Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Friday, July 31, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We take this moment of prayer, O God, to reflect on the blessings we have received and our responsibility for those gifts. There is great need in our communities and yet great abundance, too. There is poverty and yet plenty, for some a lack of education and yet great learning, too. There is illness and those who are gifted in healing. Teach us, gracious God, to employ all our resources, our wealth and talent, our enthusiasm and our faith, to work for justice so that every person will experience the blessings of life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado Mr. HEFLEY come forward and lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed, without amendment, a bill of the House of the following title:

H.R. 5566. An act to provide additional time to negotiate settlement of a land dispute in South Carolina.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 192. Concurrent resolution to establish a Joint Committee on the Organization of Congress.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2725. An act to authorize extension of time limitations for a FERC-issued license;

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes; and

S. Con. Res. 131. Concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2759) "An act to amend the National School Lunch Act to improve the nutritional well-being of children under the age of 6 living in homeless shelters, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 959) "An act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson."

TRUST ME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, yesterday in Texas the President of the United States found just about everybody to blame for the economy and its sad performance. The villains are the cost of the cold war, then the end of the cold war; of course, Congress; the Federal Reserve System, Saddam Hussein, the consumers, the banks, other Presidential candidates and the media.

There is just one person, of course, who did not fall into the category of blame for the recession.

This is the President whose slogan on bumper stickers is "trust me."

He promised 15 million new jobs 4 years ago. We have had less than a million new jobs, and yet, he says, "Trust me."

He promised great economic growth. The result 4 years later is the worst economic growth performance at any time since World War II. "Trust me."

He says now that we have been out of a recession two times. We are now entering the triple dip of our recession. "Trust me."

This is the "trust me" President.

"Trust me."

Is that something like "read my lips"?

INTRODUCTION OF LEGISLATION TO REDUCE OVERHEAD EXPENSES OF FEDERAL GOVERNMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the economy is sluggish. Families all across Virginia and the Nation are looking for ways to cut costs in order to get through these uncertain economic times. We make fewer long distance phone calls. We plan ahead so we are not forced to pay extra for overnight or express postage. We use less electricity because we have become more conscious of turning out lights. And small businesses have certainly cut back or consolidated travel and postponed unnecessary spending on supplies. If families and small businesses have to make these sacrifices, then why can't their government as well?

Because Congress has not held the Federal Government sufficiently accountable for overhead spending, there has been little or no regard for the amount of taxpayer dollars each agency spends for costs, such as office supplies, shipping, mailing, rent, communications, utilities, equipment and employee travel.

Today, I am introducing legislation which would require each domestic agency of the Federal Government—including the Congress—to keep overhead expenses frozen at 1992 spending levels in 1993 and 1994. For the fiscal years 1995 through 1997, spending levels for these expenses would be permitted to increase only by the level of inflation.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. Speaker, if families and businesses can cut back during the tough times, so can the Federal Government. I know my constituents would insist on more responsible use of their tax dollars which my bill provides. The Heritage Foundation estimates this measure will save $136 billion over 5 years. This legislation will not alone balance the budget, but it is a step in the right direction. It will help reduce unnecessary and wasteful Government spending. I urge my colleagues to join me in sponsoring this much needed legislation to force a discipline on the Federal bureaucracy.

RECKLESSNESS—A THEME FOR THE SILLY SEASON

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, without a doubt the silly season is here. The Bush-Quayle team have decided that since they have no clue about what to do in the domestic arena, they will challenge Governor Clinton, the Democratic nominee for President on his foreign policy credentials.

On Monday Mr. Bush criticized Governor Clinton's foreign policy positions as being "reckless." Reckless of all things. Now "reckless" is a word this team should certainly be familiar with.

"Reckless" is the way the American people would describe the handling of this economy, which after 4 years is still far from recovery.

"Reckless" is a good word to describe the American education policy under this administration, since now our children have some of the lowest test scores in comparison to other industrialized countries.

"Reckless" is how I would describe this administration's environmental policy which led to our country's embarrassment at the Earth summit in Rio this summer.

Let me see, if I could think of one word to describe the policies leading up to the savings and loan bailout fiasco, I guess it would be "reckless."

Mr. Speaker, let us hope that as this year progresses Mr. Bush will show us some real leadership and deal with the urgent problems we are facing. His reckless abandonment of this country's domestic needs is showing everywhere you look in America.

Let us hope the administration pays attention to its own rhetoric. Recklessness is certainly one thing the American public is sick and tired of.

"PORKER OF THE WEEK AWARD" GOES TO CIESIN PROGRAM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, there once was a program called CIESIN. Ever hear of it? Probably not until night before last. It is supposed to be a central data point for Earth science information. On Wednesday night Congress passed a bill giving it $50 million dollars for construction of a building to hold new information and data. Can you imagine the building you can get for $50 million—and to house information?

Not surprisingly, the new facility is to be built in the district of the retiring chairman of the committee. The project, which has already received over $41 million—all awarded without competition over where it should be located and little congressional oversight—was never asked for by NASA and never had hearings, and was never authorized through the normal legislative process. NASA is not even sure where the funding is going.

If it is a legitimate program, then why has it not gone through the normal budget process? It just appeared. Decisions about where our tax dollars are being invested should be done in the proper way. If not, these projects do not deserve to get any Federal funding.

For sidestepping the process, the CIESIN Program gets my "Porker of the Week Award."

THE WIZARD OF THE WHITE HOUSE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republicans are now saying the economy is not as bad as everyone is making it out to be.

In fact, they are saying for sure it is not the fault of President George Bush. They are saying, if anything, it is the fault of the Democrat Party.

Now, folks, what we have here is a whining White House trying to defend an economy that is so bad that Disney World laid off 400 people yesterday.

I say the economy is bad when Mickey Mouse is standing in an unemployment line.

The President wants us to believe we are going to hit the yellow brick road next year. I think he is off to see the wizard. I am not so sure he will visit the wizard in the White House.

THE DEMOCRAT PLATFORM

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, 6 weeks ago the Democrats passed a resolution at their convention. Allow me to read an account to you:

The chairman told what a hard time the committee had getting the platform ready. He told that one day they all didn't get to bed until six a.m. He said the fifty-four men on the committee thought of prayer and that they all recited the Lord's prayer. Can you imagine fifty-four political bosses reciting the Lord's prayer at six o'clock in the morning? So you see at a glance what drastic means this convention is forced to resort to.

Well, it's 6:30 p.m. and they have just read the platform. It favors fixing everything the Republicans have ruined and keeping everything that they haven't. That platform is 45 pages long. If they had come out in the open on every question and told where they stood, they could have saved 42 pages. When you straddle an issue it takes a long time explaining it.

These were the words of Will Rogers right after the 1924 Democratic Convention.

Mr. Speaker, nothing has changed.

THE AMERICAN PEOPLE ARE NOT BUYING IT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, George Bush says the economy is OK. He can tell that to the choir, but the congregation is not buying it.

Eleven million people who are unemployed are not buying it.

Fifty million people who are underemployed are not buying it.

Thirty-seven million people who have no health insurance, they are not buying it.

Fifty million people who are uninsured, they are not buying it.

Millions of retired people, older American citizens who worked all their lives, who have had their savings and their incomes cut, they are not buying it.

□ 1010

Millions of American veterans whose spouses and widows have to rely on benefits from the Veterans' Administration, they are not buying it. And if this administration and Congress keep sending our jobs to Mexico, to China, and to Japan, those millions of Americans are going to be losing jobs, they ain't going to buy it either.

I say, finally, those who think George Bush should assume responsibility and stop blaming everybody else for what is going on, I guarantee you they are not buying it.

I think it is time for new leadership.

ADVANCEMENT OF HUSBAND KIMMEL

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, yesterday, on behalf of Mr. SPRATT, Mr. WELDON, Mr. SCHULZE, and myself, I introduced a sense-of-the-Congress

resolution, which recommends posthumously advancing Rear Adm. Husband Kimmel to the full rank of admiral.

No President has ever considered promoting Husband Kimmel to the retired list in accordance with section 18 of the Officer Personnel Act of 1947. Kimmel, as commander in chief at Pearl Harbor, for far too long has been the scapegoat of the unprovoked attack.

Many veterans organizations, as well as military personnel, have supported Kimmel's advancement. Among these are the Pearl Harbor Survivors Association, two former Chairmen of the Joint Chiefs of Staff, and three former Chiefs of Naval Operations.

In 1944, a naval court of inquiry and, in 1946, a joint committee of the Congress found that there was absolutely no basis for the dereliction of duty charges against Rear Admiral Kimmel.

Mr. Speaker, I say to my fellow colleagues that we must remedy this injustice. This is why we have introduced this measure. And I ask all of you to support and cosponsor this long overdue measure.

THE WEAK, SILENT TYPE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Georgia Gov. Zell Miller has President Bush's number down cold. Here's how Governor Miller described the President's miserable record:

Let's face facts:
George Bush just doesn't get it;
He doesn't see it;
He doesn't feel it; and
He's done nothing about it.

Nowhere is this more clear than the President's record on issues important to families, women, and children. By whatever standard of measurement—women's health, Head Start, family and medical leave, freedom of choice, the gag rule, or child support enforcement—George Bush's Presidency is a failure.

President Bush is all for family values as a bumper sticker slogan, but he has done nothing to value families.

He will not even meet with the congressional caucus for women's issues—a bipartisan group, I might add. He has rejected our invitations for 4 straight years. He will not even tell us to "shut up and sit down." He will not come anywhere near us.

When it comes to issues important to families, women, and children George Bush is the weak, silent type.

FACTS PRESIDENT BUSH CANNOT RUN FROM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today the newspapers have given us a new look at the Bush Presidency and what it has done for the American people, and the picture is dismal. New economic numbers have confirmed our worst fears: Our economy has slowed to a crawl and millions remain jobless because of it.

These are facts President Bush cannot run from. There is nowhere to hide. According to the Commerce Department the growth rate for the last quarter was 1.4 percent. But that is not the worst of it. While the President was telling us that there was no recession and that strong economic growth was just around the corner, the Commerce Department found that the facts were much different. It says that the 1990–91 recession was much worse than anyone, especially the President, thought.

This economy, under George Bush, is growing at less than half a percent each year. And who is suffering: America's working middle-class families.

When I visit the unemployment lines in Connecticut, the people I see are not the chronically unemployed. They are fathers and mothers, recent college graduates, tradesmen, and women, people who have the skills and want to work. And what has President Bush done for them? He promised 30 million jobs and no new taxes.

He says "trust me." But how can we trust a man who has broken his two biggest promises to the American people? It is time for a change, and it cannot come too soon.

BELATED RESULTS OF SECRET NAVY TESTS ON MUSTARD GAS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in today's Federal Register, the Veterans' Administration finally and officially recognizes six diseases as being related to mustard gas exposure and thereby entitles victims of secret Navy tests who suffer as a result to service-connected compensation. This long-awaited announcement should give new hope to veterans whose claims have previously been denied. It brings us one step closer to acknowledging the terrible suffering these men have endured. When I introduced private legislation for the relief of four men in 1989, I never imagined the list of veterans who participated in secret mustard gas testing would grow to over 1,700. As soon as the first men identified themselves publicly, my office began to hear from individuals across the country, including some who believe their father or spouse had died from the long-term effects of mustard gas but could never be sure, since many of these men took the secret about their victimization to their graves. While we can never reverse their suffering, at least we can set the record straight and provide justified compensation to those who are still in need today.

THE DOG ATE MY HOMEWORK

(Mr. SCHUMER asked and was given permission to address the House of 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this morning's Washington Post features the mother of all headlines. It says: "Bush Shifts Gears, Blames Others for Sluggish Economy."

The article lists all the excuses George Bush has offered trying to explain away the worst economic record since Herbert Hoover.

The administration blames the cold war for the recession.

The administration blames Saddam Hussein.

The administration blames Congress.

The administration blames the election.

The administration blames foreign countries.

The administration blames tight credit.

The administration blames the Federal Reserve.

In other words, the Bush Administration blames virtually everyone and everything on Earth for the recession, except its own mismanagement and failed policies. The headlines do not lie: "Bush Blames Others for Sluggish Economy," said one this morning.

In school, this is called the dog ate my homework defense.

In politics, this calls for a new President.

THE ONLY THING SENIORS HAVE TO FEAR IS FEAR ITSELF

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, Franklin D. Roosevelt said, "The only thing we have to fear is fear itself." Unfortunately, many seniors fear their Social Security benefits will soon run out, because they have been contacted by organizations charging that the trust fund is empty.

Members are familiar with these mailings, which often come in Government-style envelopes or with official-looking images inside. The implied Government connection is apparently meant to reassure seniors asked to make a donation.

Those who prey on seniors' fears should experience some fear of their own. The House has passed legislation increasing penalties for deceptive solicitations, and this should become law soon.

Mr. Speaker, I urge my colleagues to tell their constituents the truth about

the trust fund, and also about the motives of organizations that say it is empty. Seniors who are listening, you should verify with your Congressman claims made in connection with an unsolicited mailing, especially when asked to donate your hard-earned savings.

Social Security trustees recently reconfirmed the security of the trust fund. Let us reassure our seniors that the only thing they have to fear is fear itself.

□ 1020

PRESIDENT'S FOREIGN POLICY RECORD NOT MUCH BETTER THAN HIS DOMESTIC ECONOMIC RECORD

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, the President has asked that we look at his foreign policy record and not his economic domestic record, and I think that is based on the theory that the domestic economic record is so abysmal that, by comparison, anything else would look better. But in objective terms, Mr. Speaker, the foreign policy is a very disappointing one.

Let us look at this. In Yugoslavia, where the President's press secretary recently made some very irresponsible partisan remarks, the administration's record has been a complete and utter disaster. This administration misjudged that situation from the beginning, was far too kind to the dictator of Serbia, and has, in fact, presided in part over a situation which has brought untold suffering. It is not the administration's fault that the suffering has happened, but George Bush and his vaunted foreign policy team have been able to do virtually nothing to alleviate it.

In China, Mr. Speaker, the greatest source of oppression of human beings in the world today, the Chinese Government, counts as its most genuine friend in the world the Bush administration, and what do we get in return? We get in return a Chinese trade policy where they have in percentage terms by far the largest ratio of exports sent to us to things they buy from us.

So, the Bush foreign policy record looks good only compared to the Bush economic record.

JUSTICE MUST PREVAIL

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, Clark Clifford, former Defense Secretary under Lyndon B. Johnson, and his law partner, Robert Altman, were indicted 2 days ago in the BCCI scandal, at both the State and Federal levels, for enriching themselves through sweetheart loans and deals with BCCI. I applaud the efforts of the Federal Government to rectify this embarrassment on behalf of the American taxpayer. They have scored another notch in the belt against those who have allegedly defrauded BCCI depositors and the American people and against those who have wrecked havoc upon the banking industry to suit their own greed.

Throughout the Federal probe of the BCCI-First American Bankshares conspiracy, both Clifford and Altman emphatically denied knowledge of BCCI's stock ownership of First American of Washington, DC.

On September 11 of last year, both gentlemen appeared before the Committee on Banking, Finance and Urban Affairs, of which I am a member, and again under oath vehemently denied knowledge of BCCI's acquisition of First American. At that hearing, they were sworn in the both testified under oath. As such, it is my feeling, as I am sure it is the feeling of other Members, that if the allegations in the indictments are correct, Mr. Altman may have committed perjury before the Committee on Banking, Finance and Urban Affairs.

Therefore, I encourage the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, to pursue this matter further, and I have authored a letter to Attorney General Barr calling for the investigation into this affair and pressing formal perjury charges if such are warranted.

Mr. Speaker, we must see that justice prevails.

YET ANOTHER BUILDING IN A SUBCOMMITTEE CHAIRMAN'S DISTRICT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute.)

Mr. ROHRABACHER. Mr. Speaker, the gentleman from Colorado [Mr. HEFLEY], gave his porker of the week award to CIESIN. Well, it is even worse than what my colleague said because he did not have time to give my colleagues all the details. The $50 million for this questionable project was robbed from an absolutely essential aerospace research project. A powerful subcommittee chairman has shafted the aerospace industry at a time when it is most vulnerable, and it could derail this industry's, this vital industry's, transition from the cold war to a more peaceful, yet competitive world. America may end up without a really active and a competitive aerospace industry, but what we will have is yet another Government building in the subcommittee chairman's district.

Well, the liberal Democrats who control this body want to run the executive branch; that is what we are hearing all the time now. Well, if they are going to run the executive branch like they run this body, America is in for a lot of trouble.

Give me a break.

INTRODUCTION OF THE CRIMINAL ALIEN DEPORTATION AND EXCLUSION AMENDMENTS OF 1992

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing the Criminal Alien Deportation and Exclusion Amendments of 1992.

The bill costs nothing, streamlines the system, protects against the release of hardened criminals, and preserves the due process rights of the alien.

This legislation simply allows INS to deport criminal aliens at the trial court level instead of waiting until aliens have served out their entire sentences.

This bill is not about spending additional resources to solve the problem.

It is about saving State and Federal governments, the millions of dollars it costs to feed, clothe, and house deportable criminal aliens. Most of these aliens are convicted on drug charges and account for 25 percent of our Federal prison population.

As a Member of Congress from Florida, I deal with this problem extensively. I know this same situation is faced by my colleagues in California, Texas, Arizona, and New York.

I urge my colleagues to join me in taking this logical, no-nonsense step to deport criminal aliens and to save millions of State and Federal dollars.

WHAT DOES HE MEAN BY "WE"?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, you being a man of the world, I know you will recall the old joke about native Americans surrounding the Lone Ranger and his sidekick Tonto. The Lone Ranger turns to Tonto and says, "Looks like we're surrounded Tonto. What are we going to do?"

To which Tonto replied, "What do you mean 'we,' Kemo Sabi?"

Well, that is the way I felt when, in his acceptance speech, the Governor of Arkansas, Bill Clinton, said, "We have won the cold war." And I know every person who has ever worn the uniform or worked in the defense industry or worked for the Pentagon or in the CIA and who fought the battle of the cold war against the Evil Empire feels the same way.

What do you mean "we," Governor Clinton? You're a draft dodger who

never lifted your little finger to crush communism and end the Evil Empire, Soviet variety. The one time the country asked Mr. Clinton to make a sacrifice, to make a contribution to the defeat of communism, the Democratic nominee decided his personal needs were more important. What kind of commander-in-chief could this man possibly make? Who would ever want to serve under him?

Mr. Speaker, here is an article by Robert NcNamara, the most evil man to ever hold appointed office in our country this century.

In his article on avoiding the draft, this killer of my friends, Robert Strange McNamara, tries to whitewash the draft dodging of Mr. Clinton. Is he looking for redemption under a Clinton administration? It is not going to happen, Mr. Speaker.

□ 1030

WAR CRIMINALS HOLD SWAY IN YUGOSLAVIA

(Mr. HOYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I regret that I do not have the time to respond to the previous speaker and the animus that his statement reflects.

Mr. Speaker, there is an even bigger problem in America, in Europe, and in the world: 2.5 million refugees have been created in the last year by war criminals. That is a tragedy, a tragedy whose name is Yugoslavia, a tragedy where innocent men, women, and children are being slaughtered and displaced by war criminals. As chairman of the Helsinki Commission, I strongly believe that an international effort should be taken immediately to investigate violations of international legal standards in the former Yugoslav Republics, to seek to take into custody those responsible and to try them, and if found guilty to punish them. At Nuremberg we said that we will hold accountable international criminals in courts of justice in the international community. Let those in Yugoslavia, on whatever side they fall, and there is blame enough to go around, know that the international community, not acting decisively now but hopefully beginning to do so, will nevertheless ultimately hold accountable those who kill and maim and force their victims out of their homes, those war criminals on every side who operate today in Yugoslavia. Mr. Speaker, we need to undertake this effort because where there is not justice, vengeance will most certainly reside.

