting energy efficiency measures that make all sectors of the economy more competitive, is inappropriate at this time are in our Nation's effort to modernize our infrastructure, provide jobs for our citizens, and reduce our consumption of energy that increasingly threatens our environment and our security. The Interior Subcommittee clearly had very difficult choices to make and operated under the most trying of constraints.

Mr. President, it is my hope that when those limitations and constraints change in the context of the House-Senate conference, the Senate conferees will see their way clear to recede to the House figures on these important programs. Without objection, Mr. President, I wonder if I might pose a question to that effect to the distinguished chairman of the subcommittee at this time?

I appreciate the strong support the chairman has shown for the State and Local Assistance Program over the years. In the face of annual proposals from the administration to eliminate the programs, you have fought especially hard to maintain funding, and I applaud your efforts.

While I appreciate the very limited availability of funds, and the many worthy programs that need funding, I would like to request that the distinguished chairman prioritize the State and Local Assistance Program and to work in conference to recede to the level of funding provided by the House.

Mr. BYRD. I thank the distinguished Senator from Tennessee and I assure him that every effort will be made to increase funding in conference for the very worthy programs he has spoken of.

Mr. GORE. I thank my colleague.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I believe the first committee amendment is the amendment beginning on page 2, line 21, and running through line 22 on page 3. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, that amendment was excepted by agreement of Senator NICKLES and myself, and with the consent of the Senate, in order that Senator BUMPERS could offer his amendment thereto.

Now that the Bumpers amendment has been disposed of, I ask unanimous

consent that their first committee amendment be agreed to, and that the motion to reconsider be laid on the table.

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

Excepted committee amendment on page 2, line 21, was agreed to.

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

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER (Mr. WIRTH). The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 6:30 p.m. on Monday, September 16, the Senate proceed to executive session to consider Executive Calendar 10, the agreement with the Union of Soviet Socialist Republics on the maritime boundary.

I further ask unanimous consent that the treaty be considered as having been advanced through the various parliamentary stages up to, and including, the presentation of the resolution of ratification; that no other amendments, understandings, or reservations be in order; that any statements appear as if read in the RECORD; that the Senate vote on the resolution of ratification without any intervening action or debate; that the President be immediately informed of the Senate's action; and that the Senate return to legislative session.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the resolution of ratification at this time.

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

Mr. MITCHELL. I ask for the yeas and nays on the resolution of ratification.

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

The yeas and nays were ordered.

#### REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 102-14

Mr. MITCHELL. Mr. President, as in executive session.

I ask unanimous consent that the injunction of secrecy be removed from the Consular Convention with the Mongolian People's Republic (Treaty Document No. 102-14), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

I am transmitting, for the Senate's advice and consent to ratification, the Consular Convention Between the United States of America and the Mongolian People's Republic signed at Ulaanbaatar on August 2, 1990. I am also transmitting, for the information of the Senate, the report of the Department of State with respect to the Convention.

The signing of this Convention is a significant step in the process of improving and broadening the relationship between the United States and Mongolia. There currently does not exist a bilateral agreement on consular relations between the two countries. The Convention sets forth clear obligations with respect to important matters such as notification to consular officers of the arrest and detention of nationals of their country and protection of the rights and interests of nationals of their country.

The people of the United States and Mongolia have begun to establish ties of friendship and cooperation. I welcome the opportunity through this Consular Convention to promote good relations between the two countries. I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, September 13, 1991.

#### MORNING BUSINESS

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate at this time, I ask unanimous consent that there be a period for morning business with Senator DOMENICI to be recognized to address the Senate, and that upon the completion of Senator DOMENICI's remarks, the Senate stand in recess, as under the order, until 12:30 p.m. on Monday, September 16.

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

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States a treaty which was referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE

At 1:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. GEJDESON, Mr. DYMALLY, Mr. TORRICELLI, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, and Mr. LEACH.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1415) to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. BERMAN, Mr. WEISS, Mr. DYMALLY, Mr. FALEOMAVAEGA, Mr. LANTOS, Mr. BROOMFIELD, Ms. SNOWE, Mr. GILMAN, and Mr. SMITH of New Jersey.

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 128, 915, and 1042 of the Senate amendment, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. LEACH, and Mr. BEREUTER.

From the Committee on the Judiciary, for consideration of sections 126, 171, and 208 of the House bill, and sections 123 to 125, 143 to 144, 711 and 712 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, Mr. KOPETSKI, Mr. FISH, and Mr. MCCOLLUM.

From the Committee on Post Office and Civil Service, for consideration of sections 118 and 121, and part D of title I of the House bill, and sections 119 and 120, and part D of title I of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. SI-

KORSKI, Mr. ACKERMAN, Mr. HORTON, and Mr. MYERS of Indiana.

From the Committee on Ways and Means, for consideration of sections 621, 913, 925, and 1104 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. ARCHER, and Mr. CRANE.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 680. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes (Rept. No. 102-150).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 243. A bill to revise and extend the Older Americans Act of 1965, and for other purposes (Rept. No. 102-151).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1709. An original bill to amend the Farm Credit Act of 1971 to enhance the financial safety and soundness of the Farm Credit System, and for other purposes.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

Mr. ROTH:

S. 1708. A bill to repeal certain provisions of law which impede the normalization of United States-Soviet Union relations; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEAHY:

S. 1709. An original bill to amend the Farm Credit Act of 1971 to enhance the financial safety and soundness of the Farm Credit System, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

Mr. LEAHY:

S. 1710. A bill to establish the Food for Freedom program whereby the United States may assist the developing democracies of the world through the provision of food assistance and other assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 1708. A bill to repeal certain provisions of law which impede the normalization of United States-Soviet Union relations; to the Committee on Banking, Housing, and Urban Affairs.

#### NORMALIZATION OF UNITED STATES-SOVIET UNION RELATIONS

● Mr. ROTH. Mr. President, this week the Finance Committee held 2 days of

hearings on the United States-Soviet trade agreement which the President recently submitted to Congress. This agreement is one of two important requirements that must be met under title IV of the Trade Act of 1974 in order to grant the Soviets most-favored-nation treatment [MFN]. The other requirement was met earlier this year when the President waived title IV's freedom-of-emigration provisions. Now that these two requirements have been met, I hope that Congress will now do its part to normalize trade relations with the Soviets by granting MFN treatment as soon as possible.

During the course of the hearings this week, we heard from the United States business community on the importance of moving quickly to extend MFN to the Soviets. We also heard about the need to enact legislation to repeal the so-called Stevenson-Byrd amendments which have placed limits on the ability of Eximbank to provide credits and credit guarantees to United States companies interested in doing business in the Soviet Union. This is one simple but important step we can take right away to help the United States take advantage of what will be the growing opportunities in the Soviet market. This will help not only ourselves, but also the Soviet people for they need United States private sector expertise and assistance in meeting the huge economic challenges they face. Today I am introducing such legislation.

In repealing the Stevenson-Byrd limits on Eximbank activities in what was formerly called the Soviet Union, we will be moving in the direction that our major trading partners have already begun moving in—providing government backing to new, but perhaps somewhat risky, business ventures which offer great potential. As one key witness stated during the hearing this week—"it's time for government policy to get in line with business reality." Swift enactment of this legislation is one piece of that puzzle which we must start putting together.●

By Mr. LEAHY:

S. 1710. A bill to establish the Food for Peace Program whereby the United States may assist the developing democracies of the world through the provision of food assistance and other assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

#### FOOD FOR FREEDOM ACT

● Mr. LEAHY. Mr. President, I rise today to introduce legislation which I hope will focus our discussions of agricultural assistance to the emerging democracies of the Soviet Union, the Baltic States, and Eastern Europe.

This legislation requires a new direction of thought in the executive branch about providing assistance to foreign countries. It will require a close part-

nership with the United States private sector. In fact, the lion's share of the responsibility for devising workable programs to aid in the economic development of the Soviet Union and Eastern Europe will lie with the private sector.

The destruction of communism and totalitarianism in the Soviet Union and Eastern Europe is the most significant political and social event to occur since the surrender of the Axis powers in 1945. The ultimate triumph of pluralism and capitalism in these countries will shape the future of the world for our children and grandchildren.

We cannot ignore the significance of these events. We cannot take this opportunity lightly.

I believe this is one overriding key to the success of the reform movement: A working economy based on free-market principles.

Almost every treatise I read on the development of a working economy in these countries states that the reform must begin with agriculture. The agricultural sector is the foundation of the economies in most of these countries and it is there, from the ground up, that reform must begin.

Second, I do not believe that governments, neither the United States Government and especially not the remnants of the Soviet Government, can provide the proper role-model to develop the private sector.

The United States private sector will be the best teacher to the Soviet Union and Eastern Europe.

The Soviet people do not need the government, even a reformist government, telling them what to do. That is the old way.

The Soviet people need to be taught by the private sector of other countries. The need to see the marketplace work directly and they need to be in control of development projects.

Third, we cannot wait and let the political situation in the Soviet Union sort itself out. It may be years before this happens.

Economic reform must not, and should not be dependent on the government structure of the Soviet Union of the republics.

The seeds of economic reform, if sown at the grassroots level, will prosper and begin to be the engine that drives political reform, rather than the other way around. The prosperity of the people will cause them to demand more freedom and they will not be denied.

Today, I am reintroducing the Food for Freedom Program that was contained in the trade title of the Senate version of the 1990 farm bill. This program totally revises the Food for Progress Act that was contained in the Food Security Act of 1985.

The Food for Freedom Program will provide the administration with the broad authority necessary to provide assistance to the former Soviet state.

It is directed primarily toward the private sector—both in the United States and in the Soviet Union. Government to government assistance is not the answer. We must design strategies that invigorate the private, entrepreneurial spirit of the people of the Soviet Union. We need reform from the bottom up.

Under Food for Freedom, the President is authorized to use agricultural commodities provided by the Commodity Credit Corporation for the purpose of assisting the development of democracy and market-based economic reform in these formerly totalitarian and communist societies.

This authority is designed to be flexible. The President may enter into agreements with these countries or with members of the United States private sector to carry out projects in Eastern Europe or the Soviet Union. Using U.S. agricultural commodities (either donated, sold, or offered on credit terms), members of the U.S. private sector will be able to initiate and fund projects such as developing processing facilities or helping establish farmer-owned cooperatives in these countries.

This program also authorizes the President to provide direct food aid assistance if he determines it is necessary to help feed the Soviet people during the upcoming winter.

The Food for Freedom Program can be integrated into existing assistance programs and will fill a void that currently exists in our aid efforts. Repeatedly, the experts have stressed that it is the middle of the agricultural sector in the Soviet Union that is the most in need of repair.

To date, however, most of our assistance to Eastern Europe and other countries has focused on the production side of agriculture and on applied agricultural research. Mr. President, I ask unanimous consent to insert a summary of the Foreign Agricultural Service activities in Eastern Europe into the RECORD at this point.

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

#### SUMMARY OF AGRICULTURAL TECHNICAL ASSISTANCE FOR CENTRAL AND EASTERN EUROPE, FISCAL YEAR 1991

##### POLAND

*Extension Service (ES):* Provided a new Senior Extension Advisor (SEA) to the Ministry of Agriculture and Food Economy. In conjunction with the SEA, the ES is providing advice and technical assistance in restructuring the existing extension system to service the private agricultural sector. The ES also recruited and sent five two-person teams for six month assignments to field offices in the Polish countryside. These teams assist the local offices in working more closely with producer associations, private farmers and rural communities to teach the skills necessary to operate successfully in a free-market economy.

*Economic Research Service (ERS):* In March 1991, ERS, with the participation of the National Agricultural Statistics Service

(NASS), conducted a needs assessment and developed contacts in various Polish institutions for the purpose of establishing a commodity reporting and forecasting system, as well as improving Polish data. As a follow-up to the March team's visit to Poland, a team of seven Polish officials spent two weeks engaged in intensive training and joint planning activities in Washington in May. The ERS training focused on techniques for analyzing and disseminating situation and outlook (S&O) information. It also acquainted the Polish officials with the range of analytic tools available for market-oriented policy analysis, and the organizational structure used to integrate these activities within ERS and USDA.

A jointly established workplan then identified three high priority commodities as the initial focus on S&O analysis: grains, pork and dairy. Priority issues for applied policy analysis include: a study of the interactions between the European Community's Common Agricultural Policy and Poland's agricultural sector; an evaluation of alternatives for intervening in the dairy market; and the development of a capacity to evaluate policy options using some of the ERS policy simulation models.

Following the Polish team's return to Warsaw, the Ministry formed working groups to prepare S&O reports on dairy, pork, and grains, and an ERS team of four commodity analysts arrived in Warsaw to initiate analytic work on these commodities. The principal responsibility for the reports was assigned to the Institute for Agricultural Economics. However, staff from the Ministry, the Agency for Agricultural Markets, and the Central Statistical Agency also participate in the training and report preparation.

The initial training focuses on data compilation, outlook forecasting, and report organization. A version of the USDA/FAS Production Supply & Demand (PS&D) data base was provided for use in Poland, along with initial training on the computer software necessary to use the data. These data bases would most likely be shared with Hungarian and Czechoslovak counterparts by the end of FY '91.

*Cochran Fellowship Program (CFP):* CFP received funding through "SEED Act II" to fund approximately 40 Polish participants. Forty three (43) candidates applied for the program and 19 were selected.

The CFP encountered one major problem in Poland: Some candidates from the emerging private agribusiness sectors did not apply for fellowships because they could not afford the round-trip airfares between Warsaw and Washington. USDA addressed this problem by establishing a local currency account which will pay up to one-half (about \$500/participant) of the international airfares. This will be used to contribute to the airfares for the 19 participants selected. USDA's FAS Agricultural Counselor's office in Warsaw will continue to identify additional candidates for the 1991 program and the CFP will utilize VOCA and USDA's Extension Service teams to identify other agribusiness candidates.

Training for Poland will occur in the following areas: agricultural credit, banking and finance; agricultural machinery; seed multiplication and distribution; animal breeding and artificial insemination; agricultural marketing; meat processing agribusiness; and vegetable production and marketing.

In summary, we anticipate that about 30 of the 40 participants planned for Poland will receive training by the end of calendar year

1991. Currently, we estimate that funding for about 10 participants will be carried over for 1992 programs. (Please see the attached Status Report for more information on the program, which applies on a regional basis.)

*Restructuring of Research System:* OICD's Research and Scientific Exchanges Division (RSED) identified two research specialists, one in ministry-level research systems (Dr. James Smith) and one in university-level research systems (Dr. Howard Teague). Drs. Smith and Teague traveled to Poland in February 1991, with Dr. Jerry Walker (OICD/RSED/Program Leader) to assess Poland's current research system. They agreed that Dr. Smith should return in March to set up planning initial committees and lay the ground work in the appropriate Polish ministries for development of a plan to restructure the Polish research system.