SUPPORT VOICED FOR STAND ON YUGOSLAVIA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, I rise simply to associate myself with the remarks of the gentleman from Maryland [Mr. HOYER], the chairman of the American delegation to the Conference on Security in Europe. He is an outspoken leader in the international effort to restore peace.

The SPEAKER pro tempore (Mr. TRAFICANT). Does the gentleman wish to proceed with his 1 minute?

Mr. McEWEN. Mr. Speaker, I have completed my statement in support of the gentleman. I associate myself with the remarks of the gentleman from Maryland.

Mr. HOYER. My Speaker, if the gentleman will yield, let me give him my thanks.

The SPEAKER pro tempore. The gentleman's words will be so noted in the RECORD.

REFORM OF AMERICA'S HEALTH CARE SYSTEM GAINS MOMENTUM IN KENTUCKY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I also would join in what the gentleman from Maryland [Mr. HOYER] and the gentleman from Ohio [Mr. McEWEN] have said. Our subcommittee just this morning reported a bill favorably to grant protective status to all the Yugoslavians here in this country, and we held hearings just yesterday on the topic of refugees from that country.

Mr. Speaker, I am very happy to observe this Congress and this House moving toward reform of the health care system. It needs reform very badly. I am proud, too, to note, at the same time, that not all reform is being done here in these hallowed halls. Back home in Kentucky, my home State under the very strong leadership of Gov. Brereton Jones, task forces are meeting around the State to develop a health care reform proposal for the citizens of the State of Kentucky.

Mr. Speaker, I am a proud cosponsor of one of the major reform bills pending, one offered by our majority leader, the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from California [Mr. STARK]. And, I am glad to note that even as we are working here in Congress, all around the country, and particularly in Kentucky, exciting, innovative, and dramatic new developments are being forged which will lead us eventually to a new program for health care in this Nation.

MEDIA BIAS IN THE POLITICAL ARENA

(Mr. COX of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, today on ABC's "Good Morning America," President Bush was subjected to a drive-by shooting of biased journalism. I know because I witnessed it.

Yesterday I gave a 30-minute interview to ABC in which I was unrelenting in my criticism of this Congress for failing to act on the President's economic growth package, for failing to act on the balanced budget amendment, and for failing to act on the line-item veto, and this morning I saw myself on television. I saw my face and my lips move, but not my voice, and the ABC reporter was saying that the President is responding to complaints from his own party that he is not focused on the economy.

It is change that we need, but it is change in this Congress that we need. This morning ABC stood for All Bias for Clinton. I do not want to see that anymore.

SELF-DETERMINATION FOR PUERTO RICO

(Mr. SERRANO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, yesterday we took two votes to approve TV Marti. We did that because there was some concern about the programming. Was it educational, or was it entertainment?

I would like to suggest to the people at TV Marti a new program—one about the 93-year history of the Commonwealth of Puerto Rico and how this Congress has refused to deal with the idea of self-determination for the island of Puerto Rico.

After all, if we demand freedom and democracy for one place that is out of our control, we should feel the same way about another place that is within our control. The people of Puerto Rico have had 93 years without the opportunity to determine whether they want to be a State, whether they want to remain a Commonwealth, whether they want to expand the Commonwealth, or whether they want to become an independent nation.

May I also suggest a title for this documentary: "The Shining Star in the Caribbean" or "Puerto Rico, America's Best Opportunity to Double-Talk."

REPORT ON RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENT TO H.R. 2977, PUBLIC TELECOMMUNICATIONS ACT OF 1992

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 102-761) on the resolution (H. Res. 535) providing for the disposition of the Senate amendment to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other

purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2782, EMPLOYEES RETIREMENT INCOME SECURITY ACT OF 1974 AMENDMENTS

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 102–762) on the resolution (H. Res. 536) providing for the consideration of the bill (H.R. 2782) to amend the Employees Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4318, MISCELLANEOUS TARIFF ACT OF 1992

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 532 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 532

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill as an original bill, as modified by the amendment printed in section 2 of this resolution, for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as having been ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. On page 115 of H.R. 4318, as reported, strike section 2123.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, it has been said that a manager does things right while a leader does the right thing.

Passing H.R. 4318, the Miscellaneous Tariff Act, allows us to do both.

The bill's purpose is simple—it reverses a 1989 Treasury ruling that unilaterally handed a valuable tariff concession to our trading partners while getting nothing for American workers and businesses. The bill contains two main components.

First, it temporarily eliminates or reduces duties on over 200 goods.

It does a second thing. Right now, minivans and jeeps are classified as cars. That means their tariff is 2.5 percent. H.R. 4318 reclassifies imported four-door multipurpose vehicles [MPV's] as light trucks instead of cars.

That raises the tariff to 25 percent.

Why?

This issue reminds me of a story about W.C. Fields. A relative once visited him in the hospital and found him reading Scripture.

"Looking for moral guidance?" the relative asked.

"At my age, and with my record," Fields said, "I'm just looking for loopholes."

Well, a while back, the Japanese read our laws. And found a loophole.

A minivan is built directly from pickup truck designs.

It is called a truck for emission standards.

It is called a truck for fuel economy standards.

It is called a truck for gas guzzler and luxury taxes.

But the Japanese told the administration that it should be called a car.

The reason? Simple.

That would allow them to duck over $200 million in duties each year at the expense of U.S. taxpayers and workers.

The fact is, the Customs Service studied this issue for over a year. They found that the Japanese were wrong.

They decided that multipassenger vehicles were trucks.

In fact, earlier in the decade, even the Japanese insisted MPV's were trucks—at that time they thought it would enable them to evade Japan's voluntary restraint ceilings on cars.

Treasury decided to overturn its own Customs Service decision for purely political reasons.

Now, I'm not surprised the Japanese would try playing the name game—it's in their interest.

I'm not even surprised the administration would buy it.

After all, what have they done to stand up for American workers?

Nothing.

Nothing when it came to helping millions of jobless workers out of work through no fault of their own.

Nothing when it came to minimum wage.

Nothing when it came to helping America grow again and begin producing good jobs.

Nothing when it came to a middle class tax cut.

So I am not surprised that when the Japanese lobbyists wanted to take American workers to the cleaners, the Treasury Department said fine—a decision that its own former Customs Commissioner William Von Raab called the most unfair and politicized example he knew of foreign influence at high levels of the Bush administration.

But we in Congress should not let them do it.

You know, Mr. Speaker, probably every one of us has a VCR at home.

The VCR was invented in America.

None are made in the United States any more.

The same is true of fax machines and microwaves.

The minivan was invented in America, too.

But if we don't get tough with those abroad who get administration officials to promote sweetheart deals for their products, the minivan will go the way of the VCR and the fax.

Now, this bill is not a partisan one. In fact, it commands broad, bipartisan support.

The simple purpose is to have a consistent application of our law—not let the Japanese drive millions of minivans through legal loopholes and shove Americans out of their jobs.

So, Mr. Speaker, I ask my colleagues: support this rule so we can right a wrong.

Do things right and do the right thing.

Let us show the Japanese that we will not let the rhetoric of free trade allow them to get a free ride.

Mr. Speaker, House Resolution 532 makes it in order to consider the bill H.R. 4318, the Miscellaneous Tariff Act of 1992.

The rule waives all points of order against the bill and against its consideration.

The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule makes in order the Ways and Means Committee amendment in the nature of a substitute now printed in the bill, as modified by an amendment printed in section 2 of the rule, as an original bill for the purpose of amendment.

All points of order are waived against the substitute, as modified. No other amendments are made in order by the rule.

Finally, the rule provides one motion to recommit with or without instruction.

I urge my colleagues to support the bill and the rule.

□ 1040

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule. The majority whip, the gentleman from Michigan [Mr. BONIOR], has explained the provisions of House Resolution 532.

It is a closed rule providing for consideration of H.R. 4318, the Miscellaneous Tariff Act of 1992. The rule permits an hour of general debate, waives all points of order against the bill and its consideration, and permits no amendments.

Republicans do not support closed rules. However, I would like to commend the distinguished chairman of the Rules Committee, the gentleman from Massachusetts, along with the committee's ranking member, Mr. SOLOMON of New York, for working to provide a motion to recommit with instructions within the rule.

This means after all the debate is finished the Republicans have one chance to make one amendment, once. That is under a system which is often referred to as a procedural vote, and, therefore, oftentimes more partisan than it need be.

This is a closed rule, permitting no amendments. Therefore, it prevents an amendment that I believe would find overwhelming support on the House floor. The gentleman from Pennsylvania [Mr. WELDON] and the distinguished Member from Maryland [Mr. MFUME] came before the Rules Committee and asked to offer a bipartisan amendment which was intended solely to provide valuable information to auto consumers.

The Weldon-Mfume amendment is simple—it would require a label to be affixed in a prominent place on every automobile sold in the United States which would provide two valuable pieces of information to American consumers:

First, the place of final production of the car; and

Second, the percentage of American-made parts.

Mr. Speaker, I commend the gentlemen from Pennsylvania and Maryland for bringing this amendment to the Rules Committee. The American people have the right to know that a car made in Mexico may be built with 75 percent American parts, while a car made in Kentucky might have 20 percent American-made parts.

Unfortunately, the Weldon-Mfume amendment has been prevented under the rule.

As we all know, there is a much more contentious tariff provision in this bill. We are certain to hear a tremendous amount on both sides of the light truck tariff issue.

Mr. Speaker, I will read the final paragraph of the minority views which were filed for H.R. 4318 by the members of the Committee on Ways and Means. It says:

H.R. 4318 began as a non-controversial miscellaneous bill containing numerous customs provisions, primarily designed to lower or suspend tariffs and thereby lower costs for U.S. producers and consumers. These individual provisions are still important but, with the addition of the controversial reclassification on utility vehicles and mini-vans, H.R. 4318 is doomed. The legislation needs to pass on its own merits and must have a financing mechanism that neither violates our GATT obligations nor unfairly burdens average American consumers.

As I said, this is an otherwise unobtrusive bill.

Mr. Speaker, I would like to insert at this time in the RECORD the statement of the administration policy where it outlines the objections of the administration with the light truck import section of the bill.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4318 MISCELLANEOUS TARIFF ACT OF 1992

Although the Administration would have no objection to many of the tariff extensions included in H.R. 4318 if their estimated revenue loss is fully offset, other provisions raise serious trade policy and budget concerns. Accordingly, if H.R. 4318 is presented to the President in its current form, the President's senior advisers would recommend a veto.

The Administration's specific objections include:

Section 2121B, which would arbitrarily reclassify "light trucks" for tariff purposes, thereby increasing the rate of duty from 2.5 percent to 25 percent. This provision would lead to a dramatic increase in consumer costs, could be considered as violating U.S. obligations under the General Agreement on Tariffs and Trade (GATT), and could result in retaliation against U.S. exports. In addition, this reclassification would thwart the harmonization of U.S. tariff classifications.

Section 2123, which contains the CBO scoring language required by House Rule XXI, is unacceptable. In a letter of December 21, 1990, the President stated that he would veto any bill containing such language. The effect of this provision is to overturn a key element of the Federal spending control mechanisms enacted pursuant to the 1990 Budget Agreement.

Section 2004, which unilaterally increases bound tariff rates on iron and steel pipe and tube. This increase could be considered by our trading partners as violating U.S. obligations under the GATT and could entitle them to retaliate against U.S. exports.

Sections 1001 through 1162, which are new duty suspensions or reductions on a variety of chemicals and other items. These tariff provisions would be effective from January 1, 1995, to December 31, 1996. The Administration opposes any duty suspension beyond December 31, 1994. At that time, an assessment can be made of progress in the Uruguay Round of negotiations and the possibility of gaining reciprocity for U.S. duty changes. In addition, enacting a future duty reduction could affect U.S. manufacturers adversely by discouraging planned and future domestic production.

Several sections providing for reliquidation of Customs duties. These provisions grant preferential treatment to one importer to the exclusion of others who may be similarly situated. In addition, they establish an undesirable precedent and encourage importers to seek redress of disputes through legislative action.

SCORING FOR THE PURPOSE OF PAYGO

H.R. 4318 would affect receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this proposal may deviate from this estimate. If H.R. 4318 is enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA. The cumulative effects of all legislation on direct spending and revenue will be issued in monthly reports transmitted to Congress.

ESTIMATES FOR PAY-AS-YOU-GO

[Dollars in millions]

	1993	1994	1995	1996	1997	1993–97
Receipts	−3	−4	55	97	221	367

Mr. Speaker, regarding the statements of the gentleman from Michigan [Mr. BONIOR] in which the gentleman referred to the CAFE standards, which are the corporate average fuel economy standards which were established by this Congress and this country on American automobiles, which were actually the system whereby the Federal Government prevented the production of American-size automobiles. Well over four out of five full size cars built on this planet were built in the United States, and the CAFE standards that were applied made it impossible to produce those cars any longer. So we federally outlawed the American-size automobile, which means that they had to meet these various standards, which meant they had to be lighter, they had to be smaller, they had to have no frames under them, they had to be front-wheel drive, and basically they had to be Japanese-size cars. That means we wiped away our lead in the automobile industry internationally.

When the final implementation took place, people were bidding for these automobiles at $2,000, $3,000, $4,000, $5,000 over sticker in order to get the final full size American car, which the world wanted and certainly we wanted.

Having done that, we then forced the American auto industry to go head to head with the European and Japanese auto industry on their terms.

The one exception to that was the minivan which was allowed to escape that. It was allowed to be classified not as a passenger vehicle. Therefore, they were able to still make the full size vehicle that the average American wanted to purchase. That meant that if you were my size or had a family, no longer would you have to get the little Japanese cars, but you could at least have a car that you could get into, and that was the minivan, because it was classified as a light truck.

So now if you go any place in our country where there are families, whether it be at 8 o'clock in any schoolyard in America, or if you go to an amusement park, you will see four out of five of the vehicles there are these minivans, which are classified as light trucks.

□ 1050

It is the only way the automobile industry in America has been able to survive. It is the only way the American family has been able to survive with transportation because one simply cannot put a full-sized American family into the CAFE standard automobile, which is our dilemma.

Nevertheless, be that as it may, that was the one place that the American automobile was able to compete. The Japanese obviously have spotted it, and they have prepared to come together with all the kuritsu capacity to target that particular remnant. And so now having recognized that it is a minivan in order to allow the Americans to survive, they want to have the other side of the coin, and that is to say that they want to be classified as a passenger vehicle and, thereby avoid the tariff and, thereby eliminate the one remnant of the American automobile production that we still hold a significant lead.

I would emphasize the fact, however, that trade is vitally, vitally important, and American products are desired around the globe. Not only is this Nation the largest exporter in the world, far and away. When someone wishes to buy a hair dryer or an airplane or anything else around the world, they want American products. We are by far the largest exporter. And here is an interesting fact: Over the last 6 years American exports have doubled. gone up 100 percent, 96 percent actually, but doubled. In order for other nations to either gain on us or catch up with us in our lead as the world's leading exporter, they would have to increase their position at least that much, would they not?

While American exports have doubled over the last 6 years, the nation that has increased their exports the greatest in competition to us is France. And France's exports have gone up 30 percent. After France comes Italy. After Italy, Germany. After Germany, Britain. After Britain, Canada. And after Canada, Japan. So Americans do have the capacity to produce good products. They are purchased around the globe. What we are interested in is making sure that we have access to them fairly, and that was the main purpose of H.R. 4318.

As I say, there will be much debate, I am sure, on the light truck decision, which will be before us. And I oppose the rule because it is presented to us in toto and in whole without the ability to make as much as one amendment to the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 6 minutes to the author of the legislation that is so prominent in the bill and which we will discuss in the next 45 minutes, the distinguished gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I rise in strong support of H.R. 4318, which includes my bill to instill equity in our tariff treatment of imported multipurpose vehicles.

Prior to 1989, there was no clear classification of MPV's for tariff purposes.

The foreign importers of MPV's were able to reclassify their vehicles at will.

If they wanted to avoid the higher U.S. tariff on trucks—they would put a backseat in their MPV, and their vehicle became a car.

If they wanted to circumvent the voluntary restraint agreement on imported Japanese cars—they would yank out the backseat and the MPV became a truck—and thus not subject to the VRA.

In order to end this shell game that they were playing, the United States Customs Service undertook a year-long review of this issue, and that included tours of production facilities in Japan.

Customs found that these vehicles were produced in the same facilities, on the same assembly lines, and used the same chassis as other trucks.

In January 1989, the experts at Customs, who are responsible by law to make these determinations, ruled that these MPV's were trucks, and therefore subject to the 25 percent truck tariff.

However, in February 1989, U.S. Treasury Secretary Nicholas Brady overruled the experts at Customs, and allowed foreign importers to continue to manipulate American trade laws.

Never before had a U.S. Treasury Secretary overturned a tariff determination of the U.S. Customs Service.

That same month, I asked Secretary Brady during his testimony before the House Budget Committee what he based his decision on.

He told me that he had sent some people up to the Port of Baltimore to watch the vehicles being unloaded, and—based on the number of doors, windows, and seats—they looked more like cars than trucks.

Mr. Brady told me in his own words, "There was enormous pressure from our partners overseas to do this.

Let us hear those words again of Mr. Brady: "There was enormous pressure from our partners overseas to do this."

Mr. Brady, why do we always have to succumb to pressure? Why can we not apply pressure?

I pointed out to Mr. Brady at that meeting that Congress has defined what a truck is.

Both of these vehicles are trucks for EPA's lower emission standards for trucks. Both of these vehicles are trucks for the Transportation Department's lower fuel economy standards for trucks.

Both of these vehicles are trucks to avoid Treasury's gas guzzler and luxury taxes.

And, if they have only two doors, they are trucks for Treasury's tariff purposes—and pay 25 percent tariff.

But, if they have four doors, they all of a sudden become cars and only pay the 2.5 percent automobile tariff.

They are both made in the same facilities, on the same assembly lines, and based on the same chassis—but Treasury calls these trucks and these cars.

William von Raab, who was Customs Commissioner, appointed by a Republican administration at the time, called Treasury's reversal of his agency's initial decision,

> A shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.

The fact is that the Treasury Department caved in to pressure from the foreign importers and their Washington lobbyists.

That foreign pressure was again evident this year.

This February, when I again questioned Treasury Secretary Brady before the Budget Committee, he acknowledged that there was a problem with Treasury's classification of MPV's and he indicated that his department was reexamining the issue.

I felt some hope, but I was more than a little surprised to learn that Treasury again immediately dropped the issue after encountering staunch opposition from Washington lobbyists for foreign truck makers.

Mr. Speaker, I don't blame the Japanese Government or the Japanese manufacturers for watching out for their best interests.

That is their job.

But, Mr. Speaker, it is the job of our Government to watch out for our Nation's best interests.

I am tired of our Government abandoning American companies and American workers in the face of foreign political pressure.

It is time to put an end to our unilateral trade disarmament policy.

The MPV provision is logical, is consistent with GATT, and passes the truck test which says that a truck is a truck, is a truck.

I urge my colleagues to support the rule, oppose the motion to recommit and support the bill.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise against the rule because it is a closed rule. We do not seem to obey the rules here anyway.

The main thing I want to do is, since the gentleman from Michigan is on the floor handling the rule, and since I have an article here from the paper indicating Democratic leaders are engaged in a coordinated effort to conceal the names of people who have received subpoenas, I wonder if the gentleman from Michigan can tell me whether or not he is aware in any way

of subpoenas that are on Capitol Hill relating to the House post office scandal. The gentleman knows nothing about any of these subpoenas? He has not read the newspaper articles or he has not seen anything about any subpoenas being on the Hill? He is not aware at all of any coordinated effort to conceal names? It is his assumption that the names will be laid before the House in the near future in accordance with the rules?

The gentleman is giving me hand signals here and so on.

Do I understand that he does not know whether or not the names will be laid before the House? He does not know.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise today in support of the rule, and I want to thank my good friend, the gentleman from Michigan [Mr. BONIOR] for allowing me some time to speak on a matter of what I believe is real importance to straighten out some of the rhetoric that was given earlier today.

I rise in support of an individual that started in the car industry in this country many years ago and who rose to the top of that industry and then was tapped by President Kennedy to run the defense of this country throughout his administration.

The fact is that in a bizarre twist of vindictive logic, we heard Secretary McNamara today referred to as a killer.

It just seems to me that we all recognize that this country was terribly divided by the Vietnam war, but for Bob McNamara to be the scapegoat for that terrible division, I think, was an unfair and unwarranted impingement on his reputation.

This individual has done more to save more lives in the Third World of this planet than perhaps anybody in the history of this country and of this world. His work at the World Bank was unprecedented in terms of what he was able to accomplish. Further, his work at international disarmament over the course of the last decade has done more to provide safety for all the people of this planet.

So I want to again thank the gentleman from Michigan [Mr. BONIOR] for allowing me some time to speak on an issue that I think needed to be straightened out, and I believe strongly that Bob McNamara is one of the finest public servants that has ever been tapped to serve our country.

□ 1100

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this country is on the edge of a new era. As we have heard so often on this floor lately, the cold war has ended. That was a historic victory, but we cannot rest on our laurels. Military competition has given way to economic rivalry. And if we are going to be as successful in this new environment as we were in winning the cold war, we need to play by the same rules as our economic competitors.

We are in serious danger of learning this important lesson too late. Unemployment is up, economic growth is down, and our trade deficit is expanding.

I do not know how things are in your districts, but in mine the unemployment lines are long, the people are worried about losing sight of the American dream, and jobs are scarce.

Today we have the opportunity to begin turning our position around—to begin to show we are serious competitors—competitors who are willing to play by the rules but who will not be taken advantage of.

H.R. 4318 does something very simple—it reverses a mystifying Treasury Department ruling. Against the advice of the U.S. Customs Service, Treasury ruled in 1989 that imported multipurpose vehicles with four doors, classified as trucks for purposes of safety standards, emissions test, fuel economy, and taxes, be classified as cars for tariff purposes.

This misguided ruling costs taxpayers more than $300 million each year. It also costs thousands of jobs for American workers. These trucks, called cars by Treasury reap the benefit of a 2.5-percent tariff, instead of the 25-percent tariff they should rightfully receive.

The Customs inspector charged with classifying these vehicles ruled they should be called trucks for tariff purposes. Yet his ruling was overturned by the Treasury Department. He called the Treasury move a shocking and alarming example of the influence, of foreign business on U.S. Government trade policy.

We are continuing to do what we have so often in the past—shooting ourselves in the foot with trade policies that hurt domestic manufacturers and businesses and for some unfathomable reason help our foreign competitors.

It is time for us to stop this nonsense, begin to take our economic competitors seriously, and enforce the trade rules now on our books. Let us call a truck a truck. Vote for the rule, vote against the motion to recommit and for H.R. 4318.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, how ironic that the same Big Three that has lobbied this Congress for passage of a North American Free-Trade Agreement is now lobbying for a 1,000-percent increase in tariffs on minivans.

The Big Three wants a 25-percent tariff on minivans to match the 25-percent tariff on trucks. But that tariff on trucks, which is such an anomaly in the U.S. tariff system, was imposed in the sixties in response to the European Community's imposition of a poultry tariff.

The 25-percent tariff has no basis in reality anymore. What we should be debating today is lowering the 25-percent tariff to 2.5 percent—or eliminating it altogether.

I ask Detroit, are you really for free trade? Or are you for more protection from competition?

The answer is obvious. If they had their way, no cars would be imported into this country.

The new ad campaign by Chrysler says that in their business, "you lead, follow, or get out of the way."

Oh really? Then why have I received a ton of slick propaganda telling us that a minivan is a truck? Even though I will throw dirt in the back of my truck—but never into the back of my minivan.

Children may be strapped into the built-in child safety seats that Chrysler installs in its minivans. They do not put these seats in their trucks.

Perhaps when Chrysler installs child protective seats in the back of pickup trucks I will be convinced that we are talking about the same kind of vehicle.

There is a clear difference. People ride in these vans, manure rides in the backs of trucks. And now manure has found its way into my in box in the form of a slick lobbying effort by the Big Three.

Maybe Chrysler should change its slogan to "lead, follow, get out of the way, or hire a lobbyist."

Indeed, Chrysler makes their most popular minivan in Canada. They would not even be eligible for relief from dumping according to the Department of Commerce. So instead of using that protectionist sledgehammer, they will play the Congress card because they know in an election year special interests—especially Big Three special interests—will rule the day.

The Big Three has spent millions to convince us that limiting consumer choice in minivans is the best way to make Detroit competitive.

Wake up Detroit—why do you not just start building a better product. That is what you have been telling us the past few years. Prove it in the showrooms of this Nation.

Who will suffer if this bill passes today? The people we represent, the consumer who buys a minivan. Once again, we will be making the choice for consumers. Right now, they can pick between foreign or domestic minivans. But, if this bill is passed, the price of foreign vehicles will rise by as much as $3,700. Of course consumers will buy domestic—they will not have any choice. This is exactly what Detroit wants.

The last time this happened, two-door sport-utility vehicles were reclassified as trucks. Foreign models of these vehicles disappeared from showroom floors.

This is just one more in a long series of protectionist trade measures that will cost American jobs, increase prices for American consumers, cause a decline in quality for American products, and limit choices for American car buyers.

Protectionism currently limits American consumers to two foreign peanuts per year, and only one teaspoon of foreign ice cream. Mexico is allowed to export only 35,292 brassieres to the United States.

Trade barriers currently cost the average American family more than $1,200 annually. Instead of talking about bogus tax breaks for the middle class, we should be providing real relief by lowering barriers to trade.

Mr. Speaker, this Nation is in the midst of negotiating visionary progressive trade agreements within our own hemisphere and with the rest of the world. This will would be a gigantic leap backward. I urge my colleagues to defeat it.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, I rise in strong support of the rule, and, ultimately, in favor of the bill, H.R. 4318, the Miscellaneous Tariff Act. I think it was said very well earlier by the gentleman from Michigan [Mr. KILDEE], when he had his chart out here, and I think it ought to be reflected upon very carefully by the membership of the House as they vote on the rule and then on the bill.

That is, that for the purposes of taxes, the luxury tax, the gas-guzzler tax, these multipurpose vehicles are considered trucks. For purposes of fuel efficiency, these four-door vehicles are considered trucks. For the purpose of safety standards, these same identical vehicles are considered trucks. For purposes of emission rules they are considered trucks.

Only for the one single point—the applicable tariff—under the Treasury ruling, which this bill would reverse, are they considered automobiles.

□ 1110

I think that it all boils down to fairness and equity. What is fair is fair, and what is not fair is not fair. If it is a truck for one purpose, it should be a truck for all other related purposes.

I think in the last analysis, if our Nation is going to have a reasonable opportunity to compete in the world markets, and that is exactly what they are, world markets, and not local or domestic markets, then we have to have fair and equal rules by which we can play.

This Treasury ruling, which reversed the Customs ruling, is not fair and equitable.

So, I am for the rule because it allows this body to take up H.R. 4318. And, I am for the bill, because then the Treasury Department ruling will be reversed and will have a tariff system in which a truck is a truck is a truck.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule and of H.R. 4318. Along with the vast majority of Members of this Congress, I understand and am committed to the benefits of global trade policies which open rather than close markets. But at the same time, I count myself among those who understand the importance of gaining reciprocity and fairness in our dealings with our trade partners.

America can take pride in the role it has played in stimulating open markets around the globe. But at the same time, it must awaken itself to the dangers of unfair competition rooted in Government subsidies, structural impediments to entering other markets, practices of dumping products into this country at below cost in order to capture market share, and so forth.

Whether it be in agriculture, electronics, or manufactured products, this Nation's willingness to protect our workers and our businesses from unfair trade practices must be an integral part of our overall strategy of opening markets. Open markets does not mean simply allowing goods to enter this country without reciprocated opportunity to enter the markets of our trade partners.

Nowhere has there been more substantive damage to the American economy than in the failure to apply this maxim to the automotive industry in particular, and the manufacturing sector in particular. And nowhere have these problems been more severe than in our trading relationships with Japan.

An important provision of this bill seeks to address a part of this problem. It addresses a major loophole through which Japanese automotive manufacturers have received extraordinarily favorable duty classification for reasons rooted in foreign policy objectives as opposed to the principles of equity upon which free and fair markets must be based.

As I speak, Mr. Speaker, Autodie Corp.—the world's largest maker of auto dies, located in Grand Rapids, MI—is in the process of restructuring its debt and fending off the specter of bankruptcy. Four hundred highly skilled workers are at risk of losing their jobs. And this Nation is at risk of losing yet another critical component of its manufacturing infrastructure. How long do we have to wait, Mr. Speaker, until we wake up as to what we are doing to ourselves by our unwillingness to demand equity and reciprocity in our trade relationships with Japan, in particular.

Earlier this year, a Japanese automobile manufacturer was found guilty of having dumped its product into this country. But because the American auto manufacturers could not demonstrate sufficient material injury, there was no legal remedy. What do we have to do? Wait until all the plant doors are locked, and then demonstrate material injury?

Mr. Speaker, I can give you numerous examples as to the problems my parts suppliers and automotive manufacturing businesses have had in dealing with their Japanese counterparts. Many will not speak on the record for fear of subsequent retaliation in the land in which they seek market entry. But all we have to do is examine recent reports in the latest annual review of the structural impediments initiative where it is very clear that the Japanese have not acted in good faith in taking the steps to level the playing field in trade with this country.

While we can perhaps understand why the Japanese are reluctant to take steps which remove the advantages they presently enjoy in competition with America's manufacturing sector, there can be no hesitancy on our part in doing what we can do to level that field. And the MPV provisions in this legislation do just that.

This legislation is more than simply demanding fairness in trade. It is standing up and defending America's manufacturing infrastructure. It is defending skilled jobs for our workers. And it is right. I urge my colleagues to join with me in strong and enthusiastic support of H.R. 4318.

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. LEVIN] who has shepherded this legislation through the committees.

Mr. LEVIN of Michigan. Mr. Speaker, we are going to hear a lot of hyperbole. Trade always invokes that.

We will hear the word protectionism endless times.

My guess is we will hear the word bashing sooner or later. GATT may be involved. We may even hear the words Smoot Hawley.

But let us listen to reasonable people on this. Let us start with Secretary of the Treasury Brady.

The gentleman from Michigan [Mr. KILDEE] said to him at a hearing not so long ago:

Is there any movement within the Administration to reconsider the Treasury Department decision?

Secretary BRADY: Yes, sir, Congressman. As you have quite rightly pointed out, it is a different determination because a lot of these vehicles look like cargo vehicles but

they—I mean, could be cargo-carrying vehicles while they are put forward as passenger vehicles. It is a hard determination to work. We are working on it. You have asked this question before, and we think it is a good one.

Then the Customs Commissioner at the time, let us listen to him, he wrote just a month ago. This is Mr. William von Raab, appointed by the administration:

On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs should be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.

This is the leading expert in the Government at the time.

He goes on to say:

The January 1989 Customs Service decision was right on the merits, and correct under the law.

He says:

There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

He concludes:

The Congress should reinstate the Customs Service decision.

That is exactly what we are doing today.

What is the law? The harmonized tariff law talks about the design, not the use, but the design of these vehicles. These vehicles are designed almost identically as are trucks and they are considered trucks for every other purpose—fuel economy, emissions, gas guzzlers, and also for luxury taxes.

Even the manufacturers themselves have said that. If you look at the testimony, for example, of Isuzu in 1988, they say that their Trooper vehicles are built on a truck chassis.

Nissan sales brochure for the Pathfinder says the Pathfinder has the same rugged chassis as the hard-body truck.

Motor Trend says:

It's obvious the Pathfinder and the Hardbody pickup were on the drawing board at the same time.

Consumers Guide regarding the Toyota:

The 4-runner rides and handles like a truck, which is not surprising since it's based on Toyota's 4 by 4 pickup, using the same chassis and powertrains.

So let us do away with all of the hyperbole and all the epithets and all the slogans that come into trade discussions and look at the facts.

Oh, then we will hear some other slogans, that the consumer will be hurt; but when the tariff was set at 2½ percent instead of 25 percent, those items from overseas that were the beneficiaries, their prices just went up. And Big Three prices on these vans have been holding firmly compared to the prices set by foreign vehicles.

No, there is no reason here to oppose this action. We gave away part of the store without getting anything.

Mr. Brady himself said, and I close by quoting:

There was enormous pressure from our partners overseas to do this.

Mr. Speaker, it is about time that we looked at internationalization of trade, which I support in terms of American interests, which we should also support.

This bill makes good sense. Let us support the rule, oppose the motion to recommit, and pass this legislation.

Mr. MCEWEN. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WELDON].

□ 1120

Mr. WELDON. Mr. Speaker, I rise in strong opposition to this rule, and I will ask for a recorded vote on this rule. We talk a good game in this body, Mr. Speaker. We are talking about fairness for the consumer, we talk about encouraging the domestic automobile manufacturing industry. But when the gentleman from Maryland [Mr. MFUME] and I went before the Committee on Rules and offered what in fact was a very commonsense amendment, not a protectionist amendment, which would allow the consumers to be better informed about the vehicles they are purchasing, what did our distinguished majority and what did the majority members on the Committee on Rules decide? Mr. Speaker, by a 5-to-4 vote they said our amendment could not be offered.

Mr. Speaker, what is that amendment? It deals with where automobiles are manufactured. Why? Because the automobile manufacturers have been running emotional advertising campaigns for the last 3 years encouraging us as Americans to buy American vehicles, go out and buy a Ford, buy the Plymouth Voyager, the Mercury Tracer, the Dodge Stealth, buy a Mercury Capri or a Chevrolet Lumina or a Pontiac LeMans. They play to our emotion.

We go out as citizens to encourage jobs in this country, and we buy those vehicles. Then we see a Honda Accord, and we say we do not want to buy that because that is foreign. Well, let us look and see which cars in fact are made in the United States, Mr. Speaker, and which of these cars is able in fact to be attributed to our economy.

In fact, the only one is the Honda Accord. The Pontiac is from Korea, the Chevrolet Lumina is from Canada, the Mercury Capri from Australia, the Dodge Stealth from Japan, the Mercury Tracer from Mexico, and the Plymouth Voyager from Canada.

Now, I am not here to say that we want to be protectionist. But I am saying, when the car manufacturers play upon the emotions of the American people and say "buy America," is it not fair that the American people know where the car in fact is made and where the majority of the parts are from? We in fact argued that case before the Committee on Rules. The Rules Committee and the majority said, "We want to be fair to our consumers, we want to encourage our industry." What did they say to us? They said "no" by a 5-to-4 vote, "You can't offer this amendment. We don't want the American people to be able to know where the car is manufactured."

The amendment that would have been offered by my distinguished colleague, the gentleman from Maryland [Mr. MFUME], and I would have been very simple. It would have said that any car manufacturer would have had to do two things: On a public display on that vehicle, list the location of the final assembly of that vehicle and the percentage of the total value of that vehicle that is attributable to the American economy.

What is so wrong with that? Does that somehow cause the auto manufacturers to spend tons of money? I think not.

Why then were we not able to offer this amendment? It is proconsumer, pro-U.S. manufacturing, pro-U.S. jobs, prolabor. The UAW is able to see their workers building Honda Accords here in America. Yet we were denied that ability to offer this amendment.

This is the unfairness that is being brought before this body today, and I am going to ask every Member to oppose this rule because we were not given the right to allow this amendment, to in effect allow the American people to know where these cars are being manufactured, when the same manufacturers are running ad campaigns saying "buy American, buy our cars," putting American flags on these vehicles.

It is the right thing to do. What has been done to Mr. MFUME and to me and all those Members who agree with us is a travesty of justice. I would hope all of our colleagues would join me in opposing this rule.

Mr. Speaker, I submit for the RECORD an article entitled "Fleet Follies—Foreign or Domestic? Car Firms Play Games With the Categories," from the Wall Street Journal of November 11, 1991.

FLEET FOLLIES—FOREIGN OR DOMESTIC? CAR FIRMS PLAY GAMES WITH THE CATEGORIES

DETROIT.—Ford Crown Victoria, Nissan Sentra and Honda Civic. Can you name the domestic model?

Those who picked the Ford, go to the back of the class.

The correct answer: They are all imports. But they also are all domestic models. It just depends on which U.S. government agency does the classifying.

Confused? This is just the beginning.

Consider the Toyota Corolla and Chevrolet Geo Prizm. These cars are virtually indistinguishable, even at close range. They're built on the same assembly line in Fremont, Calif. But to get maximum advantage under U.S. fuel economy laws, General Motors Corp. calls its Prizm a domestic model, while Toyota calls the Corolla an import. When it comes to the "voluntary" limit on imported Toyotas, however, the California Corollas suddenly become all-American. As "domestic" cars, they don't count against Toyota's quota.

If this all sounds absurd, that's because it is.

OUT OF DATE

U.S. laws governing automotive trade and fuel economy are the regulatory equivalent of a Model T. Washington bases key elements of the laws designed to promote fuel-efficient cars, protect American jobs and boost sales of U.S.-made vehicles on distinctions between "domestic" and "foreign" models.

But these distinctions are fast becoming anachronistic as auto makers spread their operations around the globe. Regulators simply can't keep up with the pace of change. U.S. and Japanese trade negotiators recently called a time-out in their talks because they couldn't agree on a definition of what a "domestic" American car is for tariff purposes. "Nobody knows what anyone is talking about," despairs Commerce Secretary Robert Mosbacher.

Some pundits say the answer is to scrap the old apparatus. "What America should be worrying about is the value that Americans add to global products of whatever putative nationality," says Robert B. Reich, a professor at Harvard University's Kennedy School of Government. Squabbling over the nationality of products, he says, is "an exercise not unlike medieval scholastics, where people worried about how many angels could fit on the head of a pin."

PART MEXICAN

But auto executives have their own solution: "gaming," or manipulating the government's outdated rules for maximum profit. And as auto makers weave around the wheezing regulatory machinery, government policies for the environment, energy, federal deficit and American workers are subverted.

For example, some 400 U.S. workers lost their jobs when Ford Motor Co. switched to foreign suppliers for a dozen or more parts for its big, V-8-powered Crown Victoria. But now that the car's seats, fuel tanks and windshield glass are being made in Mexico, Ford can call the Crown Victoria an "import." That means the car's low fuel mileage will be averaged with that of the fuel-stingy Festiva, which Ford buys from Korean auto maker Kia Motors Corp. Ford also forestalls paying penalties for falling short of the U.S. "domestic," car fuel economy standard of 27.5 miles per gallon.

Ford officials say moving the Crown Victoria into the import fleet allows the company to keep selling it, and thus avoid even more job losses. "We're being permitted to take advantage of uncoordinated rules," says Susan Shackson, Ford director of government policy.