Dr. Smith returned to Poland in mid-March 1991 and, with officials from the Polish ministries of Agriculture, Education and the Academy of Sciences, worked within the framework of two committees. The first is the Strategic Planning Committee which looks at the ministries' missions, structure and implementation practices. The second is the Coordinating Committee on Science and Education and was set up by the World Bank to study the structure of agricultural research between the Ministries of Agriculture and Education and the Academy of Science.

Dr. Smith and Polish officials have drafted and orally agreed on a Research Reorganization Plan. Written agreement is expected by this Fall, when the plan will also be implemented. Dr. Smith and these two committees also drafted a strategic action plan to support this new research system. This plan emphasizes research management training for relevant levels of ministry and university research program leaders. Finally, Polish officials have also submitted reports and implemented actions required by the World Bank.

Dr. Smith will meet three Polish officials in Washington in September 1991 for the first orientation of ministry-level research management. These officials will meet with USDA/ARS officials at Beltsville, MD and other USDA officials in Washington, DC to observe first-hand the U.S. agricultural research system in action.

Dr. Smith will return to Poland in September 1991 to help implement the research system reorganization and the strategic action plan. Two other scientific research leaders will come to one of the U.S. universities in August-September 1991 to study the U.S. university research management system. Finally, a U.S. Soil Scientist will travel to Poland late in CY-91 to train Polish Soil Science research leaders in research management.

*Agricultural Marketing Service (AMS):* In early FY 1991, the AMS sent a team to Poland to hold a series of seminars and presentations on post-harvest handling (storage, transportation, marketing, etc.) of perishable commodities. The seminars were held in six different towns over a two-week period and were extremely well-received. As a follow-up to that exercise, AMS has another team taking a similar approach to wholesale market development, market news and inspection.

#### BULGARIA

*Economic Research Service (ERS):* Assistant Secretary Bruce Gardner, together with Guy Haviland and Duane Acker, traveled to Bulgaria to meet with Bulgarian Minister of Agriculture Boris Spirov in April, 1991. They discussed the Bulgarian request for a long-

term resident policy advisor to work directly with Minister Spirov. ERS responded to that request by selecting Ron Meekoff, who has extensive experience in practical policy analysis while serving on Assistant Secretary Gardner's Economic Analysis Staff. Dr. Meekoff was introduced to Minister Spirov during the Minister's June visit to the United States. An ERS reconnaissance team, led by ERS Administrator John Lee, will be in Bulgaria in early July to discuss in more detail the major issues to be addressed by the resident advisor and to initiate a 3 week TDY by the advisor. We expect Meekoff to be in Sofia on a permanent basis by the beginning of September. In addition, a project similar to the one being implemented in Poland will begin after Hungary, but before Czechoslovakia (i.e. CY 1992).

*Soil Conservation Service (SCS):* In May, 1991 a team consisting of officials from USDA/SCS, EPA, the Bureau of Mines and Louisiana State University visited Bulgaria to more closely examine the problems that that country is having with regard to heavy metals (arsenic, cadmium, zinc and lead) in its soil and irrigation water. The team identified sources of the metals and the levels at which they were present in the subject areas. They were able to allay some fears of host-country officials in terms of the immediate dangers (toxicity), but they also recommended that more steps be taken to isolate and treat the affected areas. The problems present potentially large and long-term hazards in the areas of agriculture and health, and will be addressed in USDA/SCS technical assistance proposals for Fiscal Year 1992.

*Cochran Fellowship Program (CFP):* SEED Act II funds will be used to fund 16-18 participants, although more than 30 candidates were interviewed. Topic areas for Bulgaria's 1991 programs are: agricultural credit, banking and finance; agricultural marketing and farming management; market information systems and agricultural media; privatization of veterinary services; cotton marketing and trade; privatization of animal breeding services; and livestock marketing. In addition, CFP supported the trip of Bulgaria's Minister of Agriculture to the U.S., which provided him the opportunity to better understand the U.S. system of agriculture and USDA's role in supporting agriculture, and to discuss Bulgaria's developmental needs as they begin to privatize their agricultural systems. (Please see full Status Report, attached)

#### HUNGARY

*Economic Research Service (ERS):* In beginning its project to establish a commodity analysis and reporting system, the initial ERS reconnaissance team, again with NASS representation, visited Hungary in March, 1991. The team found a high degree of interest in establishing a commodity reporting and forecasting system, as well as interest in establishing an institutional structure to support such activities. The Hungarians invited a second ERS team to visit the country in June.

The second ERS visit fortified the Hungarian commitment to the project and served to catalyze contacts across institutions, which, as in Poland, will likely lead to a more formal restructuring of Hungarian institutions. A Hungarian team will be in Washington for an in-depth training and joint planning session in mid-July.

*Cochran Fellowship Program (CFP):* It is estimated that 12 participants will be funded out of SEED Act II and that all SEED Act II funds will be used within calendar year 1991.

Eighty (80) applicants were interviewed. Topic areas for Hungary's 1991 program are: agricultural credit, banking and finance; animal breeding and artificial insemination; U.S. feed manufacturing; agricultural cooperatives; wood products utilization; organization of agricultural research institutions; poultry feed rations; seed multiplication and distribution; greenhouse production; and integrated pest management. (Please see full Status Report, attached)

#### CZECHOSLOVAKIA

*Economic Research Service (ERS):* The work in Czechoslovakia is in an earlier phase than similar projects for the other countries. A draft proposal, transmitted to officials through the Agricultural Counselor, received strong interest. The Czechs and Slovaks are preparing a proposal to initiate discussions with the ERS reconnaissance team, scheduled to arrive in late June. ERS is also responding to a request by the Czechoslovakian Ministry of Foreign Trade to send an expert to provide a seminar in the implications of the European Community Common Agricultural Policy. It is expected that an ERS economist will be in Prague by mid-July to present this seminar.

*Cochran Fellowship Program (CFP):* It is estimated that SEED Act II funds will be used to train 12 participants from the CSFR in 1991 and that all funding will be used by the end of the 1991 calendar year. Forty candidates were interviewed. Topic areas for the 1991 CSFR programs include: agricultural credit, banking and finance; privatization of input supply systems; vegetable production and marketing; livestock breeding and artificial insemination systems; agribusiness management; international trade policy and analysis; and privatization of veterinary services. (Please see full Status Report, attached)

Mr. LEAHY. Mr. President, the Soviet Union has the capacity to produce but does not have the means to get that production to the people who want to buy it. Under Food for Freedom, our agricultural assistance will focus on creating a marketplace, fixing a derelict distribution system, and injecting profit and pride into a motivationally bankrupt sector.

This program, which Senator LUGAR and I introduced last year in a virtually identical form, will give the President the ability to structure programs that will put our private sector on the forefront of our reform efforts.

I have stated several times concerning the provision of export credit guarantees to the Soviet Union that program was not the right tool to use to begin to transform the Soviet economy. I remain more convinced of that premise today.

I believe one reason the President has repeatedly used this program is that there were no viable alternatives. We had to show we would help the Soviet Union through this time of hardship. The export credit guarantee program was all that was available.

Now, it appears that well is running dry. First United States banks balked at providing even guaranteed credit to the Soviet Union. Now, the European banks that finally lent the Soviets money earlier this year appear to be

unwilling to provide more credit. This is in spite of the fact that the U.S. Government is willing to guarantee 98 percent of the risk. The remaining 2 percent appears to be too much of a risk for these banks to bear.

The controversy surrounding the issuance of agricultural export credit guarantees prevents us from concentrating on the depth of the Soviet problem. Extending export credit guarantees will help the Soviet Union buy food this year, but it will do little to enable them to buy food next year. It will not provide our farmers with the long-term market they need. One does not patch a flat tire with Elmer's glue.

The Food for Freedom Program will provide the mechanism through which the President can put our agricultural assistance to its best use.

Mr. President, I ask unanimous consent that various materials relative to the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD.

#### BACKGROUND ON SOVIET AGRICULTURE

Today, the Soviet food production system is in crisis. Consumer subsidies increase food demand while waste and inefficiencies depress marketable supplies.

Soviet crop yields are a fraction of those of the Western world. Soviet livestock productivity is about half the U.S. level. Still, the acreage under cultivation in the Soviet Union, about 230 million hectares, is the most extensive of any country in the world. The Soviet Union is the world's largest producer of wheat and one of the world's largest producers of grain.

The Soviet Union's total production of grain for 1991/92 is forecast at 190 million tons, down 45 million tons from the bumper 1990 crop and the lowest in 7 years. Coarse grain output in the Soviet Union is projected at 91.5 million tons, a drop of nearly 22 million tons from 1990/91.

Soviet agriculture produces on a per capita basis sufficient food to feed the country's population. Per capita production of grain and meat is in line with levels in Western Europe.

A major source of problems in agriculture are caused by breakdowns in the distribution of inputs. One example is the decline in chemical fertilizers. While the Soviet Union is the world's largest producer of mineral fertilizers, phosphorous fertilizers are often unavailable. More than 3 million tons of mineral fertilizers (10 to 15 percent of agricultural deliveries) are lost annually due to technology and bureaucratic difficulties. While Russia has increased its application of mineral fertilizers more than three times in the last 20 years, grain production rose only 20 percent.

Another example is the sharp decline of production and deliveries of agricultural equipment. Output of tractors and machines and equipment for the cattle and feed sectors fell by 7 percent in 1990.

The Soviets estimate that post-harvest losses are 25 percent or greater for most commodities. Losses in the fruit and vegetable sector are believed to range as high as 50 percent. Over 22 million metric tons of uncollected grain was left to rot at the Russian collective and state farms last year.

The General Accounting Office report concluded that many of the problems of Soviet

agriculture involved at least the following elements:

- Confusion about the direction of reform;
- Bureaucratic resistance to policy changes;
- Little autonomy for Soviet farmers contending with serious supply problems;
- Serious infrastructure problems in transportation, storage, and processing;
- Lack of workable price reforms; and
- Monetary imbalances in the overall Soviet economy.

These shortfalls have led to the need for large food subsidies, estimated to equal 20 percent of the Soviet budget expenditures in 1990. This spring, however, the Soviet government tripled the prices for meat and bread, and greatly increased other retail food prices.

The Presidential Mission on Food Availability in the U.S.S.R., headed by Under Secretary of Agriculture Richard T. Crowder, found no evidence of a food shortage in the Soviet Union as of May of this year. The delegation concluded that last winter Soviet citizens bought and hoarded food in anticipation of the government's price increases, causing a "food crisis."

The delegation found that the few reports of isolated food shortages were overshadowed by a widespread, unmet demand for animal feeds. The delegation also found that there has been an increasing reliance on barter and inter-regional trade to fill local needs.

The Presidential delegation found that distribution, more than production, is the heart of Soviet food problems. The four chief causes that the delegation found include:

**Physical Plant is Not Structured Properly:** Facilities are sometimes outdated, underutilized, or in the wrong location. Simultaneous over-investment and under-investment in the food distribution system creates inefficiencies and bottlenecks.

Some examples of these inefficiencies include dairy processing. In Kiev, a UHT milk processing line runs at half capacity because of short supplies of the special cartons the milk requires. Another example is that there is typically only a single dairy product processing plant in a region, so much milk is wasted before it can be pasteurized and bottled.

**No Organized Wholesale Market:** The shortfall creates massive inefficiency in food distribution. Approximately two-thirds of the major commodities are purchased by the government. Farmers, however, choose not to fill state orders because the product is worth more as an input or for barter than what the state pays. Estimates indicate that from one-fourth to one-third of food trade currently moves by barter at negotiated rates of exchange.

**Lack of Emphasis on the Distribution System:** There is also a belief by many senior Soviet agricultural officials that they can produce themselves out of their food problems, and a failure to recognize a need for improvements in processing and storage.

**Lack of Ownership of Food:** The lack of ownership of food as it moves through the state system results in careless handling of the product.

In addition, the delegation found that the reform of the state ownership of property seems stalled in an intermediary phase of collective ownership.

#### SUMMARY OF FOOD FOR FREEDOM

The Food for Freedom Program would replace the Food for Progress program that was enacted in the Food Security Act of 1985.

Under Food for Freedom, the President could enter into agreements with emerging

democracies or with private voluntary organizations, businesses, or cooperatives, to provide agricultural commodities to support the democratization of the governments of such countries, the granting of individual liberties to the people of such countries, the development of a free market economy, and the promotion of economic growth and freedom within such countries.

The commodities could be donated, offered on credit terms, or on such other terms as determined by the President.

Agreements entered into with private voluntary organizations, businesses, or cooperatives would require them to use any commodities provided to carry out the purposes of the program. In addition, the pvo's, businesses, or cooperatives may be authorized to sell or barter the commodities and use the amounts generated—

(1) to promote the establishment and expansion of private enterprise in the recipient country;

(2) to aid in the production of food in the recipient country through improved agricultural research, processing, transportation and marketing systems, and instruments of production in such country; and

(3) to help develop commercial markets for the purchase of agricultural commodities.

Eligible countries are those that have begun the transformation of the system of government from a non-representative type of government to a representative democracy; or have made commitments to introduce or expand free enterprise elements in their economy.

Under this program, the Commodity Credit Corporation is authorized to make agricultural commodities available to the President for use in this program and to finance the sale and exportation of such commodities to the extent necessary to carry out agreements entered into under this section.

Commodities may be made available from CCC stocks or the CCC may purchase the necessary commodities. The CCC may pay certain enumerated expenses in connection with the provision of commodities.

No funds of the Commodity Credit Corporation in excess of \$50,000,000 (exclusive of the cost of any commodities) in each fiscal year shall be used to carry out the program unless such excess is authorized in advance in appropriations Acts.

The bill would also make some minor changes in the commercial trade programs found in title II of the Agricultural Trade Act of 1978. In general, the bill would allow some of those programs to be used in conjunction with the Food for Freedom program. The bill would also authorize the Secretary of Agriculture to waive, in limited situations, the requirement contained in the direct credit program that repayment of principle and interest always be made in U.S. dollars.

#### ONE FORM OF ASSISTANCE UNDER FOOD FOR FREEDOM

The Food for Freedom program will enable the U.S. government to help the people of the Soviet Union to begin to reform their economic system. Because this program focuses on direct contact between the U.S. private sector and the beginning private sector in these countries, direct involvement by the Soviet Government or the government of the Republics will not be a crucial component to the success of the projects.

Under one structure of assistance under this program, currencies generated by the provisions of agricultural commodities could be combined and managed by a joint board.

The membership of the board would be comprised of representatives from the U.S. private sector and the Soviet private sector. Those currencies could be directed by the board toward projects that would aid in the development of processing, storage, or transportation facilities. The establishment of a viable wholesale or retail system would also be a proper use of these funds.