DUCKING IMPORT TAXES

Such bureaucratic gymnastics can yield huge savings for car companies and consumers. Playing regulators against each other has helped auto makers offer the large, less fuel efficient cars many Americans like—while ducking federal financial penalties imposed on car fleets that exceed mileage standards. Deft maneuverings also have enabled auto companies to duck import taxes on Japanese-built utility vehicles and Canadian cars.

Such regulatory ruses have far-reaching effects. The flow of vehicles and parts across the U.S. border has turned into a flood nearly tripling in the last decade to $125 billion in 1990.

What's more, billions of dollars in auto industry investment turn on how government regulators see the world.

Consider the congressional debate on whether to force the auto industry to raise sharply the fuel efficiency of its cars.

In the aftermath of the Gulf War, Congress has weighed a number of proposals to wean the U.S. economy off imported oil. One plan would require auto makers to redesign cars to lift their average fuel efficiency by nearly 25% to 34 miles a gallon in 2001 from the current standard of 27.5. Another would raise the standard to 40 miles a gallon.

The original Corporate Average Fuel Economy law, known as CAFE (pronounced like the French word for coffee), was enacted between oil shocks in 1975. It called for auto makers to raise the average mileage of their cars to 18 miles a gallon by 1978, and to 27.5 by 1985.

Fearing huge job losses if U.S. auto makers tried to meet the goals by importing high-mileage small cars from Japan, the powerful United Auto Workers union pressured Congress to forbid companies to average the fuel economies of their imported cars with their domestically produced vehicles. Thus was born the "dual fleet" system, which allows manufacturers to classify as domestic produced only the cars that have at least 75% of so-called domestic content.

But instead of preserving U.S. jobs, the dual fleet system is encouraging the Big Three to move jobs connected to big-car production offshore. Japanese auto makers, meanwhile, say they're discouraged from employing more Americans and buying more American parts.

Consider Nissan Motor Corp.'s Sentra subcompact. Nissan says the vehicle has domestic content of nearly 75%—a level that would make it a domestic model. Last week the auto maker said it will raise the amount it spends on parts made by U.S. suppliers by 40% to $3.3 billion. But that doesn't mean the Sentra will soon become a "domestic" car. That's because Nissan needs the Sentra, which gets up to 39 miles a gallon, in its foreign fleet to offset its lower mileage Infiniti Q45.

"To make the Sentra a domestic vehicle would be akin to shooting ourselves in the foot," says Timothy MacCarthy, Nissan's director of government affairs. That means it's unlikely Nissan will bring more Sentra jobs to the U.S., he says, "It would be foolish for us to do any more."

Nissan's not alone. Seven Japanese companies built some 1.3 million cars and trucks in the U.S. last year. Every one of them was considered an import for CAFE purposes, and every one was considered domestic for the purposes of the import restraints.

Meanwhile, the purpose for which CAFE was created—to get auto makers to build more fuel-efficient vehicles—is being defeated. The combined fuel economy for cars, vans and light trucks sold in the U.S. is lower now than just three years ago, and the nation uses as much foreign oil now as it did in 1975.

"The things happening now were not imagined by the people who wrote the CAFE law," says Donald Bischoff, a National Highway Traffic administration official.

CAFE rules often work at cross-purposes with trade policy. Under the U.S.-Canada Free Trade agreement, for example, cars must be at least 50% U.S. content to avoid paying duties at the Canadian border.

But what qualifies as "domestic content" under the fuel economy rules, administered by the Transportation Department, may not qualify as domestic under the trade agreement, which is enforced by the Customs Service.

The Transportation Department says marketing expenses can be included as domestic content for fuel-ecomony purposes. Customs excludes such costs, defining domestic content mainly by the origin of a car's parts.

Confusion over the conflicting definitions recently caused the Treasury Department to delay a decision on whether Honda quotas on Japanese cars. When French officials tried to exclude the Ohio-made Hondas a Japanese, U.S. government officials intervened.

"We stated to the world, to anyone who would listen, that they are North American cars," says Timothy O'Leary, a spokesman for the U.S. Trade Representative's office. Asked if the Trade Representative had stated the same to the U.S. Department of Transportation, which considers Ohio-made Hondas foreign cars, an official says the Transportation Department's system has nothing to do with trade classifications.

In fact, automotive trade laws have loopholes so big some auto makers are able to drive thousands of trucks through them.

In an effort to protect domestic truck makers, the U.S. levies a 25% tariff on imported light trucks. But some Jeep-like "sport utility vehicles," those with four doors, pay the lower, 2.5% tariff for cars even though they're marketed as trucks. Toyota, for example, pays a 2.5% duty on four-door versions of its 4-Runner off-road vehicle, which it sells as a truck.

Big Three officials complain that foreign truck makers are costing the U.S. Treasury $300 million a year by calling their four-door sport vehicles cars. Detroit lost a fight in 1989 to have these vehicles reclassified. Apparently undaunted, the Big Three are continuing their battle to get the laws changed to a more favorable position for them. Democratic Rep. Dale Kildee, whose Flint, Mich., district has a high concentration of GM employees, is pushing a bill that would force auto makers that classify vehicles as trucks for one purpose to classify them as trucks for all other regulatory purposes.

But as Mr. Kildee's bill languishes under congressional skirmishing, the prize for the most creative use of the conflicting rules probably goes to Britain's Rover Group Ltd., maker of the Range Rover sport-utility vehicle.

The British-made Range Rover lists for more than $40,000. But buyers don't pay the 10% luxury tax on the amount above $30,000. That's because Rover officials got the Internal Revenue Service to put their product in the same class of "multi-purpose vehicles" as a Winnebago camper, exempt from the luxury tax.

For fuel-economy purposes, the Range Rover is a truck. Buyers must pay a $120-per-vehicle gas-guzzler penalty, but they would pay even more if the Transportation Department called the Range Rover a car.

So does the Range Rover pay the Customs Service that 25% tariff levied on imported

trucks? No. It has four doors, and thus Customs calls it a car:

Range Rover spokesman William Baker says the company isn't being devious. "In our case," he says, "the vehicle doesn't fit neatly into one category or the other."

Mr. BONIOR. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, in substance, I have to agree with the gentleman from Pennsylvania who just spoke, and the distinguished young gentleman from Maryland [Mr. MFUME], an outstanding young Member. I have been advancing those types of initiatives for some time. But I will not fault the Committee on Rules for the trade dilemma, for the economic dilemma this Nation faces.

No Democrat has been more questioning nor confrontational of both parties, including my own, and in fact questioned the chairman of our Committee on Ways and Means out of frustration.

But let me say this: The truth is this is not an issue for the Committee on Rules or the Committee on Ways and Means. They have been doing their job. Our administration is not enforcing the law and making the rulings that are not in favor of the American people.

I want to say this today to the Members: There is nothing wrong with winning. We represent the home team. One of the reasons all of these vehicles are made all over the world is because Congress has allowed low-wage unregulated economies to steal our manufacturing jobs. This is but the microcosm of the problem, and we are not dealing with it.

We have an administration for 12 years that has given away the damn farm. We have had all the idealists, all the think-tank people in the world advising us, promulgating our trade policy. The reason America is unemployed, America has no health insurance, America is going bankrupt, is because we buy more than we sell and we have had an administration that has been the best President the world has ever had, while the American worker has to take their family to an unemployment line to see Mickey Mouse.

Mr. Speaker, Disney World just laid off 400 people, folks. Yes, there are not many cars made in America. There should be a labeling bill. I pushed it for years.

But let me tall you what: Why would anybody build anything in America with 80,000 OSHA laws and an EPA administrator hanging on their necks, Workman's Comp, unemployment comp, regulation after regulation? Why not go to Mexico? Why not go to China?

Mr. Speaker, I am glad to see, and am proud of what the Committee on Ways and Means has done; Chairman KILDEE, Mr. LEVIN, Chairman ROSTENKOWSKI; they have done their job. If our administration would enforce the law, we would not need to be here today passing this law.

Let me say this to the Members: The Constitution is clear, Congress drafts the law. One other thing the Constitution says: Congress should monitor and provide oversight to see that those laws are carried out. They are not being carried out, they are not being enforced, and we have an administration turning their back and letting foreign interests push our regulatory process around.

Most Members yet are still not paying much heed to that message. What bothers me, we have an administration that has made the cornerstone of their next candidacy a free-trade agreement with Mexico.

Beam me up, so help me, God.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a distinguished Member.

Mr. DREIER of California. Mr. Speaker, here we go again with the standard battle that we have seen over the question of whether we are going to try to reduce barriers to encourage trade throughout the world, or establish barriers which prevent the American consumer from being able to buy the best-quality product at the lowest possible price.

Mr. Speaker, I wonder how many people in this House, especially people from Michigan, are aware of the fact that Chrysler Motors is making plans to build Jeep Cherokees, a multipurpose vehicle, with the steering wheel on the right-hand side. These plans are being made for one particular reason: so that this multipurpose vehicle can be exported to Japan.

I wonder how many of my colleagues realize that the tariff for this multipurpose vehicle is zero.

Now, it is very clear that H.R. 4318 is a violation of the General Agreement on Tariffs and Trade and our commitment to that process.

Unfortunately, we have gotten to a point where Members are going to have to argue now that Chrysler Motors should pay a 25-percent tariff on their Jeep Cherokees which are going to be exported to Japan. It seems to me that is a major mistake. None of us wants to create a tax on the American consumer, or see American workers lose their jobs as a result of retaliation.

So let's oppose this closed rule and oppose this bill. It is a very major mistake for us to impose a $1.8 billion tax on the American consumer, which is what this is.

It is blatantly unfair. It creates a situation which will only increase the cost of domestic vehicles, and with this kind of tax imposed, how will these companies be able to sell any of their cars? They will not be able to because the American consumer will not be able to afford them.

Mr. Speaker, the Treasury Department's decision to classify multipurpose vehicles as passenger cars rather than light trucks was based on solid technical information. It accurately reflects the design and use of these popular family vehicles. I would like to submit for the RECORD a chronology on how Treasury arrived at this decision, which was made without pressure from either domestic or foreign sources.

TREASURY REVIEW OF CLASSIFICATION OF SPORT UTILITY VEHICLES AND VANS

On January 4, 1989, concurrent with the change-over to the Harmonized Tariff System (1/1/89) Customs ruled that sport utility vehicles and small vans would be classified as light trucks.

Customs announced the decision in a press announcement, without any prior consultation with Treasury.

Customs decision was a reversal of a decade of Customs practice, affecting trade worth approximately one billion dollars.

Treasury, without prompting from any outside sources, foreign or domestic, private or government, began an immediate review of the ruling.

The Customs ruling lacked technical foundation.

In 1988 (the year immediately prior to the Customs ruling) approximately 44 percent of the vehicles in question were classified at the 25% rate; the Customs decision classified all at the 25% rate.

The investigation mentioned in the von Raab letter had been based on the TSUS, did not apply to classification under the Harmonized System, and was consequently discontinued by Commissioner von Raab in November 1988.

The initial Treasury review of the Customs ruling was conducted internally within Treasury, without consultation within other agencies or outside the government.

After approximately 2 weeks of review, Treasury beginning on January 16, 1989, discussed the issue with importers, domestic manufacturers, and automobile dealers.

There had been no foreign government contacts at that point, representatives of Japan, Germany, and the European Community later presented their views to various Treasury officials.

Treasury's final determination was made in early February 1989 and was publicly announced on February 16, 1989.

Treasury determination, based on 1988 imports of sport utility vehicles and light trucks, would result in 62% of the vehicles classified at the 25% rate, increasing the percentage of vehicles to which the higher rate applies.

It seems to me, Mr. Speaker, that if we want to address the problem of unfair trading practices by the Japanese, the best way to do that is through fair and free trade.

Just 2 weeks ago, I argued unsuccessfully to make in order an amendment to the Trade Protection Act, H.R. 5100, to require the President to begin consultations with the Government of Japan on negotiations for a United States-Japan free-trade agreement. I still submit that a free-trade agreement is the best tool for eliminating barriers and expanding trade.

□ 1130

It seems to me, Mr. Speaker, that we have no choice other than to oppose

this rule and oppose this bill, and I urge defeat of both.

Mr. MCEWEN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from Ohio [Mr. MCEWEN] for yielding this time to me, and I say to the gentleman from Ohio, who is presiding over the debate, that I do not think I could come up with the name of another Member of this body who has worked harder to keep jobs in this country than the distinguished gentleman, Mr. TRAFICANT, who spoke earlier.

I have to, however, rise in opposition to this rule, not because I am opposed to the Tariff Act, but because I am opposed, rather, to a process that disallowed something that I thought was very important. I rise in opposition to this rule because 2 days ago our colleague, the gentleman from Pennsylvania [Mr. WELDON] and myself asked the Committee on Rules to make in order an amendment for floor consideration in this bill. The amendment that we proposed is a bipartisan effort to assist U.S. consumers in helping to determine something very simple, and that is which automobiles are made in the United States and which ones are made overseas.

Too often, Mr. Speaker, American consumers are not provided adequate information about the country of origin of their automobile or even of the automobile parts. Japanese and other automakers assemble cars in the United States and then import most of the parts back in. And so it becomes clear then that this is not fair to our automobile industry. It is not fair to people either who want to be able to make reasoned and logical decisions.

The Japanese and others are very closed regarding many of their import restrictions and are proud to buy products that are made within their homeland. On the other hand, many Americans are now decidedly choosing to support the concept of buy American in order to help try to keep jobs in this country. However when American consumers are not provided a clear definitional standard of what constitutes a foreign car versus a domestic car, we then undermine our own efforts to have a strong domestic automobile industry.

So, Mr. Speaker, the Weldon-Mfume amendment would have required all domestic and foreign automakers to do one thing: display in a prominent place on all automobiles a label indicating the location of the final production of the sale, indicating the percentage of the parts that were produced in the United States, and then requiring the Secretary of Transportation to issue final regulations within 180 days of the enactment of the legislation. In February the gentleman from Pennsylvania [Mr. WELDON] and I both introduced separate bills to achieve this end. The amendment was then offered before the Committee on Rules just yesterday, and we believe it was a creative, bipartisan effort to do that.

We believe also, Mr. Speaker, that there is a growing sense in this country that we are just not fighting hard enough to keep American jobs here and that foreign automakers can come here, slap on a buy American label, put it on the product and then sell the product in a deceptive way that undermines our efforts. We believe we have to fight harder, and fighting harder is having an informed consumer public.

Mr. Speaker, we do not believe that the amendment was revolutionary. We believe that the amendment would have been right because it would allow the people the opportunity then to make a choice rather than to be stymied and led around in a deceptive fashion by many automobile makers who say they are made in America when in fact we know most of the parts are being imported from somewhere else.

So, I would urge Members to take into consideration our statements on this particular rule, that they would vote against it and that they would understand that I have come here to speak against it because I believe strongly in the need to provide consumers in this country with a very basic right to know regarding automobiles and automobile parts.

Mr. MCEWEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUNTER].

The SPEAKER pro tempore (Mr. TRAFICANT). The gentleman from California [Mr. HUNTER] is recognized for 3 minutes.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Ohio [Mr. MCEWEN], and I appreciate the additional minute from the gentleman from Michigan [Mr. BONIOR].

Let me just say to my colleagues that this is a question of American interests, and I want to go directly to the primary issue in this particular legislation, which is classification of the multipurpose vehicle and the thousands of American jobs that are hanging in the balance on the decision of this question, and what I want to ask my colleagues to do on the Republican side and the Democrat side is to follow the rule of law, the law that we set in place that gives the higher tariffs on trucks, on vehicles that are classified as trucks, and the lower tariffs on those that are classified as cars. So, let us follow the rule of law.

Second, let us use our common sense, and let us follow the common sense that was put forward when the Assistant Secretary for Enforcement and Operations Commissioner of Customs went to Japan, went to the assembly line, saw these multipurpose vehicles coming off the truck assembly line, wrote back to Customs and said, in fact, the Japanese attempted to keep us from seeing this assembly line. They had 15 reasons why they would not let us in to look at the assembly line. When we got in to look at the assembly line, he said this, and I quote:

> It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line. It is hoped that this argument is not too simple in contrast to the complex and novel argument contrived by foreign manufacturers' representatives based on meeting notes, purposely deceptive information, and their own vivid imaginations. A brief visit provides striking and shocking confirmation of Customs' ruling.

So, let us follow the rule of law. Let us follow the interpretation made by a Republican administration. And let us follow the traditional Republican position on trade of supporting American manufacturing.

And who is going to build these multipurpose vehicles if in fact this tariff goes on? Well, my friend, Americans are going to build these vehicles. The 2,000 men and women a week who are getting out of the military with he drawdown at the close of the cold war, these people are going to build vehicles. They are going to be quality vehicles, just like the ones they build now. It will accrue to the benefit of the American consumer and to the American working people.

Mr. MCEWEN. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. MCEWEN] is recognized for 1 minute.

Mr. MCEWEN. Mr. Speaker, we have had much debate about the bill, and now we are going to vote on the rule. The rule says this:

> Under no circumstances can any Member of the Congress make any amendments to this legislation during the course of consideration of this bill, and we believe that that is unnecessary.

My colleagues have heard the gentleman from Maryland and the gentleman from Pennsylvania suggest that, while we are considering this tariff legislation, perhaps we should be allowed to put a sticker on that says where the cars are made and how much domestic content they have. That is the thing we would like to have permission to do, but under the rule we are prevented from doing that.

The merits of the legislation will be debated shortly. The rule, however, is a closed rule that does not permit any amendments, and, therefore, in my judgment is unnecessarily restrictive, and I oppose the rule.

Mr. BONIOR. Mr. Speaker, I want to congratulate the gentleman from California [Mr. HUNTER] for an outstanding statement, and I yield the balance of my time to our colleague, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule. I think, when we deal with tax and tariff issues, very frequently we face some very narrow options, and appropriately, to bring that to conclusion without being frustrated by an endless stream of amendments which result in dilatory tactics which frustrate the majority of House membership, it is important that we try to organize and schedule the deliberate consideration of issues in the House so we can get our work done.

□ 1140

The merits of the truck/auto classification issue, I think, are clear. The law, agreements and the treaties that the United States has entered into provide for a differential tariff on trucks versus autos. I do not think there is any question, based on the hearing record and the testimony and the statements of Members, that the vehicles in question are trucks. What is at hand here is simply exploitation of treaties that the United States and other trading partners have entered into in good faith.

The question is, when we have treaties, are we going to stand up and hold up the provisions and fight for the implementation of such treaties in a fair and evenhanded manner, or are we going to let other nations that have products and have more moves and dodges of circumventing such agreement than a professional halfback on a Sunday afternoon who simply moves down the field ducking and faking their moves with compliance. In this case our trading partners are out of bounds and the U.S. Bush administration referees are looking the other way.

I think it has been demonstrated that too often these special interests and the foreign interests on such field of play have exploited the U.S. trade rules or lax enforcement at the expense of the American workers and at the expense of the American people. I say, "Don't do me any favors in terms of competition and raising the flag of competition and free enterprise." These people raise this flag when it suits their purpose to exploit the American people and to cause jobs and profits to be shifted out of our Nation not necessarily in terms of getting products at a fair price. They are for free enterprise and risk when it suits their purpose at the expense of workers in our Nation.

The fact of the matter is that in this U.S. mixed economy the National Government has to play a strong role in terms of issues with regard to trade. To uphold the laws of the land and the treaties, the agreements, that is all that is being expressed in this legislative initiative, fair play for American workers and fair trade. We want the law and rules to be fairly enforced, and this measure that the House is acting on today will give us the opportunity to do that, and Members can stand up for American workers rather than for some ephemeral theory of trade and competition that has never existed in the real world.