The ultimate goal of this program is to direct U.S. assistance away from the remnants of the Soviet government and toward the Soviet people. It is our hope that the U.S. private sector would seize this opportunity, join with the U.S. government, to show the people of the Soviet Union how they can participate in and benefit from a free-market system.

Projects developed these lines have been successful in the past. A recent example occurred in Uganda where Agricultural Cooperative Development International has used 10,050 metric tons of U.S. vegetable oil to generate a local currency equivalent of over \$6 million. Those funds have then been directed into private sector development projects—stretching from production through processing and marketing of agricultural products.

Land O' Lakes, a Wisconsin cooperative, has made great strides in getting a project off the ground in the Republic of Russia. Although in the planning stages, Land O' Lakes is using its expertise to help develop a private co-op in the Russian Republic. Such a project could fit neatly within the programs authorized by Food For Freedom.

#### U.S.—SOVIET AGRICULTURAL TRADE

The Soviet Union has been a significant, but unstable, consumer of U.S. grain. (see table below).

#### U.S. Agricultural Exports to the U.S.S.R.

[In millions of dollars]

Year:	Amount
1981	1,685
1982	1,871
1983	1,473
1984	2,878
1985	1,923
1986	658
1987	938
1988	2,246
1989	3,597
1990	2,262

The value of U.S. agricultural exports to the USSR declined 37 percent in calendar 1990, largely due to a drop in grain exports. The volume of corn exports fell almost 50 percent, and wheat fell 31 percent. Grain accounted for 85 percent of U.S. agricultural exports to the USSR during 1970-90 and 62 percent of total U.S. exports to the USSR.

The United States has entered into three long term grain agreements with the Soviet Union, extending through 1995. Despite these grain agreements with the United States, the Soviets have not met the terms in four of the five years covered by the second U.S. grain agreement. Some of the 1991 exports of wheat, however, have been credited against the 1989/90 agreement year by the USDA Export Sales Office.

The current agreement requires the USSR to buy an average of 4 million tons of wheat and 4 million tons of coarse grains per calendar year; however, the USSR may purchase as little as 3.25 million tons of either wheat or feed grains in a year, making up the remaining 750,000 tons with the other commodity. Annual purchases of another 2 million tons of either wheat, feed grains,

soybeans, or soybean meal is required in the agreement. USSR purchases credited to this year include 1.5 million tons of wheat and 6 million tons of corn.

The United States has used the Export Enhancement Program (EEP) to make U.S. wheat competitive in the Soviet market. Total EEP bonuses for U.S. wheat sales to the USSR since May of 1987 exceed \$736 million, of which \$116 million was for sales thus far in 1991.

In December 1990, the Secretary of Agriculture announced \$1 billion in short-term export credit guarantees to the USSR. In June 1991, President Bush approved an additional \$1.5 billion in additional credit guarantees, for allocation in fiscal 1991 (\$600 million) and fiscal year 1992 (\$900 million). In late August, President Bush announced that \$315 million of the credit guarantees would be advanced from the fiscal year 1992 schedule.\*

#### ADDITIONAL COSPONSORS

S. 243

At the request of Mr. ADAMS, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 243, a bill to revise and extend the Older Americans Act of 1965, and for other purposes.

S. 581

At the request of Mr. BOREN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 614

At the request of Mr. DASCHLE, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 775

At the request of Mr. CRANSTON, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 775, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a co-

sponsor of S. 904, a bill to provide for the establishment of a Children's Vaccine Initiative, and for other purposes.

S. 1091

At the request of Mr. ADAMS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1091, a bill to require that certain information relating to nursing home nurse aides and home health care aides be collected by the National Center for Health Statistics and the Bureau of Labor Statistics, and for other purposes.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Mr. BREAU] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1228

At the request of Mr. HATFIELD, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1228, a bill to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior, and for other purposes.

S. 1257

At the request of Mr. BOREN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

## SENATE JOINT RESOLUTION 93

At the request of Mr. HEFLIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 93, a joint resolution to designate the period of September 13, 1991, through September 19, 1991, as "National Ballroom Dance Week."

## SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

## SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 166, a joint

resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

## SENATE JOINT RESOLUTION 170

At the request of Mr. DOLE, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Delaware [Mr. ROTH], the Senator from Michigan [Mr. RIEGLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. LEAHY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Wisconsin [Mr. KOHL], the Senator from Wisconsin [Mr. KASTEN], the Senator from Tennessee [Mr. GORE], the Senator from Ohio [Mr. GLENN], the Senator from Utah [Mr. GARN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Illinois [Mr. DIXON], the Senator from Rhode Island [Mr. CHAFFEE], the Senator from West Virginia [Mr. BYRD], the Senator from Colorado [Mr. BROWN], the Senator from Missouri [Mr. BOND], the Senator from Hawaii [Mr. AKAKA], the Senator from New Jersey [Mr. BRADLEY], the Senator from Massachusetts [Mr. KERRY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 170, a joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day," and authorizing the display of the National League of Families POW/MIA flag on flagstaffs at certain Federal facilities.

## SENATE RESOLUTION 178

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Resolution 178, a resolution expressing the sense of the Senate on Chinese political prisoners and Chinese prisons.

## AMENDMENTS SUBMITTED

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992

## MCCAIN (AND DECONCINI) AMENDMENT NO. 1124

Mr. MCCAIN (for himself and Mr. DECONCINI) proposed an amendment to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 115, between lines 21 and 22, insert the following new title:

TITLE IV—GRAND CANYON PROTECTION  
SEC. 401. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act of 1991".

## SEC. 402. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereafter in this title referred to as the "Secretary") shall—

(1) operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in this title; and

(2) exercise other authorities under existing law in such a manner as to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall carry out this section in a manner fully consistent with and subject to—

(1) the Colorado River Compact;  
(2) the Upper Colorado River Basin Compact;

(3) the Water Treaty of 1944 with Mexico;  
(4) the decree of the Supreme Court in *Arizona v. California*, 376 U.S. 340 (1964); and

(5) the provisions of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Colorado River storage project and participating projects, and for other purposes", approved April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.), and the Colorado River Basin Project Act (43 U.S.C. 1511 et seq.), that govern the allocation, appropriation, development, and exportation of the waters of the Colorado River Basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title is intended—

(1) to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established; or

(2) to affect the authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.).

## SEC. 403. INTERIM OPERATION OF GLEN CANYON DAM.

(a) PLAN.—

(1) DEVELOPMENT.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop a plan for operating Glen Canyon Dam on an interim basis to protect, mitigate adverse effects to, and improve the condition of the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(2) IMPLEMENTATION.—The Secretary shall implement the plan on the earlier of—

(A) September 1, 1991; or  
(B) the cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989.

(b) CRITERIA.—The interim plan developed pursuant to subsection (a)(1) shall be designed—

(1) not to interfere with the water storage and delivery functions of Glen Canyon Dam established pursuant to—

(A) the Colorado River Compact;  
(B) the Upper Colorado River Basin Compact; and

(C) other laws relating the allocation of the Colorado River;

(2) to minimize, to the extent reasonably possible, the adverse environmental impact

of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam;

(3) to adjust fluctuating water releases used for the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flow that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) to minimize flood releases, consistent with section 402;

(5) to maintain sufficient minimum flow releases from Glen Canyon Dam—

(A) to minimize, to the extent reasonably possible, adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam; and

(B) to protect fishery resources; and

(6) to limit maximum flows released during normal operations—

(A) to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and on Glen Canyon National Recreation Area downstream from Glen Canyon Dam; and

(B) to protect fishery resources.

(c) CONSULTATION.—The Secretary shall develop and implement the interim plan described in this section in consultation with—

(1) representatives of appropriate bureaus of the Department of the Interior, including the Bureau of Reclamation, the United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian tribes; and

(5) the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) BEST AVAILABLE DATA.—The Secretary shall develop and implement the interim plan referred to in this section using the best and most recent scientific data available.

(e) TERMINATION OF INTERIM PLAN.—The interim plan described in this section shall terminate upon compliance by the Secretary with section 404.

(f) DEVIATION FROM INTERIM PLAN.—The Secretary may deviate from the interim plan referred to in this section upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of section 404(a);

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) reduce adverse effects on downstream Colorado River natural, recreational, or cultural resources.

#### SEC. 404. ENVIRONMENTAL IMPACT STATEMENT AND LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General of the United States shall—

(1) audit the costs and benefits to water and power users and to natural, recreational,

and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

(2) report on the results of the audit to Congress and the Secretary.

(c) ADOPTION OF CRITERIA AND PLANS.—

(1) IN GENERAL.—Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall adopt criteria and operating plans separate from, and in addition to, those specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), and exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 402.

(2) ANNUAL OPERATIONS REPORT.—Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall submit to Congress and to the Governors of the Colorado River Basin States a report, separate from, and in addition to, the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operations undertaken pursuant to this title during the preceding year and as projected for the upcoming year.

(3) CONSULTATION.—In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)) and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to Congress—

(1) the environmental impact statement described in subsection (a); and

(2) a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream from Glen Canyon Dam.

#### SEC. 405. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with section 402.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include all necessary research and studies to determine the effect of the Secretary's actions under section 404(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of—

(A) the academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(B) environmental organizations; and

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

#### SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

#### SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

#### WIRTH AMENDMENT NO. 1125

Mr. WIRTH proposed an amendment to the bill H.R. 2686, supra, as follows:

Notwithstanding any other provision of law none of the funds in this or any other Act shall be available before April 1, 1992, to accept or process applications for patent for any oil shale mining claim located pursuant to the general mining laws or to issue a patent for any such oil shale mining claim, unless the holder of a valid oil shale mining claim has received first half final certificate for patent by date of enactment of this Act.

#### BUMPERS AMENDMENT NO. 1126

Mr. BUMPERS proposed an amendment to amendment No. 1125 proposed by Mr. WIRTH, to the bill H.R. 2686, supra, as follows:

On line 2, strike the words "before April 1, 1992" and insert the following: "before July 1, 1992".

#### SEYMOUR AMENDMENT NO. 1127

(Ordered to lie on the table.)

Mr. SEYMOUR submitted an amendment intended to be proposed by him to the bill H.R. 2686, supra, as follows:

On page 20, line 23, after the period, insert the following: "Nothing under this heading shall preclude the use of Land and Water Conservation Fund monies for acquisition by condemnation at Santa Monica Mountains National Recreation Area."

#### BUMPERS AMENDMENT NO. 1128

Mr. BUMPERS proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 2, line 21, in lieu of the material proposed to be stricken, insert the following: "Provided further, That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein and lode claims an section 2329, 2330, 2331, and 2333 of the revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of

the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by that date."

**GORTON AMENDMENT NO. 1129**

Mr. BYRD (for Mr. GORTON) proposed an amendment to the bill H.R. 2686, supra, as follows:

A title I, page 23, line 22, of the bill, after "Y.M.C.A." and before "at", insert the following: ", and for reconstruction of the main lodge at Kamp Kiwanis,".

**DECONCINI AMENDMENT NO. 1130**

Mr. BYRD (for Mr. DECONCINI) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 72, line 21, insert the following new paragraph:

[F]or the purpose of achieving ecologically defensible management practices, the forests in the Southwest and Intermountain regions are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship and result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects. Timber removed shall count toward meeting the congressional expectations for the annual timber harvest. The value of the timber removed shall be considered as money received for the purpose of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500.

**BENTSEN (AND GRAMM) AMENDMENT NO. 1131**

Mr. BYRD (for Mr. BENTSEN, for himself and Mr. GRAMM) proposed an amendment to the bill H.R. 2686, supra, as follows:

On pages 55, strike line 12, starting with "Sec. 113", through line 21, ending with the period.

**INOUE (AND SEYMOUR) AMENDMENT NO. 1132**

Mr. BYRD (for Mr. INOUE, for himself and Mr. SEYMOUR) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 56, before line 10 insert the following new section:

"SEC. . Section 105 of Public Law 100-675 is hereby amended by adding the following new subsection:

"(c) AUTHORITY TO DISBURSE INTEREST INCOME FROM THE SAN LUIS REY TRIBAL DEVELOPMENT FUND.—Until the final settlement agreement is completed, the Secretary is authorized and directed, pursuant to such

terms and conditions deemed appropriate by the Secretary, to disburse to the San Luis Rey Indian Water Authority, hereinafter referred to as the Authority, funds from the interest income which has accrued to the San Luis Rey Tribal Development Fund, hereinafter referred to as the Fund. The funds shall be used only to assist the Authority in its professional development to administer the San Luis Rey Indian Water Settlement, and in the Authority's participation and facilitation of the final water rights settlement agreement of the five mission bands subject to the terms of the Memorandum of Understanding between the band and the Department dated August 5, 1991. The Secretary shall not disburse any funds from the Fund in amounts greater than as provided in a budget of the Authority, approved by the Secretary, less any other funds provided to the Authority from any other source; *Provided*, That, under no circumstances shall any funds disbursed pursuant to this subsection be distributed to the bands, or members of the bands not directly associated with the Authority."

**LEAHY (AND MITCHELL) AMENDMENT NO. 1133**

Mr. BYRD (for Mr. LEAHY, for himself and Mr. MITCHELL) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 61, line 7, strike "\$84,210,000" and insert in lieu thereof "\$78,210,000".

Delete text beginning on page 61, line 9 with the semi-colon through the word "section" on page 61, line 17.

On page 61, line 17, delete the word "further".

On page 56, line 21, strike "\$193,332,000" and insert in lieu thereof "\$199,332,000".

On page 57, line 7, before the period, insert the following text: " *Provided further*, That \$6,000,000 shall be available for necessary expenses of the Forest Legacy Program, as authorized by section 1217 of Public Law 101-624, the Food, Agriculture, Conservation and Trade Act of 1990: *Provided further*, That the Forest Service shall not, under authority provided by this section, enter into any commitment to fund the purchase of interests in lands, the purchase of which would exceed the level of appropriations provided by this section".

**HATFIELD AMENDMENT NO. 1134**

Mr. BYRD (for Mr. HATFIELD) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 5, line 16, strike "\$15,518,000" and insert in lieu thereof "\$15,768,000".

**BOREN AMENDMENT NO. 1135**

Mr. BYRD (for Mr. BOREN) proposed an amendment to the bill H.R. 2686, supra, as follows:

$$\text{Fair Market Value} = \frac{\text{Appraised Base Value} \times \text{Forage Value Index}}{100}$$

calendar year and the previous 2 calendar years, as adjusted in accordance with subclause (II).

"(II) The average calculated in accordance with subclause (I) shall be adjusted—

"(aa) for 1991, by setting the 1991 Forage Value Index equal to 100; and

On page 56, between lines 9 and 10, insert the following:

SEC. 118. The Secretary of the Interior, in consultation with the Administrator of General Services, shall submit to the Congress, within 60 days after the date of enactment of this Act, a report on any action that has been taken, or is proposed to be taken, to restore and protect the South Penthouse Native American murals located in the main building of the Department of the Interior in Washington, DC.

**GORTON (AND ADAMS) AMENDMENT NO. 1136**

Mr. BYRD (for Mr. GORTON, and Mr. ADAMS) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 32, line 6 strike "\$801,089,000" and insert in lieu thereof "\$801,364,000".

On page 37, line 6, strike "\$107,010,000" and insert in lieu thereof "\$106,735,000".

**CRAIG AMENDMENT NO. 1137**

Mr. BYRD (for Mr. CRAIG) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 35, line 12, before the period insert " *Provided further*, That within available funds \$100,000 is available to less space in a facility to be constructed by the Nez Perce Tribe in Lapwai, Idaho; *Provided further*, That the Bureau of Indian Affairs will incorporate General Services Administration Market Survey findings into the final lease agreement."

**JEFFORDS (AND METZENBAUM) AMENDMENT NO. 1138**

Mr. JEFFORDS (for himself and Mr. METZENBAUM) proposed an amendment to the bill H.R. 2686, supra, as follows:

On page 24, line 12, strike all after the numeral 10, and insert in lieu thereof:

"W., W.M.

**SEC. . GRAZING ON PUBLIC RANGELANDS.**

(a) FEE STRUCTURE.—Subsection (a) of section 6 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905) is amended to read as follows:

"(a)(1)(A) Subject to subparagraph (B) beginning with the grazing season that begins on March 1, 1992, the Secretary of Agriculture and the Secretary of the Interior shall charge annual domestic livestock grazing fees for the public rangelands (except for the National Grasslands) that are equal to the fair market value of the grazing.

"(B) The fee charged for any year shall not be more than 33.3 percent greater than the fee charged for the previous year.

"(2)(A) As used in this subsection, the term 'fair market value' means the amount obtained in accordance with the following formula:

"(bb) for later years, by multiplying 100 by the percentage that the average for the calendar year is of the average for 1991.

"(ii) The term 'Appraised Base Value' means the 1983 Appraisal Value conclusions by animal class (expressed in dollars per mature cow, including calf, or per yearling) as

determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of the Interior entitled 'Grazing Fee Review and Evaluation' and dated February 1986, on a westwide basis using the lowest appraised value of the pricing areas adjusted for advanced payment and indexed to 1991.

"(3) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this subsection."

(b) GRAZING REFORMS.—

(1) GRAZING ADVISORY BOARDS.—Section 309(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(d)) is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) The grazing advisory boards established pursuant to an action of the Secretary, notice of which was published in the Federal Register of May 14, 1986 (51 Fed. Reg. 17874), are abolished. The advisory functions exercised by the boards shall, after the date of enactment of this paragraph, be exercised only by the appropriate councils established under this section."

(2) USE OF FUNDS.—Subsection (c) of section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904(c)) is amended to read as follows:

"(c) Funds appropriated pursuant to this section, section 401(b)(1) of the Federal Land Policy and Management Act of 1976, or any other provision of law related to the disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous Western States shall be used by the Secretary of the Interior and the Secretary of Agriculture for—

- "(1) soil protection and stability;
- "(2) increased production of forage and browse for domestic livestock and other grazing ungulates;
- "(3) restoration and enhancement of wildlife and fish habitat;
- "(4) restoration, enhancement, and protection of watersheds and riparian areas, with emphasis in areas where domestic livestock grazing occurs;
- "(5) restoration and enhancement of native plant communities; and
- "(6) the development, implementation, and enforcement of applicable land management plans, allotment management plans, and regulations regarding the use of the lands for domestic livestock grazing, including use of supervision and monitoring."

## NOTICES OF HEARINGS

### SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, October 1, 1991, beginning at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on measures pending before the subcommittee. The bills are:

S. 452, to authorize a transfer of administrative jurisdiction over certain

land to the Secretary of the Interior, and for other purposes;

S. 807, to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for period of not more than 70 years;

S. 1182, to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes;

S. 1183, to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, UT, and for other purposes;

S. 1184, to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, UT, and how best to preserve the resources threatened by such salt loss; and

S. 1185, to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act, of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica Rosenberg of the subcommittee staff at (202) 224-7933.

### COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing to examine the impact of the 10 percent luxury excise tax on boats. The hearing will take place on Tuesday, September 17, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call John Carson or Jane Bonner at 224-8485.

Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup of S. 1426, the Small Business Economic Enhancement Act of 1991. The markup will be held on Thursday, September 19, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call John Ball or Patty Forbes of the Small Business Committee staff at 224-5175.

## AUTHORITY FOR COMMITTEES TO MEET

### SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee

on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Friday, September 13, beginning at 9:30 a.m., to conduct a hearing on the waste management provisions of S. 976, the Resource Conservation and Recovery Act Amendments of 1991—including special wastes, municipal waste and ash disposal, native American Indian waste issues, industrial waste and hazardous waste recycling issues.

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 13, 1991, at 10 a.m. on S. 1581, the Technology Transfer Improvements Act.

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 13, at 10 a.m. to conduct a nomination hearing.

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

### COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, September 13, at 10 a.m. to hold a hearing on the nomination of Judge Clarence Thomas.

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

## ADDITIONAL STATEMENTS

### RECOGNITION OF NATIONAL REHABILITATION WEEK

Mr. HARKIN. Mr. President, I rise today in recognition of the forthcoming National Rehabilitation Week, which will be celebrated September 15-21, 1991. This event honors the thousands of Americans and the programs and organizations through which they address the needs and goals of persons with disabilities. These programs and activities are at the cutting edge of efforts to make the Americans With Disabilities Act a reality.

Rehabilitative services and the professionals who provide them are key components in building a system to unlock an enormous national resources: the knowledge and productivity of millions of Americans with disabilities. If we are to have the kind of society which the ADA envisions, a society in which each person has an opportunity to join the cultural, politi-

cal, social and economic mainstreams, it is essential that education and training programs and other rehabilitative services be made available.

If our Nation is to retain its vitality and competitive edge, as well as its moral leadership, we cannot afford to squander our human resources. The rehabilitation programs and professionals which we honor this week must have the tools and support necessary to this task. Thus we will need to strengthen our commitment in Congress to continuing the development of policies and enhancing the fiscal foundation upon which these programs rely.

Dr. Jonas Salk said, "The greatest reward for doing is the opportunity to do more." We have made real progress, but much remains to be done. There are many areas of need in research, education, training, application of new technologies and treatment if we are to meet the goal of ensuring that all persons with disabilities live active lives at the greatest level of independence possible. Meeting these areas of need will require new chapters to be written in this Nation's proud history of opening more doors, breaking down more barriers, and extending basic human rights to more and more people.

Mr. President, in closing, I urge my colleagues to join me in rededicating ourselves to the completion of the tasks ahead. In this way do we most clearly thank these outstanding Americans, both those with and without disabilities, whose aspirations and achievements we celebrate this week.●

#### TRIBUTE TO FATHER MAURICE E. VAN ACKEREN

● Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable man who has devoted years as an educator and civic servant to Rockhurst College and Kansas City, MO. I am speaking of Father Maurice E. Van Ackeren.

Father Van has been a devoted educator and administrator for over 40 years. His career is marked with numerous accomplishments including honors bestowed upon him by the Hyman Brand Hebrew Academy, Rotary International, Chamber of Commerce of Greater Kansas City, Church of Christ of Latter-day Saints, the city of Kansas City, the Catholic Church, Creighton University, Georgetown University, St. Louis University, Benedictine College, William Jewell College, University of Missouri in Kansas City, and of course, Rockhurst College. The devotion to education that Father Van Ackeren has displayed would be hard to match.

Mr. President, the staff, alumni, and students of Rockhurst College are grateful for Father Van's 40 years of service. I join his family and friends in wishing him happy 40th anniversary

and a happy 80th birthday. Kansas City is, indeed, fortunate to have such a dedicated public servant as Father Maurice E. Van Ackeren. We look forward to his continued service and role he plays as a mentor to us all.●

#### INTERNATIONAL FAMILY PLANNING: WHERE'S THE LEADERSHIP?

● Mr. SIMON. Mr. President, Congressman CHET ATKINS from Massachusetts recently had an op-ed piece in the Washington Post on why the United States should be aiding the U.N. Population Fund.

I'm pleased that the Senate adopted an amendment of mine overwhelmingly to restore funding for that fund, and I would remind those who are critics that there were carefully drafted provisions in that amendment to make sure none of the money could be of assistance to China in its forced abortion plans.

What our House colleague from Massachusetts has to say makes such eminent good sense that I ask to insert it into the RECORD at this point, and I urge my colleagues in both Houses to read what he has to say.

The article follows:

#### INTERNATIONAL FAMILY PLANNING: WHERE'S THE LEADERSHIP?

(By Chet Atkins)

In 1984, after over two decades as the leading force behind efforts to improve access to family planning worldwide, the United States jumped ship. At the World Conference on Population in Mexico City in 1984, we espoused our new belief that population growth was a "neutral phenomenon" that neither advanced nor inhibited the development of a given nation.

At Mexico City, we also reaffirmed the Reagan administration's "pro-life" position by stating that the United States would not fund any organization that counsels women about abortion. Reflecting these newfound beliefs, we precipitously and dramatically withdrew our funding from the world's two largest and most effective international family-planning organizations, the International Planned Parenthood Federation and the United Nations Population Fund (UNFPA). Since 1984, this perverse combination of twisted demographic logic and misdirected morality, known as the "Mexico City policy," has hindered family-planning efforts worldwide.

In the United States we live in a virtual utopia, almost completely isolated from the pressure that rapid and uncontrollable population growth is exerting on the rest of the world. Few of us will ever watch our children starve to death or watch our crops and our livelihood be ruined because deforestation has allowed a mud slide to ruin our farmland. It is easy for us to engage in a sophisticated moral debate about abortion. We are so far removed from the pain, suffering and hardship of everyday life in the developing world that we cannot fully comprehend the desperate situation that faces most people.

Recently, I visited Bangladesh. While there, I spoke with a woman who ran a family-planning clinic partially funded by U.S. assistance. She told me that she did not un-

derstand the way that Americans think about abortion. She pointed to the 30-odd women squatting outside the clinic. She told me that each of them had watched at least one of her children die of malnutrition or a treatable childhood illness. She explained that when a woman in Bangladesh gets pregnant with her 13th child, she does not engage in a moral discussion about the life of the fetus. She deals with reality.

The woman already has 12 children she cannot feed, and she does not want to watch another child starve. So she goes out into a rice paddy, finds a dried root and self-induces an abortion. Within 20 minutes, still in excruciating pain, the woman returns to work. Exasperated, the woman in the family-planning clinic explained that no law that the United States makes can stop that woman from going into the rice paddy and finding that dried root—why did we think that it would?

If our proscriptions have not stopped women in the developing world from having abortions, what have they done? Disturbingly, the Mexico City policy has proven to have some dubious successes. The policy has let us to delete U.S. funding for the organizations most capable of ensuring that women have no need to have an abortion—the non-governmental and multilateral organizations that provide contraceptives to the developing world; it has mired the organizations that do receive our funds in an endless sea of bureaucratic red tape; and it has proven just how ignorant the United States is of the pressure that overpopulation is exerting on our planet.

In October 1990, the International Planned Parenthood Federation had operational family-planning programs in 95 countries, and the United Nations Population Fund was in 115 countries. The U.S. Agency for International Development was operational in only 71 countries. Logic would dictate that whenever possible we would channel our funding through the organizations most capable of reaching the largest number of people with their services. But clearly logic has no place in the administration's international family-planning agenda. For fear of associating us with "the abortion issue," AID cannot share its resources with the organizations having the greatest presence and effectiveness worldwide. We are the only nation in the world that has chosen to withdraw funding from IPPF or the UNFPA—a particular embarrassment considering that we were a major force behind the creation of the UNFPA.

The UNFPA estimates that since 1985 it has lost \$286 million because of a loss of U.S. funding. The United States withdrew funding because of the UNFPA's supposed involvement with coercive family-planning programs in China. No other nations followed our lead, and to this date it has not been conclusively proven that the UNFPA was involved in these programs to begin with. When the United States stopped funding IPPF in 1985, it lost one-fourth of its total operating budget.

Within the next few decades, 3 billion young people will reach their reproductive years. This represents the largest "baby boom" the world has ever witnessed. Since 1960, the world has made tremendous strides toward lowering fertility rates and improving contraceptive use rates. In 1960, the global contraceptive use rate was approximately 10 percent. In 1990 that number had risen to 45 percent, a phenomenal increase. Our commitment to family planning since 1960 has prevented an estimated 412 million preg-

nancies—yet the population of the world has still increased by more than 2 billion, and there are still billions of people without adequate food, shelter and health care.

By the year 2000, all of the important gains we have made might be lost. With a tidal wave of young people about to enter their peak reproductive years, the global community will have to substantially increase its commitment to family planning simply to keep from losing previous gains, let alone to make more progress. Demographers have several different theories about what the world's population will be when it peaks and levels out around the year 2050. A critical factor in their calculations involves global commitment to family planning. Without an increased world effort to improve contraceptive use rates and lower fertility rates, the estimated world population in 2050 is upward of 15 billion, three times the size of today's population. With dramatic increases in world commitment to family planning, demographers see world population leveling at just under 6 billion, only slightly larger than today's population. Without renewed U.S. interest and leadership in international family planning, there is no hope of the world population peaking at the ideal population of 6 billion.

The House of Representatives recently voted to take action to cope with global population problems and return the United States to its position of leadership on this issue. On June 12, during consideration of the foreign aid authorization bill, the House voted to reverse the Mexico City policy and restore funding to the UNFPA. On July 26, the Senate approved a foreign aid authorization bill with similar family-planning provisions. Clearly the House and the Senate, reflecting public opinion, are trying to send the president a message. The White House has refused to listen. President Bush has promised to veto any legislation to reverse the Mexico City policy or restore funding to the UNFPA.

I urge the president to look beyond the "pro-life" advocates who have so tightly encircled him and consider legislation that would really promote life—sustainable life on this planet. Overpopulation is a time-sensitive problem that cannot be ignored. One decade from now, it will be too late. When the foreign aid bill comes before the president, he has an important choice to make. He must choose between those policies that claim, erroneously, to protect the unborn fetus, and those that will protect and improve the lives of the 5.4 billion people who currently inhabit this Earth.●

#### AMENDMENT NO. 1084 TO H.R. 2707

● Mr. KERREY. Mr. President, I will vote against the Harkin amendment to the fiscal year 1992 Labor-HHS-Education appropriations bill because I believe it reverses the order in which we should address this enormous budget problem.

The Harkin amendment would take \$3.1 billion in budget authority and \$1.6 billion in outlays from unobligated balances in defense for years 1988 to 1991 and apply them to 10 programs under the jurisdiction of the Labor-HHS Subcommittee.