The law and rules are clear, the facts are clear in support of this measure, under these circumstances it is not surprising that most of the opposition to this legislation seek to change the topic, converting their opposition to this as a noble defense of the American consumer. This transparent rationalization mocks the oft-stated support of fair trade and speaks to a policy of convenience.

Mr. Speaker, our policies on trade must be sound and once established orderly and predictable, not shaped by the constant pressure of special and foreign interests at the expense of workers and our Nation's industrial base.

The SPEAKER pro tempore (Mr. TRAFICANT). All time for debate has expired.

Mr. BONIOR. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WELDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 150, not voting 41, as follows:

[Roll No. 355]

YEAS—243

Abercrombie
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hughes
Hunter
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Spratt
Staggers
Stallings
Stenholm
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NAYS—150

Allard
Allen
Anderson
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hubbard
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Machtley
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon

Spence	Thomas (WY)	Weldon
Stark	Upton	Wolf
Stearns	Vander Jagt	Wylie
Stump	Vucanovich	Young (FL)
Taylor (NC)	Walker	Zeliff
Thomas (CA)	Weber	Zimmer

NOT VOTING—41

Ackerman	Early	Morrison
Atkins	Eckart	Mrazek
Bacchus	Edwards (OK)	Myers
Boxer	Ford (TN)	Oakar
Broomfield	Gaydos	Owens (UT)
Bruce	Hatcher	Pelosi
Byron	Huckaby	Savage
Campbell (CO)	Hyde	Scheuer
Chapman	Lehman (FL)	Solarz
Collins (MI)	Levine (CA)	Stokes
Conyers	Lowery (CA)	Towns
Davis	Martin	Traxler
Donnelly	Mavroules	Yatron
Dwyer	McCrery	

□ 1204

Mr. LENT changed his vote from "yea" to "nay."

Mr. WILSON and Mr. SKAGGS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WITHDRAWAL OF REMARKS OF MEMBER BY UNANIMOUS CONSENT

Mr. WALKER. Mr. Speaker, I ask unanimous consent to proceed out of order for 1 minute.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, I have had an opportunity to discuss the matters I put before the House this morning in my 1-minute speech. I understand the rules will be complied with and notification will be provided to the House later today in accordance with the procedures and precedents.

Therefore, Mr. Speaker, I ask unanimous consent to withdraw my earlier remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill, H.R. 4318.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MISCELLANEOUS TARIFF ACT OF 1982

The SPEAKER pro tempore. Pursuant to House Resolution 532 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4318.

□ 1205

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, with Mr. VALENTINE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992, which contains numerous miscellaneous tariff provisions covering a wide variety of customs and tariff issues. This bill contains close to 400 provisions, including numerous temporary duty reductions and suspensions, changes in tariff classifications, and modifications of customs-related provisions of the Harmonized Tariff Schedule of the United States.

Tariffs on goods imported into the United States have traditionally served to protect domestic industries from international competition. Tariffs have provided leverage to American companies competing against foreign companies with lower production or labor costs.

Mr. Chairman, the duty suspensions contained in H.R. 4318 eliminate or reduce the tariffs on a wide range of products for specified periods of time. In most cases, there is no U.S. production of these products. So, instead of protecting domestic interests, the existing tariffs only raise the cost of the final end item to American companies and consumers. These temporary suspensions are very meritorious and many of them have been in existence for a number of years. Their implementation has served to enhance the competitiveness of U.S. industries without harming American interests.

To finance the bill, H.R. 4318 contains a provision which would reclassify certain imported minivans, multipurpose or sport-utility vehicles as trucks. This provision would have the effect of increasing the tariff on such vehicles from 2.5 percent ad valorem to 25 percent. I want to point out to my colleagues that I opposed this provision when it was considered in the Committee on Ways and Means. However, I must point out that while controversial, this provision constitutes the sole revenue source for offsetting the revenue loss associated with the 394 miscellaneous tariff provisions and duty suspensions contained in H.R. 4318. Even with this provision in the bill, it became necessary to stagger the effective dates of many of the bill's provisions in order to comply with budgetary pay-go requirements.

Although some Members have expressed opposition to this reclassification provision, no credible alternative has been proposed for funding the bill. Mr. Chairman, we have to make a choice. Without the provision relating to the classification of MPV's and minivans, the bill would lose significant revenue and would not comply with the pay-go requirements of the Budget Act. Thus, inclusion of this provision in the bill is essential to proper funding of the bill and to allow the other 394 meritorious provisions to move forward.

Mr. Chairman, I urge my colleagues' support for H.R. 4318.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we hear a lot in this body about insisting on fair trade with Japan and our other trading partners. I rise in strong opposition to H.R. 4318 because it violates the rules of fair play in international trade. This bill targets exports of one country with an exorbitant tariff increase on products which are very popular with American families and with the disabled in this country.

The U.S. tariff on trucks is unusually high as a result of trade retaliation put in place in the 1960's. This relic, the so-called chicken war tariff, was a punitive response to unfair trade barriers faced by U.S. poultry producers in the European market. As a result of the tariff reclassification proposed in this bill, imports of multipurpose vehicles [MPV's] and minivans would be subjected to a 25-percent tariff, which is 1,000 percent greater than the current rate of 2.5 percent. This is simply a tax of $3,000 per vehicle on American consumers, and particularly hurts the disabled who depend on these vehicles.

The increase in the truck tariff dooms the rest of the bill, which includes over 240 meritorious duty suspension bills designed to make companies across the country more competitive. I urge my colleagues to support a motion to recommit so the committee will be directed to find a funding mechanism that is GATT legal and treats all U.S. workers and families fairly. This is the only way to ensure enactment of the other tariff provisions.

Some have said that tariff classifications should conform to fuel economy

and safety regulations. That is the argument that proponents of this bill make over and over. But definitions of products for purposes of international trade cannot be rewritten based on internal domestic regulations of individuals countries.

The harmonized system of tariff classifications is an internationally negotiated schedule of product descriptions.

It cannot be changed every time we amend the Clean Air Act, adjust CAFE standards, or change an agricultural health standard. The truth is that all auto producing countries classify MPV's as passenger vehicles for tariff purposes.

The National Highway Traffic Safety Administration's [NHTSA] criteria have been moving toward treating MPV's more like cars for purposes of ensuring safety.

Obviously, one alternative—if consistency is imperative—is to reclassify these vehicles as passenger cars for CAFE and safety purposes.

Furthermore, the provisions in H.R. 4318 adding multipurpose vehicles to this high tariff category contains an exemption for European producers. The high duty would only apply to Japan. This is the first country-specific tariff the Congress has ever considered.

Of course, enactment of such discriminatory tariff would be blatantly GATT illegal.

If we can do it because the Japanese have a trade surplus with us, then why shouldn't the Europeans do it to our products because we have a surplus with the Europeans? Obviously, the end of that road is international commercial trade destruction.

We would cry foul if our own competitive exports were subject to tailored tariff increases aimed solely at the United States. We are clearly obligated under international rules to apply tariffs in a nondiscriminatory manner and to maintain bound rates in a consistent and transparent manner. Indeed, Chrysler is poised to sell right-hand drive Jeep Cherokees to Japan. Will a 25 percent duty be appropriate for United States Jeeps? Because whether classified as trucks or cars they are admitted tariff free into Japan today.

Mr. Chairman, the minority intends to offer a motion to recommit H.R. 4318 which directs the Ways and Means Committee to strike the minivan reclassification provision and find an alternative funding mechanism. this is the only way we can ensure enactment of the noncontroversial miscellaneous tariff bills that have been pending so long. The future of these bills depends on defeating the truck tariff reclassification.

Mr. Chairman, I submit for the RECORD, and I do not want to read all of them, a list of organizations, including many representing the disabled, who strongly oppose this bill.

AD HOC COALITION AGAINST THE PASSENGER VEHICLE RECLASSIFICATION BILL

The organizations listed below are representative of groups across the country who oppose H.R. 4318—the import multipurpose passenger vehicle reclassification bill:

Citizens for a Sound Economy.

American Cancer Society, Cumberland County, New Jersey Chapter.

Arthritis Foundation, North Carolina State Chapter.

Multiple Sclerosis Support Group, Spartanburg, South Carolina.

Fairport Central School Parent-Teacher Association, Fairport, New York.

Girl Scout Council of Coastal North Carolina.

Central Illinois Center for Independent Living.

Peoria District 150 Parent-Teacher Association, Peoria, Illinois.

Helen Keller National Center for Deaf-Blind Youths and Adults Southeastern Region, Atlanta, Georgia.

Kansas Children's Service League.

Wichita Council of Camp Fire.

Chicago Association for the Education of Young Children.

Progress Center for Independent Living, Oak Park, Illinois.

Goodwill Industries of Chicago and Cook County.

Oklahoma City Public School Foundation.

Utah Association for Retarded Citizens.

Candlelighters of the El Paso Area (Children's Cancer Support Group).

The right vote is to vote for the motion to recommit, and failing that, to vote no on final passage of H.R. 4318.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, this bill ought to be characterized as the "you can't have it both ways" bill. During the 1980's Customs gave suppliers from overseas a choice of categorizing vehicles as cars or trucks. The Japanese categorized them as cars until they reached the ceiling under their voluntary restraint agreements. Then they said, "Wait a minute, yesterday it was a car, today it is a truck," and they brought them under truck and paid the highest tariffs.

From the 1980's through now multipurpose vehicles are trucks for emissions purposes, mileage purposes, gas guzzler tax, and even for tariffs for two-door vehicles. Only the four-door vehicles get an exception.

The point has been made that this bill is GATT illegal. I dispute that. It is not GATT illegal. It is not an increase in tariffs, it is reclassification, a reclassification back to where the Customs Service in 1969 said these vehicles ought to be. They ought to be classified under a harmonized system of tariffs as trucks.

Only then did it occur that the Treasury Department overruled that Customs Service determination in what Commissioner von Rabb later said was a blatant political decision, caving in to foreign lobbyists.

Let us not hesitate to correct a mistake, a political mistake that was made by the Treasury 4 years ago. Let us return these vehicles to the classification where the Customs Service originally said they should be.

Mr. Chairman, I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I just want to say that I have great, great respect for the gentleman from Texas [Mr. ARCHER]. We agree 99 percent of the time. He is truly a fine and solid Republican. However, on this issue he is wrong.

With respect to trucks, I think it is very important for all of us to focus on the visit that was made by the Assistant Secretary for Enforcement for the Commissioner of Customs in 1989 to Japan, in which he attempted to get into the Japanese trucklines and see if in fact this vehicle was a truck or a car. He said:

> While we were cordially welcomed by Toyota, it was very clear they did not want us to visit the Fourrunner pickup truck plant. Every effort was made to discourage us.

He goes on further and says this:

> After having finally gotten into the plant, it is clear that the Fourrunner is a truck, built in a truck factory, built on a truck chassis. It is hoped this argument is not too simple, in contrast to the complex and novel argument contrived by foreign manufacturers, based on meeting notes, purposely deceptive information, and their own vivid imaginations.

□ 1220

My colleagues, let us simply follow the rule of law here. Let us follow the regulatory procedure that was laid down. Let us follow the judgment of the Republican administration's own representative who took the time to go to Japan and research this problem, and do not worry, we will have lots of great Americans making these vehicles, the American consumers will be well served, and American industry and jobs will be served.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, reluctantly I oppose this bill.

A few years ago I was making a speech on this floor in which I complained about someone's use of facts, and I was told right after that, "Don't you know every Member of Congress has the right to invent its own facts?"

I have listened to the debate on the rule, and I want to say that that rule is being liberally followed here today. I think Members ought to all direct their attention to the fact that what we are doing is amending the harmonized tariff system. Now what does harmonized mean? It means harmonized on a worldwide basis. We enter into agreements, and our agreement with everybody else is to call these vehicles passenger cars.

What we are doing here is changing unilaterally our international agreement to carry these things as passenger cars.

Frankly, I have had a little something to do with trade. If there are two people in the administration I never would ask a question about trade on, because I do not think they know anything about it, one is Von Rabb, and the other one is the Secretary of the Treasury. They frankly know very little about the subject. I would not accept their testimony as being factual on anything related to trade.

Mr. Chairman, this is a fantastic tax increase. This tax increase will raise better than half a billion dollars a year from American taxpayers, not from Japanese taxpayers, from American taxpayers. This tax increase will increase the price of every van by about $3,300 to $4,000 per vehicle.

Oh, you say, it will only apply to Japanese vans. Do Members think the American manufacturers will stand still if there is no Japanese competition out there at a lesser price than them? If they do, they have not followed the pricing of automobile vehicles in the American market.

Now how did we get into this ridiculous position? Because we tried to play cute in 1964. Lyndon Johnson, a good friend of mine, increased the price of the light vehicle tax on German Volkswagen vans in order to try to get the Germans to buy our chickens, and we started the so-called chicken war.

We have got the highest tax in the world on trucks. Nobody taxes trucks any higher than we do. And now we are trying to move a passenger vehicle over into a truck classification for reasons that I really do not understand.

There is no reason for this bill to contain this amendment that it does. I would ask Members to vote against the amendment, and I would ask Members to vote against the bill if it is not deleted.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE], a respected member of the Committee on Ways and Means.

Mr. CRANE. Mr. Chairman, H.R. 4318 is a compilation of over 240 miscellaneous tariff bills which cut costs for American companies and deserve to be enacted. Proponents of these small bills have been waiting patiently for more than 2 years. Unfortunately, they may have to wait considerably longer because H.R. 4318 can never become public law in its current form. The President is certain to veto it.

The millstone around the neck of this legislation is the enormous and unjustifiable tariff increase—1,000-percent increase—on imports of popular multipurpose family vehicles. H.R. 4318 would label these vehicles as trucks, designed primarily to haul cargo, thereby increasing the duty from 2.5 percent to 25 percent. We only need to look in our garages and on our roads and highways. Is the next Voyager, Previa, Explorer, or Pathfinder you see carrying kids or concrete?

The proponents of this bill would have you believe that this tariff reclassification merely corrects an inconsistency in Federal regulations. Their convenient claim is that emissions standards, fuel economy standards, safety standards, and tariffs should all define vehicles in the same manner. None do now for the simple reason that they each have different purposes.

Safety standards are applied on a per vehicle basis and divide vehicles into two categories—passenger cars and trucks. The safety standards for the two are converging rapidly. Emissions standards also apply per vehicle and are divided into passenger cars and several categories of trucks. The different emission standards for cars and trucks will likely never converge because the weight requirements needed to haul cargo are substantially different than that needed to carry passengers.

Fuel economy standards are calculated on fleet wide averages and are based on the weight of the car, the type of engine, and so forth—not whether a vehicle is a car or a truck. Again, standards that in general apply to trucks will never be the same as cars because of the weight and engine power requirements needed to haul cargo.

Now we come to tariffs. Tariff classifications are developed in order to accurately describe the article and its use.

They are developed in concert with our trading partners so that tariff classifications are harmonized and exporters and importers will be able to predict how their product will be treated no matter which country it enters.

No country, including our own, relates internal Federal standards—whether they be health and safety, agricultural, environmental or recordkeeping—to tariff classifications.

The truth is that almost every country in the world treats multipurpose family vehicles as passenger cars, not trucks, for tariff purposes. This makes sense and ensures predictability.

American producers currently enjoy about an 84 percent market share in multipurpose vehicles. Sales are booming, and as we learned this week, profits are way up.

Domestic producers are market leaders for these popular models and can compete anywhere in the world. Imports merely give consumers more choice and more price competition. There is no justification for a 25-percent duty, which will effectively block this choice.

If we enact this tariff reclassification, American families should anticipate sticker shock as prices are inflated by an estimated $5,000 per vehicle.

According to the Congressional Research Service, and a study done at the Brookings Institution, auto quotas of the eighties resulted in price increases of between $1,000 and $2,000 per vehicle, on both domestic and foreign models. The trade distorting effects of the reclassification proposal in this bill are much greater. There is no reason to believe that prices will not rise if competition is limited.

Also, since this provision is primarily a one-country tariff—against Japan—and raises a bound rate under the GATT, it is a blatant violation of United States international obligations. We cannot practice such economic racism and expect to maintain our leadership role in foreign policy and economic affairs. Our trading partners are sure to retaliate and this will hit profits and jobs in a wide range of firms, both in and out of the auto sector.

U.S. exports support at least 7.2 million jobs in the United States which must not be sacrificed to protect the profits of a few industrial giants.

Mr. Chairman, I urge my colleagues not to forget American workers and families who carefully budget in order to purchase their Voyager, Previa, Explorer, or Pathfinder.

Do not forget our exporters who have proved to be the driving force of our economy. Do not forget America's integrity in the international trade arena because we negotiate tough, compete hard, but keep our commitments and do not hide behind protectionism.

Mr. Chairman, I urge a "no" vote on H.R. 4318 and a "yes" vote on the motion to recommit with instructions. This motion will allow us to preserve our miscellaneous tariff bills by eliminating the tariff reclassification provision that will draw a veto.

□ 1230

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, reasonable people will, of course, disagree and when with the benefit of hindsight they discover a mistake, it is the responsibility of reasonable people to take corrective action.

A yes vote on H.R. 4318, this Miscellaneous Tariff Act, will correct a mistake made by the Treasury Department in 1989 when it overruled its own Customs Service and classified four-door multipurpose vehicles as passenger cars, rather than trucks.

H.R. 4318 correctly classified imports of these vehicles as trucks.

After a year long study of these issues, Customs determined that these vehicles were properly classified as trucks.

At the same time, as has been stated, the EPA and the Department of Transportation both classified these vehicles as trucks for emissions, fuel economy

and safety standard purposes, and even the Treasury Department classified them as trucks for purposes of the gas guzzler tax.

Treasury's unilateral reversal of this Customs decision resulted in a reduction of the import duty from 25 percent to 2½ percent.

Mr. Chairman and my colleagues, one of the things that has really disturbed me over the past 15 or 16 years is to watch as Members of this institution have consistently and purposely, it appears to me, failed and refused to take any action whatsoever to safeguard manufacturing jobs in this Nation. If we as an institution are going to yield at the altar of free trade to the ultimate disregard of the American work force, then we are surely going to be relegated as we are going in that direction today to a second- and third-rate manufacturing power.

I can tell you that it makes no reason whatsoever in the average working person's mind what we are doing in some areas, but when it comes to jobs in this Nation, you and I have failed and it is time that we stand up. If we are not going to stand up now, then you can try to get all the McDonald places that you can, because your people are going to be making $6 an hour for all their working lives.

This is a disgrace and the sooner this institution recognizes that, the better.

Mr. Chairman, I urge an "aye" vote on this bill.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I just want to continue a little bit from the previous speaker, the gentleman from Georgia, and say that I rise in favor of this bill.

I think it is time that we live up and treat everybody the same.

Absolutely, Customs ruled, the Treasury overruled and said this is a car. I have a chart that I want to submit for the RECORD that the gentleman just brought up. It basically shows a two-door multipassenger vehicle and it shows a four-door multipassenger vehicle and it goes over the exact things he just said.

These vehicles are trucks for emissions purposes. These are called trucks for fuel economy rules.

Want more? They are called trucks for gas guzzler and luxury taxes, but when it comes to tariffs, the one on the left, which is a two-door American-made multipassenger vehicle, is considered a truck and the one on the right, which is the exact same vehicle which has four doors, is then considered a car.