While the amendment, on its face, is appealing, I will vote against it. What we need now is a fundamental reassessment of our priorities. There have been

major changes in the parameters of the budget debate since this budget agreement was fashioned. Of great importance is the recent CBO projection which estimates the 1992 deficit at \$362 billion. This far exceeds the earlier estimates of \$280 billion—and it compels us to act. Equally important, the threat that has driven much of our defense spending in the past 45 years is now greatly altered. At the same time, the demand for additional attention to vital domestic needs grows stronger every day.

The amendment does not provide us with that fundamental reassessment. It may give us the impression that we've dealt with the problem, but we haven't.

Domestic needs in America are growing. Thus, this amendment frames a legitimate issue—our budget priorities. However, I believe it does so in the wrong terms. It signals that all we have to do is cut defense and fund social programs at higher levels and we will solve our problems. That's just the same old song. The deficit and restructuring of priorities is much different than that.

The amendment would have overturned the budget agreement, not for real reform, but for tinkering purposes. It quibbled. The amounts involved were small in comparison to the \$1.4 trillion budget and did not represent a real realignment of priorities.

Budget priorities need major overhaul, but throwing out a few more dollars to a few popular programs which didn't get quite enough in the subcommittee mark is not the way to accomplish that.●

#### THE VIETNAMESE BOAT PEOPLE PROBLEM IN HONG KONG NEED FOR AN URGENT SOLUTION

● Mr. SIMON. Mr. President, I received a letter and the enclosed resolution from the Honorable Allen Lee, senior member of the Legislative Council of Hong Kong, the legislative body for Hong Kong.

Enclosed with his letter to me was the resolution adopted by the Hong Kong Legislative Council. It involves U.S. policy, among other things.

What they are asking makes a great deal of sense; particularly, the last item in their resolution, urging that the United States modify its policy toward Vietnam so that the Vietnam economy can improve. My instinct is that if we work with Vietnam on their economy, we can also be of assistance in improving the human rights situation in that country, a situation that is not good.

I ask to insert into the RECORD the resolution adopted by the Hong Kong Legislative Council.

The resolution follows:

#### THE VIETNAMESE BOAT PEOPLE PROBLEM IN HONG KONG NEED FOR AN URGENT SOLUTION

##### INTRODUCTION

Hong Kong is facing another massive influx of Vietnamese boat people (VBPs). Over 13,800 have arrived this year, bringing the total VBP population in Hong Kong to over 55,800. At present, 97% of clandestine departures from Vietnam head for Hong Kong averaging hundreds a day. Hong Kong simply cannot carry his burden single-handedly any longer.

##### BACKGROUND

Since 1979, Hong Kong has practised a policy for first asylum and has never turned away a single Vietnamese boat.

Up to 1988, all Vietnamese landing in Hong Kong were given refugee status automatically. Resettlement countries considered the majority of arrivals not to be refugees and started their own screening in the early 1980s. Consequently, more and more Vietnamese were stranded in Hong Kong.

This forced Hong Kong to adopt a screening policy in June 1988 to ensure the resettlement of refugees. The move was intended to prompt resettlement countries to clear the backlog of refugees stranded in Hong Kong.

The screening process is monitored by the United Nations High Commissioner for Refugees (UNHCR). Those found to be refugees are housed in open refugee camps pending resettlement; those found to be non-refugees and are therefore illegal immigrants are accommodated in detention centres pending repatriation to Vietnam.

##### COMPREHENSIVE PLAN OF ACTION

In June 1989, 75 countries attended the International Conference in Geneva. They agreed on a Comprehensive Plan of Action which consisted of 4 elements:

1. First asylum;
2. Screening;
3. Resettlement of Refugees; and
4. Repatriation of Non-Refugees.

1, 2 and 3 were implemented but efforts to implement 4 in full failed. Hong Kong is now left with over 18,000 screened-outs (i.e. non-refugees) who will never be accepted by resettlement countries. Over 37,800 VBPs await screening.

Since March 1989, around 7,700 VBPs returned to Vietnam under the voluntary repatriation programme but over 53,400 arrived and over 5,100 were born. The voluntary programme is no solution.

##### EXPLOSIVE LOCAL SITUATION

Repatriation of illegal immigrants is an internationally accepted practice. All illegal immigrants from China, once caught, are repatriated automatically. In 1990, some 30,000 were returned. Over 80% of VBPs are not refugees. They are economic migrants leaving their country for better economic opportunities. Yet they are automatically admitted.

The disparity in treatment for illegal immigrants from China compared to the Vietnamese is deeply resented by the Hong Kong residents, many of whom have been waiting for years for their wives, children or parents to join them from China.

So far, Hong Kong has spent billions of dollars on VBPs, not to mention other facilities and services, such as hospitals, accommodation and manpower resources, which are much needed by the local community. At the same time, Hong Kong cannot see any genuine efforts by the international community in addressing the problem. Our people feel aggrieved by international criticisms of camp conditions when many of our own people have to put up with a very poor living en-

vironment. Our people do care about the world around them and have financially contributed towards overseas natural disasters and justified needs. Our growing frustration, caused by the lack of understanding and cooperation internationally in resolving the problem, is fast approaching explosive proportions.

#### URGENT SOLUTION NEEDED

The objection of the United States to return of non-refugees back to Vietnam has left Hong Kong with no choice but to keep them in detention centres.

The international community, in particular the United States and Vietnam can help to solve this human tragedy by agreeing to the automatic return of non-refugees, thus putting an end to their futile waiting. Camp life is not pleasant for the VBPs and the effect on children is even worse. Overcrowding, violence and crimes in camps have created serious management problems and posed danger to the VBPs as well as the staff who looked after them.

The increasing number of daily arrivals coupled with the lack of ways of returning the stranded non-refugees have aroused strong calls from the frustrated Hong Kong public to scrap the first asylum policy. Unless an urgent solution is found, Hong Kong may be compelled to abandon the first asylum policy to preserve stability.

The VBP problem is a foreign affairs issue. Hong Kong looks to the British Government to:

Formulate an effective and practicable strategy to curb the influx of Vietnamese Boat People and expedite the repatriation of all non-refugee Vietnamese boat people stranded in the territory;

Contribute to the expenses incurred resulting from the Vietnamese boat people in Hong Kong and encourage other countries such as the United States to make similar contributions; and

Press the United States to take appropriate action to facilitate the improvement of the Vietnamese economy which is the root cause of the boat people problem.●

#### THE 25TH ANNIVERSARY OF THE COLONIAL MANOR OF LAPORTE CITY, IA

● Mr. GRASSLEY. Mr. President, I wish the U.S. Senate to make note of the 25th anniversary of the Colonial Manor of LaPorte City, IA. The Colonial Manor was built for \$260,000 and was completely private—there were no Federal financing or special grants. In fact, the only donations requested were for furnishing in the living room.

This facility has 46 residents and 46 employees along with numerous volunteers contributing over 6,000 hours, making it one of the largest volunteer programs in the State of Iowa.

In addition, Colonial Manor has received the "E Award" in 1988 from the Beverly Enterprises, an honor given to very few facilities. And in 1990, they received the Sterling Award from the BritWill Co. for being one of a handful of facilities in the State of Iowa to receive a no deficiencies inspection from the Iowa Department of Inspections and Appeals.

The good people of LaPorte City are no doubt proud of what Colonial Manor

has done in the past quarter century and are looking forward to another 25 years of distinguished service to the residents.●

#### GRAND CANYON RAILWAY—2D ANNIVERSARY OF OPERATIONS AND THE 90TH ANNIVERSARY OF THE HISTORIC WILLIAMS DEPOT

● Mr. DECONCINI. Mr. President, on September 14, and 15, 1991, in Williams, AZ, the Grand Canyon Railway will be celebrating its 2d anniversary of operations and the 90th anniversary of rail service at the historic Williams Depot.

Mr. President, I would like the Senate to know about this celebration and share in this special occasion with the people of Arizona. The Grand Canyon Railway is important not only to the Grand Canyon but to northern Arizona as well.

In its 2 years of existence, the Grand Canyon Historic Railroad has provided a tremendous service for the Grand Canyon environmentally. As you know, Mr. President, the Grand Canyon is one of our most visited national parks. Last year, over 9 million visitors viewed this national treasure. However, at this level of visitation there is a significant problem with vehicle congestion that is adversely impacting the resources of the Grand Canyon. The Grand Canyon Railroad has already kept approximately 50,000 automobiles out of the Grand Canyon National Park and will hopefully maintain at least these levels for many years in the future.

The Grand Canyon Railroad also enriches our historic appreciation of the development of the Grand Canyon. The railroad was very significant in the development of the Grand Canyon Village on the South Rim. In fact, Mr. President, as you may already know, there is a rich tradition of American Presidents riding on the Grand Canyon Railroad as they visited the canyon. Theodore Roosevelt was the first to ride the train in 1903 and Dwight Eisenhower the last. I am hopeful that we will once again see the day when our Presidents will ride the railroad when they visit the Grand Canyon.

Mr. President, I think you will agree that the Grand Canyon is a significant part of our national heritage. Therefore, I think it is entirely appropriate that this body take a moment to recognize the achievements of Max and Thelma Biegert for their efforts in making the Grand Canyon Railroad once again a part of the Grand Canyon. Also deserving of recognition is the community of Williams, AZ, for its efforts on behalf of the restoration of train service from this community to the canyon.

Tomorrow will be a historic day in Williams, AZ. My only regret is that I am unable to join personally in the festivities. The ceremony is scheduled to

begin at 11:15 a.m. followed by a barbecue lunch at noon and a train ride on the Kaibab Short Line from 1:30 to 2:30 p.m.

Mr. President, I wish Max and Thelma well as they enter the third of what will hopefully be many years of service to the State of Arizona.●

#### TRIBUTE TO ST. MARY'S HOSPITAL AND DR. KENNETH HALLER

● Mr. SIMON. Mr. President, East St. Louis, IL, is the third poorest city in the United States. Ninety-five percent of the residents are black; 15 percent are unemployment. Residents have a meager \$4,000 per capita income. Crime is prevalent and high school dropout rates have reached 50 percent. Yet out of this seeming despair emerges hope.

St. Mary's Hospital is a 273-bed hospital owned by Ancilla Systems of Chicago and run by the Christian religious order Poor Maidens of Jesus Christ. St. Mary's Hospital's dedication to the East St. Louis community, serving its medical needs, makes it a model American establishment, one deserving the praise of the U.S. Senate. With over 86 percent of its patients receiving Medicare or Medicaid and receiving no tax support from Federal or State agencies, St. Mary's is constantly faced with budget problems. Nevertheless, their administration has proven they can run the facility well and maintain quality care.

The problems of St. Mary's patients are similar to the problems of many U.S. urban hospitals. Poverty makes regular and preventive medical care a low priority for East St. Louis citizens; infant mortality is two to three times the national average; and their trauma unit is constantly plagued with the problems of drugs and drug-related violence. Still, amidst these problems emerge a committed staff. St. Mary's president, Charles E. Windsor suggests, "People come here because they care about a community in need. These are the people who like to do battle with impossible situations, people who like to prove it can be done."

Staff doctor Kenneth A. Haller exemplifies this spirit of St. Mary's. A Creighton University graduate, pediatrician Dr. Haller has committed himself to help solving the problems of East St. Louis. Dr. Haller claims, "I want to help people. I want to make the biggest contribution where people need medical help most." Dr. Haller sees patients whose symptoms are manifestations of the problem of poverty: Poor nutrition, infections induced by poor living conditions, babies born of mothers addicted to cocaine. Amidst these problems, Dr. Haller seeks and has delivered solutions. Focusing on education, he seeks empowerment for the teenage parents he counsels. Dr. Haller stands out as one who is com-

mitted to his community, one who seeks improvement.

The American Medical Association recently recognized Dr. Haller for his efforts to raise the health standards and self-esteem of this community in need. I ask that the AMA's commendation of Dr. Haller be included in the RECORD.

Mr. President, I urge my colleagues to join me in saluting Dr. Haller and St. Mary's Hospital of East St. Louis. Their dedication to quality health care in the United States is worthy of our praise.

The commendation follows:

"Children are the real victims of poverty. Imagine a 3-lb. 10-oz. human being who tests positive for cocaine"—Dr. Kenneth A. Haller, East St. Louis, Illinois.

With a full set of credentials, this 36-year-old pediatrician could have set up his practice almost anywhere.

Instead, he chose one of the most depressed inner-city environments in the U.S. "People here will tell you East St. Louis is a city without jobs. Without basic services. And some would say, a city without hope.

"We're seeing all the diseases of poverty," continues Dr. Haller. "Crack babies. Malnutrition. Congenital syphilis and AIDS. For a lot of these people, there's just a sense of hopelessness."

But Dr. Haller sees hope in the children. "These are bright, happy active kids. And I'm demonstrating to them that someone does care about them. That their existence does make a difference."

The American Medical Association (AMA) salutes Dr. Haller in his selfless efforts to raise the health standards and self-esteem of this community in need. And his colleagues in the AMA share his concern about bringing quality health care to underserved groups. It is fully in keeping with the AMA Principles of Medical Ethics set forth 144 years ago.

Today, over a quarter million AMA physicians are dedicated to providing medical care with compassion and respect for human dignity.

As Dr. Haller puts it, "Sometimes that's what people need. To have someone say 'you're important. You have a reason for being.'"

If you would like to learn more about the AMA's position on people outside the health care system, write Larry Jellen, Dept. 201, American Medical Association, 515 North State Street, Chicago, Illinois 60610 and we will send you our latest booklet called "Five Issues in American Health."

#### HISPANIC HERITAGE MONTH

• Mr. HARKIN. Mr. President, during the month of September, many Latin American countries will be celebrating their independence from Spain. Additionally, many Hispanics in the United States, with roots in many of those countries, have made invaluable contributions to our Nation's economy, education, heritage, and freedom.

I would like to pay particular attention to the Hispanic community in our State of Iowa. On behalf of Hispanic in our State, I am offering for the RECORD a proclamation declaring September 1991 as "Hispanic Heritage Month." I ask that the text of this proclamation be printed in the RECORD.

The text of the proclamation follows:

#### PROCLAMATION

Whereas, our nation has paid tribute to Hispanics by celebrating "National Hispanic Heritage Week," highlighting a rich part of America's culture; traditions and offering all Americans an opportunity to recognize the qualities and contributions of Hispanic Americans from earlier colonial times to the present; and

Whereas, the fabric of Iowa Hispanics—Mexican, Puerto Ricans, Central Americans, South Americans and others—bring a rich enhancement of culture and language to share with us all; and

Whereas, Hispanics exhibit an eminent pride in our American heritage and their proud Hispanic culture and traditions; their passionate love of family, profound devotion to their spiritual faith and religion, loyalty and patriotism, and energetic commitment to hard work stand as an inspiration to all people of this state; and

Whereas, Iowa Hispanics played a distinguished role in our state's history and continue to play a distinguished role; from gallant Hispanic citizens who have risen to the call of duty in defense of liberty and freedom, to women and men who have distinguished themselves in the arts, science, education, industry, government and many other areas of productive endeavors which have benefited our great state of Iowa; indeed they are a part of all that makes Iowa great; and

Whereas, the State of Iowa, has strived to advance the cause and involvement of Hispanics, and it is fitting and proper that we join with our fellow citizens to commemorate and pay tribute in honor of the Hispanic people who have enriched our daily lives, contributed to our Iowa tradition;

Now, therefore, I, Tom Harkin, USA Senator for the State of Iowa, do hereby proclaim the month of September of 1991 "Hispanic Heritage Month" in Iowa, and we call upon the citizens of the United States and the State of Iowa to join in appropriate commemoration recognizing the need to continue to advance the cause of equality for Hispanics.

TOM HARKIN.●

#### THE MUSEUM OF DISCOVERY, SAFFORD, AZ

• Mr. DECONCINI. Mr. President, I would like to bring to the attention of the Senate the outstanding work of the Graham County Citizens Task Force, chaired by former State senator Ed Sawyer, and their efforts on behalf of the Mt. Graham International Science and Cultural Center Foundation. The goal of this organization is to eventually construct the Museum of Discovery in Safford, AZ.

The Museum of Discovery will serve primarily as a visitors center for the nearby Mount Graham International Observatory. Construction on the museum is scheduled to begin sometime in late October 1992. The visitors center will feature several astronomy-related exhibits, including a planetarium, a display of the Mount Graham International Observatory facilities and a 20-inch telescope that will be available for use by amateur astronomers. Other museum themes will focus on the his-

tory, geology, agriculture, mining, and ecology of the upper Gila River Valley.

Mr. President, I'd like to take a moment to tell my colleagues a little bit about the unique surroundings and setting of the Museum of Discovery's location. The city of Safford is in the southeastern portion of Arizona and lies at the base of the magnificent 10,700 foot high Mount Graham peak. Surrounding Mount Graham are the scenic and wild Pinaleno Mountains.

The Museum of Discovery means a great deal to the economy of this rural area of Arizona. Currently, the dominant economic underpinning of this area's economy is agriculture. The opening of the Museum of Discovery will signify the beginning of a new direction in the economy of Graham County. As forecasted by the city of Safford's comprehensive plan, this community's population will grow from 7,800 persons in 1985 to over 15,000 persons by the year 2005. According to the plan, this projected growth in population will be driven by three primary economic sectors: small industry, retirement, and recreation and tourism activities.

Mr. President, while agriculture will continue to be a major economic force, the forecasted increase in population for this area will certainly bring additional income sources. I continue to see many small towns lose jobs and people. But, Graham County is proving it doesn't have to be that way. The Museum of Discovery will fit in nicely with and contribute greatly to the new economic direction of the upper Gila River Valley. The efforts of the Graham County Citizens Task Force just proves to me that ingenuity and hard work can go a long way toward ensuring a prosperous future for the cities and towns of Arizona.

I look forward to working together with the task force and the citizens of Graham County on the realization of this dream—the ultimate completion of the Museum of Discovery.●

#### A COMMITMENT TO JOB CORPS

• Mr. SIMON. Mr. President, yesterday, the Senate finished its work on the fiscal year 1992 Labor/HHS appropriations bill, perhaps in record time with less than usual controversy.

Much credit must be given the Appropriations Subcommittee Chair TOM HARKIN. We all appreciate how difficult the current budget constraints make the appropriations process. There are no easy choices and I applaud the work done by Chairman HARKIN.

There is much in the Senate bill that I support. I would like to take a moment to talk about one particular strength—the increase included for the coming fiscal year in the Job Corps Program. The Job Corps has proven to be a highly effective job training program for young people for over 30

years. Chairman HARKIN has included money to begin implementing the Job Corps 50-50 plan. This plan would strengthen the Job Corps significantly, adding new centers in areas of high poverty and unemployment among young people. Chicago, with over 30 percent of the city's children living in poverty and over 20 percent of those between 16 and 19 having dropped out of school, could greatly benefit from having a Job Corps center. The expansion of the Job Corps Program envisioned by Chairman HARKIN will allow Chicago to establish a Job Corps center.

I want to commend Chairman HARKIN on his commitment to finding solutions to the problem of youth unemployment. The Job Corps 50-50 plan will make a significant difference in cities like Chicago and I look forward to working closely with him to see this become a reality. •

#### AMENDMENT NO. 1084

• Mr. MURKOWSKI. I rise today in support of the committee amendment to the Labor HHS appropriations bill which will restore much-needed funding for the Low Income Home Energy Assistance Program [LIHEAP].

#### OPPOSE LIHEAP REDUCTION

While I appreciate the budget constraints which initially led the committee to reduce funding for LIHEAP from its current level of \$1.675 billion to \$1.3 billion, I strongly opposed this reduction and the proposed change in the timetable for the distribution of these funds to the States. Under this bill, approximately one-third of the total allocation would not be available to the States until September 30, 1992. This would have required many States which wanted to continue the program to come up with their own funds up front, since the majority of costs in the program are incurred in November, December, January, and February.

#### IMPORTANCE IN ALASKA

Mr. President, LIHEAP funding is critical to low-income households in Alaska. This year's allocation under LIHEAP for Alaska was \$9.6 million. In this age of trillion dollar national debts and billion dollar programs, \$9.6 million may not seem like a significant amount of money. However, the importance of these funds to low-income Alaskans cannot be overestimated.

Alaska is known for its harsh and unusually long winters. In the northernmost parts of my State, winter temperatures begin before Washingtonians even think of fall. In places such as Barrow, AK above the Arctic Circle, winter stretches seamlessly from late August to June. Barrow has already experienced its first snow of the year and can look forward to temperatures which average below zero in November through April. May and June bring a summer heat wave to the Alaska's

North Slope with temperatures averaging between 18 and 33 degrees. Even Anchorage residents, who live in one of the more temperate climates in the State, have already begun to look to the mountains surrounding the Anchorage bowl for what they call termination dust, that first snowfall dusting the peaks of the Chugach mountains, a telltale sign that the termination of summer is at hand and that Alaska's long winter night is soon to follow.

Unlike the lower-48, sunlight does not provide relief from the cold in Alaska. Communities such as Anchorage and Fairbanks revel in their few hours of daylight in the winter months. In more northern communities the amount of daily sunlight is radically diminished, reaching an extreme in Barrow, where the sun does not rise in the winter for an average of 67 days.

#### IMPACT IN ALASKA

The \$9.6 million allocation for this program had a significant impact in the lives of low-income Alaskans. The current funding level allowed the program to reach approximately 15,000 low-income Alaskan households representing 42,000 people through July of this year. According to the LIHEAP coordinator in Juneau, AK the average grant was for \$390 dollars. These grants went primarily to households in the most rural parts of the State. According to the Association of Village Council Presidents, many of the recipients in the western region of Alaska received the maximum grant of \$625. This amount is particularly significant in that the cost of a barrel of heating oil along the remote western coast of Alaska can exceed \$100.

#### COMMITTEE COMPROMISE

I am very pleased to report that the Committee has agreed to accept a compromise amendment, which I cosponsored, that will increase funding for the program and disburse funds to the States when they need it most. Thanks to the efforts of my colleague from New Hampshire, Senator RUDMAN, the committee has agreed to increase funding for the program to \$1.5 billion. \$1.094 billion will be paid out to the States on October 1, 1991 and the remaining \$405,607 million will be available September 30, 1992.

#### CONCLUSION

As we all know, the heating bill is a standard part of a family's budget. The need to keep warm does not distinguish between rich or poor. Low-income Alaskans and Americans should not be forced to choose between food and fuel this winter. Hopefully the Senate's action will spare them from making that choice. •

#### NOMINATIONS OF JUDGES SHELBY HIGHSMITH AND DONALD GRAHAM

• Mr. MACK. Mr. President, the Senate yesterday confirmed the nominations

of two outstanding Floridians—the Honorable Shelby Highsmith and Mr. Donald Graham—to the U.S. District Court in the Southern District of Florida.

Don and Shelby will fill two of five vacancies in the southern district of Florida, a district which has one of the highest criminal caseloads in the country. This statistic underscores the critical need in the southern district that their appointments will address. For this reason, I would like to thank not only the Senate, but also the Senate Judiciary Committee for moving forward on these nominations.

I am sure my Senate colleagues are as proud of these two outstanding candidates as I am. I would now like to take a few moments of the Senate's time to reiterate their fine qualifications.

After graduating from Georgia Military College Preparatory School, Shelby Highsmith served in the U.S. Army during the Korean war with the 1st Cavalry Division. In Korea, Shelby received numerous honors including the Bronze Star Medal, the Silver Battle Star, and a Presidential unit citation.

Shelby Highsmith attended University of Missouri where he received a bachelor of arts degree. While in law school at University of Missouri, Shelby was a member of the Bench and Rose and the Torch and Scroll Honor Societies. When Shelby graduated from law school, he was honored as the outstanding law senior.

After graduation, Shelby went into private practice for several years in Missouri and later, Florida. In 1970, Shelby was appointed to a judgeship in the 11th judicial circuit in Dade County, FL, where he was praised as a fair and capable jurist.

Judge Highsmith resigned from the State bench after serving 5 years in order to form his own law firm in Miami, FL. Shelby Highsmith presently is a senior partner in his well respected trial firm where he practices civil law.

In addition to being a dedicated advocate and jurist, Shelby Highsmith has served the community as the special counsel to the War on Crime Program. Shelby Highsmith also served as a member of the Inter-Agency Law Enforcement Planning Council. One of his most notable cases was when he represented the State executive branch before senate select committees of the State of Florida involving allegations of corruption of public officials.

Shelby Highsmith enjoys an excellent reputation in his community and is highly regarded by the local bar. I have received numerous letters in support of Shelby Highsmith from those who have both appeared before him and worked beside him, the very people most qualified to evaluate Shelby Highsmith's competency, disposition, and overall judicial demeanor.

Don Graham has served the legal profession with distinction over the past 18 years. He attended law school at Ohio State University where he served on the honor council. During law school, Don was the recipient of the Moot Court Best Oralist Award and the Judge Huber Memorial Hooding Award for being the outstanding trial practice student. After graduating from law school, he joined the Judge Advocate General Corps [JAG Corps] where he served in West Germany and Florida.

Upon completing his work with the JAG Corps, Don became an assistant U.S. attorney in the southern district of Florida. In the U.S. attorney's office, he served in various leadership capacities including chief of special prosecutions, and of the major narcotics traffickers section. In addition, he was given special assignment to the organized crime and racketeering section.

Presently, Don practices law in Miami where he does trial and appellate work handling both civil and criminal cases. His legal experience alone uniquely qualifies Don to be a Federal judge.

Aside from being an accomplished legal advocate, Don Graham has been an educator. He served as an adjunct professor in business law while stationed in West Germany with the U.S. Army. During law school, Don also served as an administrative hearing officer for the Ohio Department of Welfare.

Donald Graham enjoys an excellent reputation in his community and is highly regarded by the local bar. Donald Graham has displayed his outstanding leadership qualities in a number of the professional organizations in which he is involved. He has served as president of the Federal Bar Association, south Florida chapter, as well as one of the chairpersons of the National Association of Criminal Defense Lawyers. He has also served with esteem on the Florida Bar Grievance Committee, serving as vice chairman.

In recognition of his outstanding career, Don has received a number of awards including a Department of Justice Special Achievement Award, and the Arthur S. Fleming Award, presented to 1 of 10 Outstanding Young Men and Women in Federal Service. He has also received the U.S. Army Commendation Medal and the Achievement Medal.

As many of you may be aware, I established a judicial advisory commission to make recommendations to me for district court opening in my State. The commission highly recommended to me Shelby Highsmith and Donald Graham for my consideration. Recently, I had the chance to sit down with these gentlemen and discuss their reasons for wanting to become Federal judges. I found Shelby and Don to be men of the highest integrity, and I

found each to be extremely qualified for the position to which each aspires.

The simple facts reveal that Shelby Highsmith and Donald Graham are eminently qualified for the U.S. district court's southern district. ●

#### S. 272, THE HIGH-PERFORMANCE COMPUTING ACT

● Mr. SIMON. Mr. President, I would like to make a brief statement regarding the recent Senate passage of S. 272, the High-Performance Computing Act, introduced by Senator GORE. S. 272 passed during a pause in the debate on the Labor, Health and Human Services, Education and Related Agencies Appropriations, by voice vote. Its passage should not go unnoticed.

I commend my colleagues, Senator GORE and Senator JOHNSTON, for their efforts, and in particular for their efforts to include libraries into the network created by S. 272. S. 272 provides new opportunities for research and scholarly communities in performing research in the creation of new knowledge that will improve U.S. economic competitiveness. My own State, Illinois, has already taken the initiative in paving the way for the network highway, and S. 272 has received support from the Institute for Illinois Executive Council.

As the bill moves into conference, I hope that the conferees continue to include libraries as vital components of the network. ●

#### NATIONAL ENERGY SECURITY ACT

● Mr. WALLOP. Mr. President, currently pending on the Senate Calendar is S. 1220, the National Energy Security Act of 1991—the most comprehensive energy legislation ever presented to the Senate. This measure is structured to strengthen our economy consistent with protecting the environment.

It thus is unfortunate that the representatives of some environment groups continue to criticize this bipartisan effort, rather than recognize its energy, economic, and environmental importance to our Nation. Among those individuals who continue to mischaracterize S. 1220 is the president of the Sierra Club, Phillip Berry, and its executive director, Michael Fischer, in their August 19 letter to Energy Secretary Watkins.

I will ask that the Sierra Club letter and Secretary Watkins' response appear in the RECORD following my remarks.

Mr. President, S. 1220 reflects the reality that both energy demand and supply initiatives are necessary if the United States is to free itself from an excessive dependence on imported oil. The measure thus contains initiatives to encourage efficiency in energy use as well as production and initiatives to

foster alternative and renewable energy resources as well as conventional energy supplies.

S. 1220 endorses the formulation of a national energy strategy that reflects a least cost approach in its formulation. The measure also requires the incorporation of the costs of environmental compliance in such calculus.

As the United States approaches the 21st century, it is critical that we have a comprehensive national energy strategy such as that reflected in S. 1220.

I ask that the material to which I referred be printed in the RECORD.

The material follows:

SIERRA CLUB,  
Washington, DC, August 19, 1991.

Adm. JAMES D. WATKINS,  
Secretary of Energy, Washington, DC.

DEAR SECRETARY WATKINS: Sierra Club recognized your efforts to craft a National Energy Strategy process which could lead to a more balanced approach to energy policy. We appreciate your affording us opportunities to testify before the National Energy Strategy hearings you chaired. Unfortunately, White House officials removed those proposals which provided some balance, such as those promoting energy efficiency and renewables, from your draft.