I think it is an insult. I will take my chances if they decide they want to get into a war.

I think we import a whole lot more products than we export to the Japanese.

I do not think that is the issue before us today. I think it is simply an issue that says that somewhere lobbying got this thing classified again as a car.

I believe we have to stand up and say what happened is wrong. I have to disagree with my good friend, the gentleman from Illinois, and say that I do not think the Japanese want to get into competing over cars that are exported and imported.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Customs Agency, which is responsible by law to determine the classification of imports, ruled that multipurpose vehicles are trucks.

The experts at Customs based their decision on a year-long review, which included visits to truck factories in Japan.

Customs found that these MPV's were produced in the same factories, on the same assembly line, and on the same chassis as other trucks.

They announced their determination in January 1989.

However, 6 weeks later, U.S. Treasury Secretary Nicholas Brady overruled the experts at Customs.

Never before, had a U.S. Treasury Secretary overruled the Customs Service.

Mr. Brady told me at a Budget Committee hearing, that "there was enormous pressure from our partners overseas to do this."

When are we going to start applying pressure rather than caving in to pressure? What a pitiful statement for the Secretary to make.

Mr. Brady ignored the fact that Congress defined a truck for emissions and fuel standards differently than a passenger car.

All MPV's have to meet only the lower emission and fuel economy standards established for trucks.

William von Raab, who was Customs Commissioner at the time, called Mr. Brady's decision a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.

Today, Congress has the opportunity to reaffirm the determination of the experts at the Customs Service.

This bill puts equity to our trade policy and recoups between $200 and $300 million for the U.S. Treasury per year.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the committee chairman for yielding me this time.

I rise in opposition to the bill.

Let me say, Mr. Chairman, that this proposal could have been crafted in a way that really helps America out, to keep us a preeminent Nation.

It is certainly true that the Japanese keep their markets closed to us in areas where we perform better than them, but I do not see a single thing in this legislation that opens up those markets, not a line, not a jot.

Second, maybe we should keep them out until they open up their markets in another bill. Fine, but where is the provision that says if we are going to raise the tariff up to 25 percent, which you know is a ghastly amount, that the consumer does not pay all that?

Time and time again what Detroit has done when given these advantages is not increase market share, is not plow the money back into research, but instead has simply raised the price, made their vehicles less competitive and then eventually lost market share.

I would say to my colleagues on the Ways and Means Committee, if you really meant this bill to do what you say it does, then there should have been a provision in there that says they cannot raise their prices more than the rate of inflation, and if they do, the tariff collapses, because sure as we are sitting here this will not benefit Detroit's competitiveness. In fact, it will make them less competitive and the consumer will pay through the nose.

If we are going to be No. 1, we had better craft smart trade legislation, not the ultimate free trade stuff that Reagan-Bush goes for and not the protectionist type of stuff that this is.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

□ 1240

Mr. TRAFICANT. Mr. Chairman, I commend the chairman and the committee for finally addressing the problem that, in my opinion, is destroying the American economy. Let us take a look at it.

Japan sells 1 out of every 3 cars purchased in America. When it comes to minivans, that is not even enough. They dump minivans in America, according to the Federal district court, almost 15 percent below their market value, in order to destroy our minivan market.

That is not enough. Then they want them called cars. The problem, and the reason we are here today, folks, is the Trade Representative does nothing, the trade Commission does nothing, the Commerce Department does nothing. We are at a point where even the President turns his back, does nothing.

So the Congress must act. Then everybody wants to question the Congress when the Congress does act.

Mr. Chairman, I stand here today and I have questioned a lot of policies, I want to stand with the chairman of this committee. I want to stand with the Congress that is giving America an opportunity to have jobs in the future.

Mr. Chairman, we invented televisions, VCR's, typewriters, tele-

phones, and we do not have one factory in America that makes one of those products.

An American worker can pay a cable television bill, an American worker can pay a phone bill, but an American worker cannot get a damn job making one in a factory in this country. And we are now beginning to get at what I consider the structural economic problems of America. This is just the tip of the iceberg.

There are some problems that will have to be worked out, but I have confidence in the chairman and the committee and the Congress addressing themselves to these ends; it will help the American worker and the American economy.

Mr. Chairman, I do not believe there will be an American economy if American people are not working, because no one is going to pay a damn bit of tax to keep this country going.

Mr. CRANE. Mr. Chairman, I yield 4 minutes to our distinguished colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding this time to me.

Mr. Chairman, you would think that any Member that supports the tariff reducing provisions of this bill would understand; tariffs levied on imported goods increase costs to consumers and manufacturers.

It is quite evident, however, that many Members just don't get it. The Big Three American automakers have come back again begging for favors and whining for special treatment and it seems Members are more than willing to bow to their cries by including in this bill a tax on the family car of the nineties.

Mr. Chairman, I want to address the suspect arguments being bandied about by those who seek to raise the tariff on minivans and MPV's to 25 percent. Customs law gives clear and specific guidelines for determining whether an imported vehicle is a car or a truck for the purpose of levying tariffs. A vehicle that is used for hauling cargo is classified as a truck. If a vehicle is used for carrying passengers, it is a passenger vehicle or a car. It is quite clear to anyone on the street that four door multipurpose passenger vehicles and minivans are the family cars of the nineties. Mr. Chairman, they haul people, not concrete.

If four-door MPV's are reclassified as trucks they will be subject to a hefty 25-percent import tariff, up from 2.5 percent—that's a 1,000-percent increase. What this really means, Mr. Chairman, is that Congress is more than willing to tax the American family anywhere from $2,000 to $6,000 to allow the Big Three to gain a monopoly on the market and raise consumer prices as they've done in the past.

Make no mistake about it, Members, a vote for this bill is a vote for increasing van costs $2,000 to $6,000 for child care services, for disadvantaged people, senior citizens, Boy Scouts, Little League, any group that travels in a van, you are increasing the costs of those vans.

In case any of my colleagues have forgotten, the Big Three have been protected by 11 years of quotas on Japanese auto imports, to which they responded by raising the average price of a United States car from 33 percent of median household income in the seventies to 50 percent last year. It should come as no surprise that the Big Three will take advantage of this protection to once again pad the pockets of their top executives.

As if that were not enough to convince Members that this bill is a sham, proponents of the family car tax argue that we must make the standards consistent. They argue, they say, for uniformity for all MPV's. But let's look more closely at what the proponents of the bill are not talking about, what the legislation really does as the result of a very crafty backroom deal.

The bill contains two exemptions: First, it accepts vehicles which have been imported each year since 1963 and second, it exempts vehicles exported from a small supplier country and imported before the date of enactment. These vehicles will continue to be classified cars, not trucks, and subject to the 2.5 percent tariff rate, not the 25 percent rate.

Funny, but the only MPV lines that fall under these exceptions are Volkswagen of Germany and Range Rover of England. What is even funnier is, the only other MPV and minivan lines imported into the United States come from Japan.

I find it very difficult to understand how an English made Range Rover can be called a car while at the same time a Japanese made Nissan Pathfinder is called a truck. How can the proponents of this bill justify levying a 25-percent tariff on a Toyota Four Runner or an Isuzu Trooper but a 2.5-percent tariff on a Range Rover? Why is a two-door Mazda Navaho—built in Louisville, KY—a car, when an imported four-door Navaho is a truck? How is a Ford Explorer or a Jeep Cherokee a car, when a Nissan Pathfinder is a truck? What could possibly justify giving a Volkswagen Vanagan a 22.5-percent tariff break while levying a 25-percent tariff on a Toyota Previa?

Strange—all these inconsistencies in the face of so many calls for uniformity. The only thing that's uniform about these maneuvers is the foul stench they give off of special interest, protectionist politics.

Mr. Chairman, I hope my colleagues can see through the rhetoric and recognize this special interest protection for what it is. I urge the Members of this body not to vote for more protection for the Big Three at the expense of the American family, senior citizens, orphans, Little League, Boy Scouts, and anybody else who may want to carry passengers in a van.

And to all those who think this tariff is such a great idea because it's going to rake in over $300 million in revenue, you're sadly mistaken. As a result of imposing the 25 percent tariff on two-door MPV's in 1989, these vehicles have virtually disappeared from the American market—so much for that revenue. The American family can't afford a $2,000 to $6,000 tax hike on their family cars so they're not gonna buy these vehicles. Don't fool yourselves, we're going to end up with empty coffers, lost jobs and lost consumer choice.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me.

Mr. Chairman, I cannot resist pointing out that, with previous speakers, they assume there is no competition left among the American producers in the event this bill passes. I believe we still have antitrust laws and that the Big Three, if you will, are going to compete furiously in this market and maintain a low price to the consumer.

What I want to address is section 2004 on page 85 of the bill, and I particularly speak to members of the steel caucus, because this section addresses another important fairness provision in the bill for U.S. steel producers and workers.

Under present law, the duties on stainless pipe and tube are substantially less than the sheet and plate.

What does this mean? It means that the foreign producers convert sheet and plate to pipe and tube so that they can send that same steel into this market at a much lower rate. The result is that you have a labor-intensive product; namely, pipe and tubing, coming in in great quantities. In fact, the import penetration in the pipe and tubing area is 42 percent versus 19 for sheet and plate.

The general policy behind the tariff structures of the United States and our trading partners is to affect higher tariffs on higher value products than on the power valve input components that go into the production of the product. What section 2004 does is put the same tariff on sheet and plate, stainless steel sheet and plate, as it does on pipe and tube.

It removes the incentive to flood the market with labor-intensive pipe and tube. That means we keep jobs in America.

The result of the present pattern is that 1 out of 3 jobs in the pipe industry have been lost.

H.R. 4318 corrects the problem by increasing the tariffs on each class of pipe and tube product to a level equal to that on plate and sheet product that

serves at its imput. This removes any incentive to artificially flood the pipe and tube category for its lower duty rates.

This makes it consistent with the tariffs of other countries, such as Korea, now at 15 percent and the EC at 10 percent. Japan's duty is 5 percent, but other nontariff barriers are present ranging from distribution systems to custom's inspections, that block access to their market.

I add one final statement, and that is that it provides in the bill that it will not take effect if the tariff inversion that is in the present law is eliminated in the GATT negotiations.

I strongly urge support for the bill.

□ 1250

Mr. CRANE. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman from Illinois [Mr. CRANE] for yielding this time to me, and I have high regard for him even though we disagree on this issue.

I say to my colleagues, let's cut through the baloney. The fact of the matter is the Japanese are getting away with bloody murder as far as this market is concerned.

Mr. Chairman, the President sent his chief deputy secretary McPherson from the Department of Customs over to Japan, and I want to read to my colleagues what he said, and I quote:

> It is clear that the Forerunner is a truck, built in a truck factory and built on a truck chassis. So, it is a truck, and it should be subject to the import tariffs that trucks are subject to.

Mr. Chairman, it is just that simple, and we are losing $300 million a year in market share because we are not making them adhere to the law. It is just that simple.

Now the Japanese have 31 percent of our automobile market. Are we going to wait around until they have all of it? Seventy-four thousand GM employees are being put out of work right now, and a number of their plants are being closed. Are we going to wait until GM is a thing of the past and we have lost a lot of our industrial base in this country?

I say to my colleagues, "The fact of the matter is this is a good bill, it should pass, and we should protect American jobs."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, let me address what my distinguished colleague, the gentleman from Indiana [Mr. BURTON], has just said because I am in total sympathy with the points that have been made here with regard to the need to protect American jobs. But I am standing here to do just that, to protect American jobs, because the American minivan factories are operating over capacity. The majority of American minivans are manufactured in Canada. It is Canadian jobs that we are protecting with this bill primarily, and Canada is exempt from this tariff.

But we are going to lose jobs if this bill passes. We are going to lose thousands of jobs in foreign auto dealerships, probably hundreds in my congressional district, because 70 percent of the vehicles that are used in my district are foreign vehicles.

But wait a minute. Is that un-American? It is un-American when we consider the fact that the best-selling model is composed of 70 percent American made products?

"Now is that a foreign vehicle or an American vehicle," I ask my colleagues, "when you consider the fact that the Corolla, one of the most popular, is actually made by United Auto Workers here in the United States?"

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me, and I appreciate the chairman and his work and the committee's work in bringing us this bill.

Mr. Chairman, I rise in support of the bill and in strong opposition to the motion to recommit.

My colleagues, we have got to seize this opportunity to make a clear statement and get clear action to try to protect American jobs. American families cannot be strong if they do not have American jobs and American incomes, and that is what is at stake here.

There may be a better way to deal with the whole trade package with the Japanese, the Europeans, or anybody else. Certainly many of us have been advocating other ways for years, but the reality is the U.S. Government will not, has not, acted, and we have heard all the sympathy this morning about all the inaction that we continually get both here and at the White House when it comes to this issue.

These are important jobs, well-paying jobs, that are at stake in this country, and we have got to understand that and understand that clearly.

Now we are told that somehow American consumers are going to be severely disadvantaged. American consumers have now and will have multiple choices from American manufacture of minivans and sport utility vehicles. Indeed they will have a choice not to pay a higher tariff. They will have a choice to buy something that will create an American job.

But, second, do not think for a moment the Japanese will stand still with this. They are likely to make choices, too, and one of the choices will be to expand production in this country by hiring more Americans to produce vans that Americans are going to buy.

Yes, there may be a better way, but we are never given a chance to get to it.

The Europeans have not stood still. They have not sat still for 10 years, and they have had thriving, vigorous economies, and they have restricted vigorously, strongly, more than most other people around the world, entry into their market by the Japanese vehicles. We have not. Their restrictions have only created pressures on our jobs and our sales in this country.

Mr. Chairman, we have got to seize the opportunity. Vote no. The economic news this week should tell us again and again and again that we must take more steps. If we had strong leadership in the White House, we would have a coordinated effort. We would not have to go at this in rifleshot ways that may not be the ideal way. But we do not have that right now, and hopefully this election this year is going to give us somebody new or somebody down there that is going to do the job.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], my good friend and colleague.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Illinois [Mr. CRANE] for yielding this time to me, and, as my colleagues know, we have heard a lot of rhetoric today about this bill, about Japanese trucks or Japanese cars, whatever my colleagues want to call them. But the fact is what we are doing is we are protecting, and I find it incredulous, but we are protecting in this discussion today, protecting, Japanese jobs. I mean when we say that a truck, what was a truck, we are going to change it to a car, that is what the issue is, and we are going to hold it that way, what are we doing? We are changing the rules to allow Japanese products to come into this country, which is fine.

If we were to look up into the press gallery, we would see who is looking at whose protection where, but let me tell my colleagues that, as far as I see it, when we start to protect those products coming in here at the price of American jobs and American products, it is very, very plain. I have sheaves of paper and letters saying, "Vote against this bill." Who are they? They are the salesmen of these trucks, not the American people, not the American manufacturers.

I say to my colleagues of this Congress, "I think, if you look at it, we've said in the long time that we've started talking about taxes around here that we know a duck is a duck is a duck. Well, Mr. Chairman, we know a truck is a truck is a truck."

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, the debate has had a lot of comment about

consumers, and I want to spend a minute talking about, not only consumption, but production. If we are going to have an economy where we have consumption, we have to have producers. We have to have people that are working in plants, like automobile plants, making enough wages to buy the cars whether they be domestic or foreign.

Henry Ford figured it out a long time ago. He did not pay his employees a decent wage and they could not buy the cars that were being made. That is what is at stake in this motion to recommit that we expect.

And let us not misunderstand what is going on in our economy today. It is in trouble. It is probably in the third dip of a recession. We just heard that the last quarter was anemic, 1.4-percent growth after it was much higher the quarter before.

We need to do something to invigorate production in the creation of jobs in this society. If we resist the motion to recommit and we pass this bill, we will do something to help.

Now why should someone be able to get one part of our Government to say that something is a truck for the purpose of emission requirements, but it is something else for the purpose of import requirements? Let us have one policy. That is what this bill is about, one policy, and let us form that policy. If we want to debate the policy for all the various reasons, let us do that, but let us do that at a different time. Today let us straighten out the policy so that we have one policy.

Mr. Chairman, a truck is a truck is a truck, and let us stand up for American workers, fight for American jobs and fight for American interests. That is what this bill does, and I urge Members to vote for it and to vote against the motion to recommit.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to our good friend and colleague, the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I want to take exception with the comments of the gentleman from Virginia [Mr. MORAN]. I want to point out that in Maryland near the port of Baltimore we have an outstanding minivan GM factory. The plant is located in the district of the gentleman from Maryland [Mr. CARDIN], but Mr. CARDIN and I share many of the employees as constituents. So, American jobs are protected by H.R. 4318.

□ 1300

The sale of those Chevrolet minivans in this country is vital to those Americans working in that GM plant. So, Mr. Speaker, I have to ask, how in the world can minivans and sport utilities be classified as cars on this chart only where the word "tariff" appears? They are cars under the "rear-side windows, rear doors, rear seats," and cars under "four-doors."

Mr. Chairman, I do want to point out it has been absolutely ridiculous and unfair that the U.S. Treasury overruled Customs on the classification of those vehicles.

Mr. Speaker, in closing I want to say that I hope all the Republicans will follow those good Republicans on Mount Rushmore, Abraham Lincoln and Teddy Roosevelt, and support H.R. 4318.

Mr. Chairman, I include the chart referred to for the RECORD.

INCONSISTENCY OF MPV CLASSIFICATIONS

	Minivans		Sport utilities	
	Rear side windows, rear doors, rear seats	Other	4-door	2-door
Emissions	Truck	Truck	Truck	Truck
Fuel economy	do	do	do	Do.
VRA	do	do	do	Do.
Gas guzzler tax	do	do	do	Do.
Luxury tax	do	do	do	Do.
Tariff	Car	do	Car	Do.

Note.—Truck emissions and fuel economy requirements are not as stringent as for cars. Gas guzzler and luxury taxes are not applicable to trucks.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I agree with the gentlewoman from Maryland [Mrs. BENTLEY] that it is absolutely essential that this legislation be passed. Our foreign producers cannot have it both ways. They cannot want to classify these multipurpose vehicles as trucks for the purpose of U.S. emission laws, fuel-economy laws, safety-standard laws, and the gas-guzzler tax, and then on the other hand want to classify these vehicles as automobiles for the sole purpose of our tariff laws. That is not fair.

Mr. Chairman, we have very dedicated workers in my district that produce these multipurpose vehicles. All they ask is that our laws be fair and consistent and that they have the opportunity to compete.

Mr. Chairman, I ask that this Congress pass this law in order to make the law consistent and fair and so the American workers can indeed compete fairly. I urge the passage of this bill.

The CHAIRMAN. The Chair will advise that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 5 minutes remaining and the gentleman from Illinois [Mr. CRANE] has 8 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of H.R. 4318, the Miscellaneous Tariff Act.

At times, I believe this administration actually cares about the American auto industry. Unfortunately, these moments are often shortlived. Let me describe two incidents to illustrate my point.

In May, the Commerce Department ruled that Mazda and Toyota were dumping minivans into the U.S. market. Commerce found that Mazda MPV's were priced 12.7 percent and Toyota Previas 6.75 percent less in the United States than back in their home market in Japan. I applauded the Commerce Department for their efforts. The investigators took the unusual—but necessary—step of looking into the Keiretsu system in place in Japan and discovered a systematic pattern of lower prices for parts going into export models to be sold in the United States and other countries compared to the prices charged for parts earmarked for vehicles to be sold in Japan.