In light of your efforts to shape a more responsible National Energy Strategy, we were surprised and disappointed to receive your letter of June 28, 1991 defending the environmentally destructive Johnston-Wallop bill. We believe that letter contained a number of errors which we would like to call to your attention.

Your letter asserts that: "Nothing in S. 1220 would allow unsafe nuclear reactors to be built or licensed."

Fact: The Johnston-Wallop legislation severely undermines nuclear power plant safety by weakening the licensing process and gutting the public hearing process. A "streamlined" plant could be designed, sited and licensed decades before operation, but the public could not request hearings on any new health and safety issues discovered during the ensuing decades. In the past, public oversight has been responsible for improved design, training, cooling processes, leakage prevention, inspections and effluent treatment. Under S. 1220, a new nuclear plant could actually begin operation without further public hearing even if an identical plant in the next county had just suffered a severe malfunction.

Your letter asserts that: "S. 1220 would . . . provide for more effective public participation in the nuclear licensing process."

Fact: The Johnston-Wallop bill would virtually eliminate the public's right to participate in the nuclear licensing process. S. 1220 specifically states that new reactors are no longer subject to the section of the Atomic Energy Act that requires the Nuclear Regulatory Commission to provide a public hearing to ensure that a plant will not endanger public health and safety. Any pre-operational hearing would be subject to highly discretionary NRC standards and would be limited to discussing the plant's conformance with its license. This would not include issues such as design safety, emergency evacuation or site suitability. Public concern over these and other significant new safety issues would be relegated to a petition process, which has resulted in only 2 hearings out of the 321 petitions filed in the last ten years.

Your letter asserts that: "The bill's 'WEPCO' provisions . . . cannot . . . worsen acid rain."

Fact: The Johnston-Wallop bill weakens the Clean Air Act by allowing utilities to extend the life of old polluting power plants and thereby escape meeting the standards for new plants. Refurbished power plants would be allowed to increase local sulfur dioxide emissions, which could worsen local acid rain and impair visibility. All modified plants would also be exempt from new controls on nitrogen oxides—a prime component of acid rain and urban smog. Last year, the Congress rejected very similar proposals to allow refurbished power plants to evade the new Clean Air Act.

Your letter asserts that: "S. 1220 does not . . . override the NEPA or the Endangered Species Act."

Fact: The Johnston-Wallop bill would prevent the application of NEPA and the Endangered Species Act to small hydropower projects (less than 5 megawatts) by allowing states to substitute a state process for regulating these hydropower projects. Currently, the federal government is responsible for licensing and regulating hydropower projects with a capacity of 5 megawatts or less (which account for about two-thirds of all licensed hydroelectric plants). Section 5302 of S. 1220 would allow states to take over regulation of small hydropower plants but would provide the states with almost no standards or directions for such regulation.

Such transfer of authority to the states would automatically remove these projects from the applicability of federal laws or key sections of federal laws that are triggered by the federal licensing action—including NEPA, the Endangered Species Act, the Fish and Wildlife Coordination Act, and historic and archeological preservation laws.

Removing many hydropower projects from the applicability of key environmental statutes could lead to the dewatering of thousands of miles of rivers and streams, and cause major damage to fisheries and wildlife.

Your letter asserts that: ". . . by fostering broader competition in electricity generation, PUHCA reform will encourage use of innovative technologies, including renewable technologies."

Fact: The Johnston-Wallop bill's proposed changes to the Public Utilities Holding Company Act (PUHCA) will not improve competition and will undercut state conservation efforts and put renewable energy sources at a distinct disadvantage. S. 1220 would allow utilities to create "independent affiliates" that could sell power back to the parent company on the wholesale market, free from state laws. Utilities could shift a major portion of new power plant construction and electricity sales to the wholesale market, which is regulated by the Federal Energy Regulatory Commission rather than the states. This would undercut state efforts to institute least-cost planning practices and conservation programs. Federal utility regulators have ignored, if not resisted, such efforts.

Monopolistic practices allowed under S. 1220 combined with utility control of access to transmission lines ensure that safe renewable and cogeneration source (mostly independently owned) would be largely locked out of the market. S. 1220 also encourages the building of costly, polluting nuclear and coal plants because it removes the current ban on fuel suppliers like coal and nuclear companies from building power plants.

Your letter asserts that: "S. 1220 would not 'destroy' the Nation's premier wilderness

areas—the Arctic National Wildlife Refuge, . . . and other fragile coastal areas."

Fact: The Johnston-Wallop bill opens to oil and gas drilling what the Department of Interior calls "the biological heart" of the pristine Arctic National Wildlife Refuge in Alaska. The oil drilling experience at Prudhoe Bay demonstrates that allowing the big oil companies into this spectacular arctic wilderness will destroy its value as habitat for 160 wildlife species with mining, road construction, air and water pollution, and toxic wastes.

In addition, S. 1220 directs the Minerals Management Service to reassess the entire Outer Continental Shelf for oil drilling, even those areas that are protected by Presidential or Congressional decree. The bill requires the NMS to develop alternative OCS leasing processes that are clearly biased towards oil drilling. One required alternative would override current regulatory safeguards which were upheld by the Supreme Court in 1984. Another prodrilling requirement calls for a comparison of the amount of oil spilled from OCS operations versus import shipping. Since we import 50% of our oil and get 4% from OCS sources, the outcome of this comparison is obviously prejudiced.

In your letter you call for a debate on energy issues based on the merits. Nothing would please the Sierra Club more.

Unfortunately, as you discovered when you took your energy proposal to the White House last year and saw it eviscerated by the President's own advisers, special interests—the auto, nuclear, utility and oil industries—have politicized the debate and misrepresented the policy options available to the nation.

That's why we are urging the Senate to say "No" to the special interests by rejecting the Johnston-Wallop bill. Only after this environmentally destructive legislation is defeated can we engage in the reasonable debate which you seek.

Sincerely yours,

MICHAEL FISCHER,  
Executive Director.  
PHILIP BERRY,  
President.

THE SECRETARY OF ENERGY,  
Washington, DC, September 6, 1991.

Messrs. PHILIP BERRY and MICHAEL FISCHER,  
Sierra Club, Washington, DC.

GENTLEMEN: Thank you for your August 19, 1991, letter concerning the environmental implications of various provisions in S. 1220, the proposed "National Energy Security Act of 1991."

In developing the National Energy Strategy (NES), the Department of Energy conducted a comprehensive examination of steps the Federal Government could take to ensure a secure, reliable, and environmentally acceptable energy supply for the Nation in the coming decades. As you note in your letter, the Department provided the Sierra Club with opportunities to participate in the development of the NES. The Sierra Club and others identified diverse approaches to meeting the Nation's energy needs. It became clear that a successful strategy must strike an appropriate balance between improvement in energy efficiency and the development of new energy supplies. This approach has been embodied in the NES and S. 1220.

We recognize that some elements of a comprehensive and balanced approach will upset some organizations. However, the Sierra Club's broad opposition to S. 1220 is unfortunate. Catchy phrases and general statements about a few of the many provisions of S. 1220

do not do justice to this comprehensive energy legislation that supports efficiency, renewables, and other new energy supplies and removes unnecessary regulatory barriers that prevent the market from achieving our energy goals for the least cost to consumers and taxpayers. S. 1220 deserves thorough and objective consideration by the American people and the Senate.

As discussed below, some of the statements contained in your August 19, 1991, letter ignore significant details of the proposed legislation, and others are misleading and inaccurate.

#### NUCLEAR POWER PLANT LICENSING REFORM

The purpose of the legislation is to improve the efficiency of the licensing process—not to diminish safety evaluations or exclude parties from the process. Under the current licensing process, the Nuclear Regulatory Commission (NRC) does not make its final safety decision until after the construction of a new powerplant is completed. A full adjudicatory hearing is conducted at that time. This reduces the probability of new investments in nuclear plants because operators may be prevented from operating a plant, even after its completion, by challenges of questionable or no merit.

S. 1220 provides for setting safety issues before a plant is constructed. The NRC would approve the nuclear plant design and site, along with acceptance criteria and tests, and inspections and analysis that would ensure that the plant would be constructed in accordance with the terms of its license. Full public participation and adjudicatory hearings would still be part of each step of the NRC approval process. In addition, once a plant is licensed, the public would retain the same rights for participation that have been effective in protecting the public health and safety during the safe operation of nuclear power plants in the United States for more than 30 years.

#### "WEPCO" PROVISIONS

If power plant modifications automatically trigger new source review under the Clean Air Act, utilities would lose the flexibility to reduce system-wide sulfur dioxide emissions in the most cost-effective manner. The "WEPCO" provisions of S. 1220 will not permit an overall increase in sulfur dioxide emissions. Increases in local emissions could occur, but only if permitted under the national ambient air quality standards and the prevention of significant deterioration increment. Moreover, state and local permitting authorities retain the right to impose more stringent limitations for control of nitrogen oxides.

#### REGULATION OF RENEWABLE HYDROELECTRIC ENERGY

It is ironic that your letter affirms support for renewables, yet the Sierra Club opposes legislation that would remove unnecessary regulatory barriers that threaten to prevent use of 16,000 megawatts of renewable hydroelectric capacity. This increase in capacity would be achieved primarily by improving existing facilities and adding new generators at existing dams.

Federal jurisdiction over hydroelectric projects derives from the location of a project on Federal lands or from a determination that the waterway is navigable or historically was once used for navigation for purposes of interstate commerce. In S. 1220, small projects on Federal lands would continue to be subject to all Federal laws, excluding the Federal Power Act, through the land management agency's permitting process. Small projects that are not on Federal

lands have little or no impact on interstate commerce, and the Federal Government should not preempt State authority to regulate such projects. The Sierra Club's position that States, unlike the Federal Government, are unable to ensure that small hydroelectric projects are built and operated in an environmentally sound manner ignores many strong State environmental protection programs.

#### REFORM OF THE PUBLIC UTILITIES HOLDING COMPANY ACT

Your characterization of the likely impacts of S. 1220's provisions for amendment of the Public Utility Holding Company Act is inaccurate in three respects.

First, you say that the legislation would "allow utilities to create 'independent affiliates' that could sell power back to the parent company . . . free from State laws." On the contrary, Section 15106 affirms that the Federal Power Act does not limit the authority of State regulators to review the prudence of decisions by utilities under their jurisdiction to purchase electricity at wholesale, except in certain cases where the Federal Energy Regulatory Commission has approved an agreement involving the sale and purchase of electricity among affiliates of a registered holding company. Thus, there would be ample latitude for State regulators to hold that a utility decision to purchase from an affiliate is imprudent if not made in accord with State law or regulations.

Second, you assert that an increased reliance on power purchased in wholesale markets "would undercut state efforts to institute least-cost planning practices and conservation programs." As noted above, States will retain regulatory responsibility for power purchase programs undertaken by utilities under their jurisdiction. Programs or individual purchases which are not consonant with State-approved least-cost or integrated resource management programs could also be found imprudent.

Third, you hold that the lack of provisions for transmission access in S. 1220 ensures "that safe renewable and cogeneration sources . . . would be largely locked out of the market." We agree with you that efficiency will be enhanced if access to transmission is readily available to wholesale buyers and sellers.

However, it is not clear that legislation is required to achieve this objective. Our approach is to secure more open access using existing Federal and State authorities. If these efforts are not fruitful, they will clarify what legislative changes are needed. Further, there are many technical questions associated with broadening access and maintaining reliability that should be resolved where possible through negotiation among transmission owners and users. Any legislation on this subject must be crafted carefully to avoid preempting or inhibiting such activities.

#### DEVELOPMENT OF GAS AND OIL SUPPLIES IN THE ARCTIC NATIONAL WILDLIFE REFUGE

As you know, the effect of oil exploration and development in Prudhoe Bay has resulted in only a minuscule loss of the total habitat available. In addition, the evidence clearly shows that this has had no adverse effect on the populations of any species of wildlife using Alaska's North Slope. The industry now has a 20-year track record that demonstrates overwhelmingly that Alaskan oil production is compatible with environmental protection.

Similarly, full development in the Arctic National Wildlife Refuge (ANWR) would di-

rectly impact only 13,000 acres, an extremely small portion (less than 1 percent) of the 1.5 million acre coastal plain where leasing would occur. The coastal plain, in turn, is a small portion of ANWR itself, which totals 19 million acres. In addition, a variety of potentially less environmentally intrusive approaches have been proposed for use at ANWR based on North Slope experience. Examples are smaller production pads, the use of ice rather than gravel as the base for exploration pads, and smaller spacing between wellheads.

The need to increase domestic oil production is grounded on an indisputable fact: for the foreseeable future, oil will remain a critical fuel for the United States, even with aggressive efforts to reduce consumption through substantial increases in energy conservation and the use of alternative fuels. It is for this reason that the potential petroleum resources in ANWR and carefully selected offshore areas are deemed to be vitally important to our Nation's energy future. The Administration will support energy exploration and development only where the potential energy benefits to the Nation outweigh the environmental risks.

We hope that you will reassess your position on S. 1220. The legislation should not be condemned because of its limited impacts on certain resources, but supported because of its mix of programs and policies would benefit the entire Nation.

Sincerely,

JAMES D. WATKINS,  
Admiral, U.S. Navy (Retired).\*

#### APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

• Mr. CHAFEE. Mr. President, one issue very much on my mind as we work our way through this session of Congress is our Nation's competitiveness in the global marketplace. Our ability to compete is not just a function of how many semiconductors we produce, or how quickly we make progress in various forms of research into super-advanced technology. Competitiveness includes our long-range prospects: the depth and relevance of the education we provide to our children, and the diligence with which we bring our entire society into the technological age. Investing in our youth and disadvantaged citizens must be a priority if we aspire to continued leadership in the world economy.

The bill approved by the Senate last night, although not perfect, takes steps toward placing a greater priority on this investment by recommending increased funding in several areas. It shows that the Senate not only recognizes the importance of programs, such as the Childhood Immunizations, Head Start, the Maternal and Child Health Block Grant, but also is working to ensure their success.

I lend my full support to the Appropriations Committee's proposed 1992 funding levels for the Department of Labor. The Department's employment and training programs reach out to a

variety of groups finding themselves on the periphery of the job market. Our disadvantaged youth, veterans, senior citizens, and underskilled workers will directly benefit from this year's Department of Labor budget increases through literacy, job training and community service employment programs. These initiatives help tap both latent talent and proven experience, adding to the total human resource our Nation has to work with in competing on the world market.

In particular, the Senate version of H.R. 2707 provides for an increase of \$60 million in the Job Corps Program, which includes basic education, vocational training, and job placement for poor youths between the ages of 16 and 21. The Job Corps initiative is just one of the many ambitious programs I hope will succeed in meeting the needs of disadvantaged young people who have a great deal to offer to their communities and their country.