In a related ruling, back in January 1989, the U.S. Customs Service ruled that four-door imported MPV's should be classified as trucks under the harmonized tariff system. In its ruling, Customs concluded that vehicles designed for the "transport of goods and of persons" could not be classified as passenger vehicles. Instead, these vehicles should fall under the truck category. Passenger cars are assessed a 2.5-percent tariff when they enter the United States. Trucks, meanwhile, are assessed a 25-percent tariff. Prior to the Customs ruling, foreign automakers sometimes called the MPV's trucks and sometimes cars. If the automaker did not have room under the voluntary restraint agreement [VRA] cap in force at the time, they would call the MPV a truck—and accepted the 25-percent tariff as the price they had to pay to hawk their product in America; if, on the other hand, they did have room under the VRA cap, they would call the MPV a car—and avoid the 25-percent tariff. Under the leadership of Administrator William von Raab, Customs finally put a halt to this backdoor maneuvering by foreign automakers by ruling that all MPV's are trucks.

Unfortunately, these two stories did not end there. Despite the obvious abuse of American trade and tariff law in these cases, the administration dismissed the findings of both Commerce and Customs and cut a break for Japanese, German, and British automakers—all at the expense of the American autoworker.

In the dumping decision, the International Trade Commission ruled last month that American automakers have not suffered damage as a result of Mazda's and Toyota's underpricing. ITC granted Mazda and Toyota the administration's blessings to continue their efforts to undermine the autoworkers at Chrysler, Ford, and GM.

In the tariff case, the Treasury Department cut our foreign competitors a similar break by overruling the Customs Service only weeks after it reached its decision on MPV's. On February 16, in an unprecedented move, Treasury Secretary Nicholas Brady overturned Customs' MPV classification. In Customs' place, Treasury established its own tariff system with respect to MPV's. Treasury designated two-door MPV's as trucks, but curiously four-door MPV's as passenger cars.

Based on 1989 figures, this decision has generated losses to the U.S. Treasury of approximately $3,500 per vehicle. Multiply that figure by the thousands of Nissan Pathfinders and Toyota Four-Runners you see on the road and you find that $300 million in American taxpayer dollars is annually shifted to the coffers of foreign automakers.

Enough is enough.

While it will require a bigger fight to stop foreign dumping practices, today we have the opportunity to make a simple, sensible change to right this obvious wrong in our tariff system. H.R. 4318 will correctly reclassify imported four-door MPV's as trucks, joining their two-door models in this category. H.R. 4318 will reinstate the appropriate MPV ruling by the Customs Service, the Federal agency charged with determining the appropriate classification of products imported by the United States, which was ignored in that highly questionable decision by the Treasury Department 3 years ago.

Beyond correctly restoring the Customs Service designation, this change would bring Treasury in line with every other Federal agency, including itself, which classifies vehicles for regulatory purposes. The Department of Transportation considers MPV's trucks for weight purposes; the EPA considers MPV's trucks for emission standards and fuel-economy purposes; even Treasury considers MPV's for gas-guzzler and luxury-tax purposes. I find it outrageous that we backpedal on classifying MPV's as trucks when it comes time to assign tariffs—when it comes time for collecting money for the Federal Treasury. Let's bring Treasury on board with the rest of the Federal Government. MPV's are trucks, pure and simple.

Mr. Speaker, I am sick and tired of watching this administration bend over backward to accommodate our foreign competitors at the expense of the American auto industry. I don't want another community to experience what the city of Ypsilanti and Ypsilanti township will face 1 year from now when the GM assembly plant at Willow Run will close its doors. By next summer, 4,000 of my constituents who work at the plant will be out of a job. Thousands more, including parts suppliers and those in related industries, will feel the repercussions of Willow Run's shutdown. Eastern Michigan University predicts that 18,000 jobs will ultimately be affected. H.R. 4318 strikes a blow for the American auto industry—eliminating a discrepancy in tariff regulations which allows foreign automakers to play with our rules to further their best interests.

I encourage my colleagues to vote "yes" on H.R. 4318.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, the issue before us is very simple: Are we going to give fairness of treatment to American workers and American industry, or are we going to permit a bunch of high-priced foreign lobbyists to achieve special advantages at the expense of American industry and American workers. An "aye" vote for H.R. 4318 will put us on record for fairness. A "no" vote sustains the hands of a high-priced foreign lobby.

A well-quoted truism is that if it walks like a duck, it quacks like a duck, it swims like a duck, it flies like a duck, it is a duck.

The hard fact of the matter is that the U.S. Treasury Department now classifies vehicles which are in fact trucks, as cars. They are trucks for all corporate average fuel economy, emissions and safety purposes except one—and that is the payment of taxes.

It is interesting to note that this situation represents a significant change in policy by the Treasury Department. They overruled a well-reasoned decision by the U.S. Customs Service. The decision by the Treasury Department forced the Customs Service to apologize to the Japanese lobby. Now, these foreign vehicles are escaping a 25-percent tax, and, instead, are subject to a 2.5-percent tax.

Now, I regard that as unfair. It is costing the American taxpayers $300 million in annual revenue. It is time we reversed this policy. Two-door MPV's are classified as trucks for the purposes of emission, fuel economy, and taxation. Four-door MPV's are taxed for the same purposes in the same way. But when it comes to giving away taxpayer dollars to the Japanese, the administration says that a four-door MPV is a car. It costs the American taxpayers $300 million and treats them different from all other vehicles.

Mr. Chairman, what the legislation before us does is to reverse a wrong. I urge my colleagues to vote for $300 million for the American taxpayers, fair treatment for American workers, and the passage of this legislation.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, I appreciate the gentleman from Michigan [Mr. DINGELL] bringing to our attention the influence of the foreign lobbyists on this body.

I think it is noteworthy that while we hear that Americans are lazy from some people who oppose this bill, that Americans do not make a good product from some people who oppose this bill, that they fail to mention there are four Members of the other body who have received over $100,000 apiece in independent expenditure contributions for their campaigns from this organization that is lobbying against this bill. I think the people of America ought to know that.

The CHAIRMAN. The Chair would caution the gentleman from Mississippi about such references.

Mr. CRANE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I listened a moment ago to the comments by the distinguished majority leader. The gentleman and I went to the same university. We graduated just a couple of years apart.

Mr. Chairman, you would not know it. We certainly did not go to the same economics classes. I listened to the gentleman say that we have production, not just consumption, and the gentleman is absolutely right.

But I have never been to an economics class that says somehow you can legislate production, or that you can legislate production with a tax on consumers. And that is just what we are doing here.

At least it is out in the open. We are very up front now about this. This has nothing to do with reclassification or making something conform.

We heard it all said here today. This is a tax. This is a protectionist tax. Let us stand up for the American worker, let us stand up for the American producer, let us tax those imports. Stop them from coming in.

Of course, the other side of the coin is let us tax the consumer. Let us tax the senior citizens center who buys their minivan. Let us tax the nonprofit organization who buys their minivan. Three thousands dollars, at least, on every minivan is what they are going to pay in order to do this protectionist measure for American industry.

Mr. Chairman, I have more confidence in American industry than a lot of my colleagues apparently do. I believe they can produce good products. They have been producing good products and they will be producing good products.

Mr. Chairman, what we need is more competition. What we need is an American industry that is prepared to compete in this world. I believe that is the direction that we are going.

Certainly we do not need to go back to the 1930's when we had the Smoot-Hawley Tariff Act that came at the time of the Depression and made the Depression the worst depression in the history of this country. But this is exactly, in a smaller way, the same kind of tax. It is a protectionist tariff. It is an attempt to raise a tariff. It has nothing to do with the reclassification. It is to make a 1,000-percent increase in the tariff on minivans for the consumers in this country.

Mr. Chairman, this should be defeated.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, John Naisbitt, in his book "Megatrends 2000," has talked about the fact that the world is moving in the direction of a reduction of trade barriers. That creates just what my friend, the gentleman from Arizona [Mr. KOLBE] has advocated, a greater level of competition. In turn, it reduces the price of products to the consumer in America and throughout the world.

Now, it seems to me that rather than looking at imposing what is today a 2.5-percent penalty on the American consumer and dramatically increasing it to 25 percent, we should instead be

figuring out a way to eliminate that 2.5-percent tariff.

How could we do that? I would argue that the best way is for us to move in the direction which a number of my friends on both sides of the aisle have actually joined me in supporting, and that is a United States-Japan Free-Trade Agreement.

Mr. Chairman, I do not want to see an erection of trade barriers here in the United States to prevent the flow of goods from Japan coming in. What I want to see is an elimination of barriers in Japan so we can export goods there.

Mr. Chairman, this kind of action does nothing to reduce these barriers all the way around. Instead, it hurts consumers, it hurts producers and workers, and it will reduce revenue to the U.S. Treasury. I urge opposition to this bill.

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Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

In conclusion, let me remind everybody in this Chamber that we have devoted virtually the entire debate time about this bill, which has overwhelmingly positive components, but they were not discussed. They are components that do affect small businesses in this country and do affect jobs. But because we have focused on just 1 page out of 115 pages in this bill, and it is the one dealing with the minivans, we have misled, I think, everyone about what is in this bill that is good and should be passed.

But with the minivan provision in there, I guarantee my colleagues, it will not succeed. It will most assuredly get a Presidential veto.

For that reason, I am urging all of my colleagues to support the motion to instruct on the part of our distinguished minority leader; send this bill back to committee. Let us clean it up and bring it back expeditiously.

There are things in here, as I say, that have impact in a very positive way. And we do want to see them become law. But that cannot happen so long as we have this one unfortunate revenue-raising counterproductive protectionist provision in the bill.

Support the motion of the gentleman from Texas [Mr. ARCHER].

Mr. Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the balance of my time to the gentlewoman from Ohio [Ms. KAPTUR].

The CHAIRMAN. The gentlewoman from Ohio [Ms. KAPTUR] is recognized for 2 minutes to close debate.

Ms. KAPTUR. Mr. Chairman, I rise in support of this miscellaneous tariff bill and against the motion to recommit because this bill finally gives us equal treatment of goods that are sold in this country. And it also helps us level the playing field.

It basically says:

If you are a two-door truck or if you are a four-door truck, the tariff on you will be the same.

It is important to vote for this measure because it also closes a major inconsistency that arose because of the Treasury decision done behind closed doors that created this gap in the tariff.

Let me tell my colleagues that it is time that we stand up for America for a change. Producers, workers, consumers in my district are directly affected by it. Let me tell my colleagues how.

The Cherokee, which is made in my district by Chrysler Corp., is a four-door vehicle. And there are lots of them here in the Washington area. We can buy one of those in our country for about $22,300. But when I was in Japan, in Tokyo last December, I tried to buy one in Tokyo. Do my colleagues know how much it cost? The sum of $34,400 is a 50-percent price hike in that nation, where one cannot even get the car; it is only allowed in one dealership over there in Tokyo.

I then went out and tried to buy a Jeep Rancher, which is sold in my district. We can buy it for about $11,500 in this country. They were charging $30,232 for that car over there.

I tried to buy a standard Ford truck. Guess what? We cannot even get them in the Japanese market. So who is talking about being fair to consumers?

The Japanese consumers are treated so unfairly, they should welcome our products over there.

So I rise in strong support of this miscellaneous tariff bill. It levels the playing field. Congratulations to the chairman for bringing it up.

ATTACHMENT I.—PRICE SURVEY

	Toledo price	Tokyo price dollars/yen
TV[1]		
Zenith 19" S1902S	$199.97	
Zenith 19" SS1937S	$299.99	
Zenith 25" SG2567H	$449.97	
Zenith 27" SJ2722LK	$599.97	
Zenith 27" SG2795BG	$699.97	
Sony 29" KV–29ST1		$1830.00/Y238,000.
Panasonic 29" TH–29VS25.		$1807.00/Y235,000.
Mitsubishi 29" 29C–AP1.		$1730.00/Y225,000.
CAMERAS		
Minolta Maxxum 5000i	$349.95	$480.62/Y62,200.
Minolta X–370n	$279.95 (sale)	NA.
Minolta Maxxum 3xi	$379.95	$387.59/Y50,000.
Minolta Freedom 105i	$279.95	$480.62/Y62,000.
Nikon N5005	$369.95	$534.88/Y69,000.
Nikon Zoom Touch 500S	$176.00	$441.86/Y57,000.
Nikon One Touch 200	$89.95	$209.30/Y27,000.
Canon Mega Zoom 105	$237.95	$277.51/Y35,800.
U.S. COMPETITOR		
Polaroid Spectra SE	$109.95	NA.
Polaroid Impulse SE	$44.95	$162.79/Y21,000.
No U.S. 35mm competitor.		
CAMCORDER[2]		
Canon UC–1	$999.00	$1069.76/Y138,000.
No U.S. competitor		
LIQUOR (1.75 L)		
Scotch:		
Johnnie Walker black label.	$39.98	$46.51/Y6,000.
Cutty Sark	$21.99	$20.00/Y2,580.
Bourbon:		
Jack Daniels black	$21.49	$52.71/Y6,800.
Southern Comfort	$17.99	$27.13/Y3,500.
Gin:		
Beefeater	$24.99	$19.37/Y2,500.
Bombay	$21.99	$21.70/Y2,800.

ATTACHMENT I.—PRICE SURVEY—Continued

	Toledo price	Tokyo price dollars/yen
GROCERIES		
Ham (Giant):		
Hormel Curemaster boneless.	$4.99 lb. (reg.)	$11.62/Y1,500.
Giant Honeyglazed half.	$4.29 lb. (reg.)	NA.
Steak (Safeway)		
Porterhouse	$6.29 lb. (reg.)	$20.36/Y2,627.
Porterhouse, USDA choice.	$6.79 lb. (reg.)	NA.
Sirloin, boneless	$4.28 lb.	$23.19.
Pork roast, boneless	$3.48 lb.	$6.01.
Broilers, whole	$1.18 lb.	$2.73.
Eggs, large	$.55 dozen	$.56.
Butter	$2.41 lb.	$5.35.
Cheddar cheese	$3.12 lb.	$3.73.
Potatoes	$.49 lb.	$1.56.
Apples	$1.01 lb.	$1.56.
Oranges	$.66 lb.	$1.62
Flour	$.26 lb.	$.64.
Sugar	$.38 lb.	$.81.
Coffee	$3.60 lb.	$11.00.
Milk (Giant): Vitamin D, 1 gallon.	$2.49	$5.89/Y570
Rice:		
Retail price	$.52 lb.	$1.23 lb.
Producer price	$.11 lb.	$.95 lb.
VEHICLES		
Chrysler Cherokee	$22,300	$34,400.
GM Grand Am	$14,823	$18,966.
Honda Accord	$15,581	$15,614.
Ford Taurus Wagon	$21,061	$25,556/3.450 mil.
Ford Thunderbird	$24,366	$36,444/4.92 mil.
Ford Escort:		
Std. model	$8,730	
3 dr. LX	$9,430	
GT	$12,246	
Ford Truck:		
Std. S	$10,921	Not imported.
XLT	$13,392	
Spectron XLT		$11,953/1.554 mil.
Buick Lesabre:		
Custom	$19,250	Not imported.
Limited	$21,220	
Buick Regal	$13,392	$31,307/4.07 mil.
Lincoln Continental	$35,552	$49,259/6.65 mil.
Jeep Wrangler	$11,500–21,000	$30,232.
Chrysler Imperial:		
EY6R	$29,063	$48,062.
V6–OHV	$30,000	$48,062.
Chrysler LeBaron:		
EC5J	$14,483	$33,333.
L–4–OHC	$15,472	$33,333.

[1] At 129 yen per dollar.
[2] At 130 yen per dollar.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992. This measure is complex; over 300 separate products are dealt with in this measure. The major attention is focused on the Bush administration caving in to special foreign interests on the truck classification and reducing improperly the tariff. This legislation reinstates a 1989 Customs Service decision concerning the tariff classification of multipurpose vehicles [MPV's]. The bill reclassifies certain multipurpose vans, such as minivans, and sport utility vehicles as trucks, thereby making such vehicles subject to a tariff rate of 25 percent. Under current law, these vehicles are classified as cars, which are subject to a low tariff rate of only 2.5 percent.

Mr. Speaker, I have been a longtime opponent of this misclassification of multipurpose vehicles which has, in effect, allowed foreign vehicle manufacturers to escape literally hundreds of millions of dollars in tariffs as well as costing American automobile workers their jobs in the face of increasingly stiff foreign competition. There has been a constant unrelenting pressure by the foreign import interests to undo and to circumvent this rule, not through a negotiated change but through a rules change, a reneging on the part of the U.S. administration. The Bush administration has caved in; that is why we in Congress must act to back up the treaty policy and American workers. As far back as June 1979, I joined

with 21 other Members of the House in demanding an end to this tariff inequity which gives foreign vehicle manufacturers an unfair price break at the expense of the American light truck industry. Not only has this policy break been unfair to American workers; it has also been illegal. In 1963, a Presidential proclamation raised the tariff on trucks to 25 percent in retaliation for the lack of market access for American poultry products into Europe in general and Germany in particular. While this proclamation stands on the books, it has been ignored in recent years.

How do foreign vehicle manufacturers take advantage of this policy? Foreign manufacturers remove the cargo boxes from ready-made trucks, ship the boxes to the United States separately, and then remount them on the vehicles after the trucks have entered the United States resulting in a low tariff of 2.5 percent instead of 25 percent. Today the efforts are not as blatant but they have the same effect, such actions make a mockery out of fair enforcement and administration of the law.

While it is regrettable that foreign manufacturers will resort to such unfair tactics, it is even more disturbing that our own U.S. Government has unilaterally given away tariff concessions to some of our key trading partners and economic competitors by almost casually reclassifying multipurpose vehicles as cars rather than trucks. In 1988, the Treasury Department did exactly this and effectively lowered the tariffs on these vehicles by 22 percent.

The opponents of the legislation on the floor today don't argue the law because it clearly requires a 25-percent tariff. They don't argue the facts because that requires a 25-percent tariff. They are reduced to distractions such as raising these tariffs to their proper levels which will sting consumers by increased prices. But, in fact, this is inaccurate, when the Treasury gave foreign manufacturers a tariff windfall, these savings were not passed on to American consumers. In fact, from 1988 to 1991, the prices on the most popular foreign-made MPV's increased sharply after the tariffs were reduced. This points out that such correlation is off base. Another red herring argument by spokespersons for foreign trucks, or should I say so-called autos, is that passage of this legislation will violate the General Agreement on Tariffs and Trade [GATT]. In fact, the passage of this measure will return the MPV tariff to what the Customs Service determined it should be prior to the Treasury Department's unwarranted political intervention in 1988. Former U.S. Customs Commissioner William van Raab, commenting about the Treasury Department's 1988 ruling on MPV's, said:

> What I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

Mr. Chairman, the Ford Motor Co.'s Highland Park plant in St. Paul, MN, produces pickup trucks. The autoworkers at this plant and I'm sure at other plants around this country are sick and tired of their own Government paying more attention to foreign interests than to the welfare of our national economy. A truck is not a car. Let's pass this bill and restore some common sense to our tariff laws. I urge my colleagues to join me in voting for this bill.

Mr. Chairman, this overall measure contains hundreds of items on which no tariff will be levied or reduced substantially. Candidly, as you examine this list you quickly realize the history of errors and unfair competition that the United States has been subject to. Most are history, some plant the seeds for future problems. As an example, this measure includes a waiver of tariff for inline roller blade skates, a popular new U.S. sports product that originated in Minnesota. What is the result? To increase competition? To license the product to be produced abroad and eliminate the production at home? Or worse, see the idea siphoned off without any benefit. Mr. Chairman I'm deeply concerned about such provisions in this measure—not the truck classification provisions.