Together with making sure that our workplaces are busy, we should endeavor to make them safe. The committee's recommended \$20 million increase in funding for the Occupational Safety and Health Administration [OSHA] over last year's budget marks a commitment toward reaching that goal. The advent of new technologies and higher work standards often places our workers under increased risk of injury. OSHA has performed well in seeing to its mission, and I encourage my colleagues to see to it that it has the funds to continue in its fine record.

In the area of scientific research, the National Institutes of Health [NIH], one of the world's premier research institutions, would receive almost \$9 billion—\$683 million more than in fiscal year 1991. In addition to supporting major research projects such as the human genome initiative, this budget will permit 6,040 new research grants to be awarded to scientists at universities and other research institutions—this is the highest level of new awards since 1988.

Under the committee's proposal the Centers for Disease Control [CDC] would receive \$1.5 billion. The CDC has led efforts to prevent diseases such as malaria, polio, smallpox, and more recently AIDS and HIV infection. The agency's mission is to improve the quality of life for all Americans, by preventing unnecessary disease, disability, and premature death by promoting healthy lifestyles. Some of the Centers at CDC are familiar to us, like the National Institute of Occupational Safety and Health [NIOSH]. Others may be less familiar, but no less important as efforts to develop effective prevention programs continue.

I also would like to note that the Senate version of H.R. 2707 increases funding for childhood immunization programs. Childhood immunizations are one of the most cost-effective

health services we have available today. Yet, many pre-school children are not being immunized because support for the Childhood Immunization Program administered by the Centers for Disease Control has not kept pace with the spiraling costs of these services.

Earlier this year, I joined Senator BRADLEY in initiating a letter urging members of the Appropriations Committee to increase funding for immunization efforts. I am pleased that the committee favorably considered this request and included \$227.8 million for various immunization programs—an increase of \$60 million over last year's appropriation.

The Senate version of H.R. 2707 also provides full funding—\$686 million—for the Maternal and Child Health [MCH] Block Grant. The MCH Block Grant is a core public health program for children and pregnant women, and serves as one of our Nation's primary defenses against preventable and costly disease and disability among our population. The committee's recommendation will support efforts to implement key strategies such as home visiting and one-stop shopping, which were included in the reauthorization of the MCH Block Grant 2 years ago, but have not been funded. These strategies have proven successful in making prenatal and pediatric services more accessible, and mothers and children more healthy.

By providing over \$600 million for community and migrant health centers, the committee recognized the valuable contributions these centers make toward improving the availability of primary and preventive health care services in medically underserved areas. At a time when we are exploring ways to increase access to health care for all Americans, and also trying to maximize the benefit for each health care dollar, I believe that our community and migrant health centers are a good investment.

I also am pleased that an amendment was accepted to provide \$10 million for the Trauma Care Systems Planning and Development Act, which was approved in the last Congress. This act is designed to assist State governments in the development and improvement of regional systems of trauma care services.

The bill includes a \$250 million increase over last year's appropriation for the Head Start Program for a total of \$2.2 billion. Head Start offers high-quality preschool experiences that prepare children for entry into elementary school, along with health screenings, and other preventive health care services.

Overall, the Senate version of H.R. 2707 includes \$27.2 billion for Department of Education programs. This budget will provide \$6.9 billion for student financial aid programs, which are vitally important as students and their

families work to meet rising tuition costs. Even with grants, loans, and part-time work, it is sometimes impossible for students to afford the cost of a college education. I have been an active and steadfast supporter of existing student aid programs, such as Pell grants, guaranteed student loans, and other forms of assistance, and am pleased by the committee's recommendation.

Having said all that, there are aspects of the bill that cause me concern. First, I regret that the committee did not directly appropriate more funds for Medicare contractors. Medicare contractors, usually insurance companies, are responsible for reimbursing Medicare beneficiaries and providers in a timely manner. In addition, these contractors also provide information, guidance, and technical support to both providers and beneficiaries. While the committee recommended \$1.4 billion for this purpose, a significant portion of this request will remain in contingency reserves. In the past, the indirect funding approach has not assured adequate levels of service for beneficiaries and providers.

Second, I am concerned about language which could lead to the imposition of user fees for Medicare and Medicaid survey and certification. Earlier this year, the administration proposed to eliminate Federal funding for survey and certification activities for Medicare and Medicaid, and to convert the system to a user fee system in which health care providers would pay to be certified as a Medicare and/or Medicaid provider. Without this certification, providers cannot receive reimbursement under Medicare or Medicaid.

Although the committee did not accept the administration's proposal, it did not restore funds, as the House did, for activities related to survey and certification. Instead, the bill includes language that grants the President authority to spend funds by declaring an emergency in the event that user fee legislation is not enacted by the authorizing committee. We have imposed significant requirements on providers in recent years, particularly long-term care facilities for the elderly, and I am not concerned about the appropriateness of imposing user fees for these services.

Mr. President, the members of the Appropriations Committee faced an enormous task in developing the bill before us today, and I commend them for their efforts.●

#### BLACK CONCERNS AND THE WHITE HOUSE

● Mr. SIMON. Mr. President, one of the things that deeply concerns me is the failure of this administration and even more of its predecessors to try to heal the Nation in its ethnic divisions.

Look to Eastern Europe and people ask, "How can people from Serbia and Croatia fight each other? How can people in Armenia and Azerbaijan fight each other?" The list goes on and on.

We don't need to look any further than home. What has caused much of the division in Eastern Europe is shortsighted political leadership.

That is precisely what we have at home at this point.

Recently, the Christian Science Monitor had an editorial titled, "Black Concerns and the White House."

Their editorial calls for the administration to follow the example of two fine Republicans, Senator JACK DANFORTH of Missouri and Housing and Urban Development Secretary Jack Kemp.

The President would do well to heed the advice of the Christian Science Monitor and see to it that our country is a country that offers opportunity for everyone, and a country that brings people together and not further divides us.

I ask to insert the Christian Science Monitor editorial into the RECORD at this point.

The editorial follows:

[From the Christian Science Monitor, July 26, 1991]

#### BLACK CONCERNS AND THE WHITE HOUSE

President Bush is back from a nine-day trip to Europe where, from London to Ankara, he played with relish his role of world leader. Next week in Moscow the president again takes world center stage to sign the START treaty with Soviet leader Mikhail Gorbachev.

Yet amid the crucial foreign policy matters Mr. Bush must deal with are a number of equally important domestic issues. Education and the economy come to mind. But no area today needs more attention—and rethinking—in the White House than that of race.

Race is one of the most sensitive and potentially divisive issues in the US. We have fought a civil war and generated a civil rights movement over it. That's why a recent series of White House decisions on issues related to civil rights and race seems questionable—if not always for content, at least for tone and timing.

Among the decisions:

White House stonewalling of the Senate's civil rights bill as a "quota bill." Sen. John Danforth, a Republican, came to the White House with five compromises, but no agreement could be reached with the president's chief of staff, John Sununu. Moderates from both parties wonder why.

The president's "political correctness" speech at the University of Michigan this spring. Bush's concerns about free speech and the rise of intolerant orthodoxies on campus are well taken. Yet the speech was perceived by many blacks as soft-pedaling the problem of racism.

The decision by Commerce Secretary Robert Mosbacher not to adjust 1990 census figures. Urban areas and minorities could thus be shortchanged in the redistricting process.

The nomination of Clarence Thomas to the Supreme Court. Mr. Thomas may be a fine candidate. He believes in the virtues of black self-help. But Thomas is questioned by blacks for attacking affirmative action principles that helped him get where he is.

The lifting of sanctions against South Africa two weeks ago. Given the Thomas nomination and stalling on civil rights legislation, this seemed bad timing. (Now news of Inkatha funding by the police puts Pretoria's good faith in question.)

The nomination of Carol Iannone to an advisory panel of the National Endowment for the Humanities. The administration fought hard for Ms. Iannone, who recently attacked the literary merits of popular black author Alice Walker.

None of these developments alone is egregious or divisive. Yet taken as a whole they indicate a pattern of majoritarian decision-making. The political motives for such a tack are complex. The White House seems to be appeasing some on the political right who feel too much money and effort is spent on race-based issues. Minority groups may feel ganged up on, but the White House now controls the political mainstream. In such a climate, establishment black civil rights leaders are perceived as vulnerable to the kind of Republican free-market, self-help agenda that new black conservatives espouse.

Yet the present White House course contains some dangers. The administration has to show, through its words and through more actions like the Justice Department's admirably strong stand for voting rights, that it can affirm black and minority issues. It must do more than pay lip service to constructive programs such as Housing and Urban Development chief Jack Kemp promotes.

The danger is a politics that could alienate blacks and widen racial divisions in the US.

Senator Danforth has offered wise counsel in this regard. After his civil rights bill was stalled, the senator commented, "It is very dangerous to divide the country along partisan political lines." He contends that race issues are more important to US stability than foreign policy matters or the federal deficit.

The trust that has been built in the black community over the past 20 years is fragile. Blacks do not have generations of wealth or college education to build on like many whites. Their traditional communities have been ravaged by drugs and flight to the suburbs. In general, they have fewer comfortable assurances than do whites. It may be true that some black leaders exploit these issues, but the issues are real.

Race can't be treated casually. The nation's highest official must speak and act meaningfully on the healing of racial divisions.●

#### THE FARM CREDIT SYSTEM FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

● Mr. GRASSLEY. Mr. President, I rise in support of this legislation and urge my colleagues to support it when it comes to the floor for a vote.

The Farm Credit System was created by Congress in 1916 to ensure that the farmers of this great Nation had access to the capital they needed at a reasonable rate. The System is unique in that it is owned by those who borrow from it. It is in everyone's best interest to promote the safety and soundness of the System.

In the 1980's, the System experienced financial difficulty for a number of rea-

sons. Congress led the effort to restructure the system to help it rebuild and set the course for the future. Our intent was to ensure the future growth and the future safety and soundness of the system with the emphasis on minimal cost to the farmer with maximum access to the capital needed.

What has happened since the passage of the Agricultural Credit Act of 1987? The System is generating profits, is paying back its debt, which was far less than the maximum it was authorized to borrow, and is safer and sounder than it ever has been. The objectives of this legislation are to improve upon what has been done and to address concerns raised about Government Sponsored Enterprises [GSE's] by the Treasury, General Accounting Office, and our own Congressional Budget Office.

Congress is concerned about the impact on the taxpayers of the bailouts of S&L's and banks. The S&L bailout will cost over \$500 billion. Assisting the Farm Credit System in 1988 cost \$1.3 billion, which is being paid back with interest. That is a significant difference in taxpayer dollars.

The almost \$1 trillion in exposure generated by all GSE's is another source of concern to us. We need to make sure that safeguards are in place to eliminate any further risk to the citizens of this Nation. Farmer MAC, at the present time has an exposure of approximately \$20 million of that \$1 trillion. That is a very small portion indeed. In spite of this minimal risk, we have taken steps to strengthen the oversight of this GSE.

I support the bill as proposed and commend the committee for the work they have done in listening to all the various interested parties and achieving the best legislation possible.

I am very supportive of the System banks reaching their own agreement to set performance standards which are above the minimum required. I commend their efforts and look forward to reviewing the signed document.

The steps taken to ensure timely repayment of financial assistance received, promoting the enhancement of insurance reserves, and improving loan risk management standards will all help make the system safer and sounder.

The proposed management qualifications and structural changes will improve system oversight by the regulator and by the insurer. In addition, the bill provides for better protection of the System should banks or associations choose to leave.

The bill also calls for several studies, including one to determine the potential cost savings for System institutions and the Farm Credit Administration if they were required to comply with the GSA standards for office space, furniture, and equipment. This is of particular interest to me because of what has happened in the past and

the fact that the costs are paid for by the farm borrower.

I also strongly support the regional representation language, which will promote demographic representation on the boards of banks and associations. This is especially critical if the System institutions continue to merge.

In 1987 we created Farmer MAC, which was to promote the secondary market as a source of funds for the direct lenders. Farmer MAC has been slow to produce, for a number of reasons. Recently, however, things seem to be more optimistic. The oversight of this GSE is the responsibility of the Farm Credit Administration. This bill pro-actively creates an office, within FCA, of secondary market oversight. This office will ensure the safety and soundness of Farmer MAC as it begins to participate in the market.

Mr. President, I strongly support this bill and urge my fellow Senators to do the same.●

#### THE ISRAELI LOAN GUARANTEE ISSUE

Mr. DOMENICI. Mr. President, I had not planned to speak on the Israeli loan guarantee issue today but after the remarks of the distinguished chairman of the Appropriations Committee addressing this issue I have decided that I should make my position clear now.

I do not want this to be a confrontation on the timing of the loan guarantee issue between our President and Israel, America's friend. I know that the President did not want this confrontation. His six points of reassurance that were offered to Senators INOUE and KASTEN earlier this week are evidence that the President was and is trying to avoid anything that would hurt those Jewish people fleeing the Soviet Union and I do not think anyone can justify any other interpretation of his conduct.

I believe that the leaders of the relevant appropriations subcommittees, Senators KASTEN, INOUE, and LEAHY do not want this confrontation. They are trying to accommodate the President's pause for peace and the genuine needs of the immigrants from the Soviet Union to Israel. This confrontation helps no one and threatens many. It certainly does not help the cause of peace.

Having said all this, I am fully prepared to support the President on this issue with my voice and with my vote if all parties concerned cannot reach agreement. That is the reason I saw fit to speak today.

My position at this time is not popular with some of my very good friends. I know that and I regret that. I do not believe, though, that if the President is backed into a corner he will lose. Quite to the contrary. I believe he will win. I want to help the President bring about

peace in the Middle East. I want to help the President aid the Soviet immigrants to Israel, who need help. But I repeat if he is backed into a corner, he will win. I will support him. I want my friends in my home State to know this.

I have had an opportunity to speak with many of them. They may disagree but I want them to know that my hope is that this will all work out, but for now I believe the President's pause for peace deserves my support. I want them to know that I am going to support him.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12:30 p.m. on Monday, September 16; that following the prayer, the Journal of proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 1:30 p.m., with Senators permitted to speak therein; that during morning business, Senator WELLSTONE be recognized to speak for up to 30 minutes; that the Senate resume consideration of H.R. 2686, the Interior appro-

priations bill, at 1:30 p.m., with the Jeffords-Metzenbaum amendment No. 1138 as the pending business.

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

RECESS UNTIL MONDAY, SEPTEMBER 16, 1991 AT 12:30 P.M.

The PRESIDING OFFICER. Under the previous order the Senate now stands in recess until 12:30 on Monday.

Thereupon, the Senate recessed at 5:14 p.m. until Monday, September 16, 1991, at 12:30 p.m.

Table with multiple columns containing names of Senators and their respective states, such as Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and District of Columbia.