Mr. ATKINS. Mr. Chairman. I rise in support of this important legislation. H.R. 4318 will be a great step forward toward instilling equity and rationality in our tariff system. I would like to share the story of just one man who will be helped by this legislation.

In September 1990, my office was contacted by George Donovan of Andover, MA, in my district. Mr. Donovan runs a small business which imports ski products from Austria. For many years, he has specifically imported stretch wool gabardine ski pants made from Italian and Swiss fabric and produced in Austria.

Before January, 1989, when Congress replaced the Tariff Schedule of the United States [TSUS] with the Harmonized Tariff Schedule [HTS], these garments were classified as rainwear, or skiwear, because of their water-resistant quality. This category made no distinction between synthetic fiber or wool, and had a duty of 7.6 percent. Although the new HTS provided for synthetic water-resistant fiber under the 7.6 percent duty, it did not provide the same for wool fiber water-resistant garments. Therefore, the duty for this product jumped substantially to a duty of 21 percent, which is the duty for other wool products.

After discussions with Mr. Donovan as well as representatives of the domestic textile industry and the Commerce Department, I was convinced that the rise in duty from 7.6 percent to 21 percent for these water-resistant wool garments was unintended. That is why I introduced H.R. 1966, which would return the tariff for the product Mr. Donovan imports to the original level of 7.6 percent. H.R. 1966 was subsequently made a part of the bill which we consider today.

As the Member of Congress who represents the historic textile mill towns of Lowell and Lawrence, I understand the importance of the American textile industry vis-a-vis our international competitors. In this respect, my discussions with representatives of the textile industry have confirmed that there is no company in the United States which produces stretch wool gabardine ski pants such as those imported from Austria by Mr. Donovan. Furthermore, because these garments provide water resistance and protection against winter elements, and because of their composition and design, they can in no way be considered competitive with dress or casual wool trousers, which are protected by a higher duty rate.

The market for high wool content ski pants is small in the United States. There will be no editorials in the major newspapers. Nonetheless, it represents the livelihood for one small business in Massachusetts. This livelihood, and small business, is now threatened by an unintended duty in the HTS which provides a negligible amount in Federal revenues.

Mr. Chairman, there are many reasons to support this bill. I will support it to redress the injustice that has befallen one constituent in my district. I urge my colleagues to support it as well.

Mr. BEREUTER. Mr. Chairman, this Member would like to express his support for the proposed tariff increase on multipurpose vehicles [MPV's] in H.R. 4318.

In an unusual or unprecedented move, the U.S. Treasury Department has reversed a U.S. Customs Service ruling that properly classified multipurpose vehicles as trucks for tariff purposes. Current classification of these vehicles is inconsistent. While Treasury classifies MPV's as cars for tariff purposes, MPV's are advantageously classified as trucks for all other purposes including fuel standard, luxury, and gas guzzler taxes, and emission standards under EPA, DOT, and Treasury regulations; consistency requires—as the U.S. Customs Service originally and properly ruled—the tariff classification of these vehicles as trucks.

Mr. Chairman, our national economic interest demands that decisions such as multipurpose vehicle classification must be made on a case-by-case basis, not as a result of some ill-defined, ill-considered, or obsolete economic or strategic policy aimed at avoiding upsetting Japan or other nations. Each decision must now be rendered on the basis of the factual situation and where it results in an unfair advantage being given to an imported product. The United States must defend its industries against unfair trade practices but not improperly shield them from fair competition from foreign sources.

Therefore, this Member believes it is important to note that the United States International Trade Commission recently reported in July that Japanese manufacturers of minivans sold their vehicles in the United States at a weighted average dumping margin of 9.72 percent. Mazda MPV's were found to be sold at 12.70 percent less than fair value. Clearly, these figures reveal an intentional pricing policy by the Japanese automakers aimed at gaining market share in the United States. A commonsense application of the dumping principle requires action. A tariff classification which uniformly labels multipurpose vehicles as trucks for all purposes is certainly appropriate.

Mr. Chairman, this Member would stress his insistence that this decision must not be construed by the U.S. automakers as a green light to raise prices on domestically produced multipurpose vehicles. In the past, United States automakers have been shortsighted in automatically raising prices along with their foreign competitors or when voluntary restraints were implemented by Japan. That was a strategic error by the American auto industry and an exploitation of the American car buying public. This Member, therefore, strongly believes U.S. automakers must hold their prices steady and thereby seize this opportunity to

implement long-term goals of increased market share and more aggressively pursue U.S. automobile markets abroad.

Mr. Chairman, I urge my colleagues to support H.R. 4318.

Mr. FAZIO. Mr. Chairman, I rise in support of the bill, and I want to commend the gentleman from Illinois, Chairman ROSTENKOWSKI, and the gentleman from Florida [Mr. GIBBONS] for their work on this legislation.

H.R. 4318, the Miscellaneous Tariff Act, contains numerous changes to the existing tariff schedule. In most cases, these changes would result in a reduction of import duties on items that are not manufactured in the United States. These duties do not protect any domestic interests and serve only to increase the costs to domestic users of these products.

H.R. 4318 will save money for American companies that import these products, and it will save money for the end users of these products—the consumer.

Mr. Chairman, while most of the provisions in H.R. 4318 are noncontroversial for these reasons, there is one provision which has gained a great deal of attention. Section 2121B of the bill proposes to increase the tariff on multipassenger vehicle [MPV] imports from 2.5 percent to 25 percent.

I support this provision for two reasons. First, it is clear from a Customs Service determination made in 1989 that MPV imports should carry a 25-percent duty. This conclusion was reached after a yearlong factfinding study. Unfortunately, the Treasury Department overruled the Customs Service after only a cursory, monthlong review. Thus, under this first point, section 2121B is instituting a tariff that the Customs Service's own classifications and requirements demand.

Second, the Department of Commerce has ruled that minivans were being imported from Japan at less than fair market value. Essentially, it has been documented that Japanese automakers have been underpricing their minivans to gain market share. Because of this finding, retaliatory action is warranted under U.S. trade laws. Unfortunately, the International Trade Commission [ITC] did not rule in favor of sanctions because the ITC reasoned that this underpricing did not cause enough material injury to the U.S. industry. The ITC reached this conclusion because Japanese minivan imports make up a small portion of the United States market. To this point I ask, are we to wait until there is material injury to U.S. companies before we take corrective action?

Mr. Chairman, section 2121B proposes to redress these concerns. It also sends a message to our Japanese counterparts that we will not tolerate their highly restrictive trade barriers against United States automobiles. Clearly, we cannot and should not undercut our own economic interests when our trading partners continue to demonstrate a lack of fairness and comity in international trade.

Mr. Chairman, I urge my colleagues to support section 2121B and support the bill.

Mr. PALLONE. Mr. Chairman, I rise to urge my colleagues to support the Miscellaneous Tariff Act which the House of Representatives is considering today. This legislation seeks to correct an inconsistency in the classification of multipurpose vehicles that costs the U.S. Treasury hundreds of millions of dollars annually.

The Miscellaneous Tariff Act reverses a 1989 Treasury Department ruling classifying four-door multipurpose vehicles as passenger cars. This ruling basically overruled a decision made by the U.S. Customs Service, after a yearlong investigation, which classified four-door multipurpose vehicles as trucks. Classification as cars means that these vehicles are subject to a lower import duty. Four-door multipurpose vehicles are classified as trucks for purposes of emissions standards, safety standards, fuel economy rules, and the gas-guzzler tax.

Does it make sense to classify these vehicles as cars for tariff purposes when they are classified as trucks for every other purpose? Does it make sense to grant a unilateral trade concession to Japanese automakers worth hundreds of millions of dollars a year? Why would the Treasury Department issue such a ruling? The U.S. Treasury is not in great shape these days. In fact, we are now about $4 trillion in debt. Our trade deficit with Japan stood at $43 billion last year. What, Mr. Speaker, is going on here?

William von Raab, the Customs Commissioner in 1989, issued a public statement explaining his view of the Treasury ruling making imported four-door multipurpose vehicles eligible for the lower tariff. He explained that he saw no justification for the Treasury ruling except politics. He urged the Congress to reinstate the Customs Service decision classifying four-door multipurpose vehicles as trucks.

Are we, in the U.S. House of Representatives, going to stand by while Treasury Department officials cave in to the high pressure tactics of lobbyists in the pay of foreign interests? Are we going to stand by idly while American workers in the fastest growing segment of the U.S. auto market are done in by unfair and illogical tariff classifications?

I join Commissioner von Raab in urging Congress to change the classification. Today, in the House of Representatives, we have the opportunity to do just that. We must change the Treasury ruling not only because of the American jobs which are at stake, or the many American businesses which depend on a healthy automotive industry for survival. We must send a message that our trade rules cannot be manipulated by foreign interests who stand to reap huge profits.

Mr. Chairman, I urge my colleagues to join me today in casting a vote for a fair and logical trade policy by supporting the Miscellaneous Tariff Act.

Mr. RAMSTAD. Mr. Chairman, I rise today in opposition to H.R. 4318, the Miscellaneous Tariff Act.

I regret that this bill, which contains over 200 duty suspensions for United States companies, is tarnished by the inclusion of the blatantly protectionist 25-percent tariff on Japanese minivans and multipurpose vehicles [MPV's].

Many businesses, particularly small- and medium-sized ones, have been looking forward for more than 2 years to the tariff reductions in H.R. 4318, which would improve American competitiveness at home and abroad. Unfortunately, this country-specific, GATT-violating tariff makes a vote for this bill indefensible.

Proponents of the tariff argue that it will generate revenue, make the minivan market more competitive and protect U.S. jobs. In reality, this tariff would lose revenue, limit consumer choice, increase the price of minivans across the board, and destroy U.S. jobs.

Those who argue that this tariff will increase revenue have forgotten our experience with the so-called luxury tax of 1990. Unfortunately, as we have learned, this misguided attempt to raise revenue by imposing an enormous tax on certain goods resulting instead in widespread job and revenue loss.

The same thing will happen if we impose this 25-percent tariff on the American consumer. Vehicle manufacturers will inevitably raise their prices, people will buy fewer vehicles, workers will lose their jobs, and tariff and income tax revenues will fall.

Proponents of H.R. 4318 also argue that this tariff will add competitiveness to the minivan and MPV market.

Mr. Chairman, domestic producers control over 80 percent of the market for these vehicles. Forcing a 25-percent price increase on the vehicles produced by foreign competitors will continue this market domination and invite domestic producers to increase their prices.

Those who will be hurt most by these inevitable price hikes include middle-class American families, community service organizations and advocacy groups for disabled Americans, all of whom rely heavily on minivans and MPV's.

Finally, supporters of the tariff insist that it protects American workers. Mr. Chairman, this argument is narrow minded, short sighted and another example of politics as usual.

This tariff only protects a select group of special interests, forcing U.S. workers and consumers to pay for it.

Some victims of this tariff are obvious—Americans who work in auto dealerships that sell Japanese vehicles, for example.

But this tariff also threatens the economic security of workers in export-based industries, which have propelled our weak economy through recent years, accounting for over 75 percent of our economy's growth. Enactment of this protectionist measure will almost certainly cause our trading partners to retaliate by erecting barriers to U.S. exports. Mr. Chairman, at a time of slow economic growth, our economy and workers can ill afford a trade war.

Every $1 billion in exports translates into 20,000 export-related jobs—jobs that pay 17 percent more per hour than the average U.S. wage. If Japan and the European community imposed prohibitive tariffs on the five largest surplus sectors in the United States economy, a loss of $35 billion in United States exports and 700,000 high-wage jobs could result.

Mr. Chairman, supporters of this tariff fail to recognize all of this measure's repercussions. This is one more dangerous example of how short-term vision and politics as usual will debilitate our economy in the long run.

Instead of enacting measures harmful to our economy—such as H.R. 4318—we should be passing legislation that will stimulate economic growth and create jobs. It's time to stand up for the American people—consumers and workers—and vote against this protectionist bill.

I urge my colleagues to support the motion to recommit with instructions to remove the 25-percent tariff from this bill and to preserve its important duty suspensions. Failing that, I strongly urge my colleagues to vote against H.R. 4318.

Mr. CONYERS. Mr. Chairman, I rise in strong support of H.R. 4318. This legislation includes a provision that reverses an egregious decision by the Treasury Department, and I urge my colleagues to join in supporting it.

Mr. Chairman, in 1989, the Secretary of the Treasury overruled the findings of a year-long investigation by his own Customs Service that found that four-door multipurpose vehicles [MPV's], are trucks. The Secretary of the Treasury felt that imported MPV's were more appropriately designated as cars, "due to the presence or absence of rear side windows." This reversal by the Treasury of an appropriate ruling by the Customs Service was an outrage for several reasons.

First, the Environmental Protection Agency classifies four-door MPV's as trucks for the purposes of emissions standards and fuel economy rules; the Department of Transportation classifies four-door MPV's as trucks for weight and other specifications; and the Treasury even considers four-door MPV's to be trucks for the purpose of gas guzzler and luxury taxes.

Second, the decision to reclassify four-door MPV's as cars means a massive tariff reduction on these vehicles—25% to 2.5% ad valorem—resulting in a $300 million revenue loss annually for the United States. This windfall has not translated into any benefit for American consumers or workers. The prices of these MPV's have increased steadily despite this decision—meaning that Japanese car companies pocketed the savings from this tariff reduction. The Nissan Pathfinder SE 44's price went from $17,499 in 1988 to $21,814 in 1990—a year after Treasury reduced the tariff. The story is the same for the Toyota 4-Runner SR-5 V-6; its price went from $16,698 in 1988 to $18,788 in 1990. Quite obviously, American consumers got nothing from the Treasury decision.

Moreover, there is evidence that this decision literally opened our gates to a Japanese dumping of these vehicles. In 1988, when the 25 percent tariff was still in effect, imported four-door MPV's constituted 27 percent of the total number of all MPV's registered in the United States. In 1989, the year of the tariff reduction, that number had jumped to 48 percent; it's projected that four-door imported MPV's will make up 84 percent of those registered in the United States this year.

The popularity of MPV's is no secret, and we all know what these numbers mean: they mean jobs—American jobs. They mean more American autoworkers in the streets while this tariff reduction helps Japanese auto executives put their kids through college.

Further, this decision did nothing to benefit United States trade negotiators with Japan—making this a unilateral giveaway of a very important and very expensive trade bargaining chip.

Third, the Treasury ruling came after intense foreign lobbying. The Committee on Government Operations, which I have the privilege of chairing, is examining evidence that this decision was the result of some quick work by the deputy manager of the Bush-Quayle reelection campaign—who also happens to be a lobbyist for the Japanese auto industry. We plan to hold a hearing on this issue in September.

Mr. Chairman, it is important to note that William von Raab, the Commissioner of Customs at the time of the Treasury decision, recently wrote to Congress on this issue. He said, and I quote:

> Treasury's reversal . . . was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy.
>
> There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

Mr. Chairman, it doesn't get any clearer than that. How long will this administration continue to roll over in multibillion dollar trade negotiations? How long will this administration be allowed to continue this fire sale on American tariffs, jobs and competitiveness? My colleagues, Treasury's own Customs Commissioner says there was no justification for this $900 million giveaway except politics. I ask you, how long will we play the fool with Japan?

We can fix it right here. This bill provides a legislative fix for this shameful decision made by the Secretary of the Treasury, and will put an end to this multimillion dollar giveaway to Japanese auto companies. I urge my colleagues to join in supporting it.

Mr. COSTELLO. Mr. Chairman, today the Members of the House of Representatives will be asked to vote on H.R. 4318, the Miscellaneous Tariff Act of 1992.

The Environmental Protection Agency classifies four-door MPV's as trucks for the purposes of emissions standards and fuel economy rules; the Department of Transportation classifies four-door MPV's as trucks for weight and other specifications; and the Treasury even considers four-door MPV's to be trucks for the purpose of gas guzzler and luxury taxes. Therefore, I feel that the Treasury's classification of four-door MPV's as cars for the purpose of the import tariff is a gross inconsistency.

The reclassification of four-door MPV's as cars translates into a huge tariff reduction on these vehicles resulting in a $300 million revenue loss annually for the United States. A loss the United States can ill afford.

I was recently contacted by a prominent businessman in my congressional district, Mr. Jamie Auffenberg, who owns automobile dealerships that sell both foreign and domestic cars. Mr. Auffenberg was understandably concerned about the possible effects of this legislation on his business.

While I appreciate Mr. Auffenberg's concerns, I feel that support of this bill would be in the best interest of this country.

Between 1988 and 1989 the U.S. Customs Service conducted an extensive investigation into the proper classification of foreign MPV imports to the United States. Customs ruled that MPV's are trucks, and should therefore be subject to a 25-percent tariff upon importation. In 1989, the Secretary of the Treasury overruled his own Customs Service, stating that imported four-door MPV's are cars for the purpose of the import tariff.

Again, I will support the Miscellaneous Tariff Act of 1992 because I feel that Congress should reinstate the Customs Service decision to restore integrity to the U.S. policymaking process.

Mr. SYNAR. Mr. Chairman, in considering trade issues, I have been consistent in opposing legislation which I believe to be retaliatory or specifically designed to affect only one country. Unless the action is related to a foreign policy or human right controversy, such actions are not beneficial to U.S. trade. I do not believe that such actions on the part of the United States will solve our trade problems we have with other countries.

While I support most of the bill's tariffs, included in the Miscellaneous Tariff Act is one particular section that, reluctantly, I cannot support. I do believe there is a good case to be made that the present treatment of tariffs on imported minivans may have been misapplied by the executive branch. The solution, however, is not to apply a higher rate of duty that applies only to the minivans of one country.

If the present decision has been incorrect, I am in favor of correcting it for all countries that import minivans into the United States and not make it applicable to just one country.

Mr. BROOMFIELD. Mr. Chairman, I want to express my strong support for H.R. 4318, the Miscellaneous Tariff Act of 1992.

In 1989, we created a loophole in our trade law.

It is a loophole so big you can drive a truck through it.

And that's exactly what we are letting the Japanese do. Drive truck after truck into this country and call them cars to escape the tariffs that normally apply under United States law.

To make matters worse, the Japanese dump their minivans into this country in violation of international trade law to make inroads into one of the strongest markets for American automakers.

It's no secret that the American automobile industry is hurting today.

It would seem that the least we can do for the men and women whose jobs are on the line in this industry is to make sure there is a level playing field.

Instead, we are applying our laws inconsistently to the disadvantage of our own companies.

We tax multipurpose vehicles as trucks in this country. When it comes to pollution controls, we classify them as trucks. When we apply fuel economy standards, they're trucks.

But at our border, some kind of metamorphosis occurs and they change into cars.

My friends, we are never going to negotiate successfully with the Japanese if we don't command their respect. And when the Government adopts policies that don't make sense, it loses respect.

Yet that's exactly what we did in 1989 when we gave the Japanese a unilateral trade con-

cession that flies in the face of every law on the books applying to vans and sport utility vehicles.

I have a long history of rejecting protectionist trade policies. But it is not protectionist to treat vehicles the same way outside our borders as we do within our borders.

It's just common sense.

I grew up understanding that, "If it looks like a duck and quacks like a duck, you call it a duck."

Well, if you take off the outer body of a sports utility vehicle and examine the chassis, it looks like a truck and it drives like a truck.

I urge my colleagues to insist that Treasury call it a truck by voting for H.R. 4318.

Mr. ASPIN. Mr. Chairman, I rise today in support of H.R. 4318, the Miscellaneous Tariff Act. When the U.S. Customs agency adopted the new Harmonized Tariff Schedule on January 1, 1989, it attempted to close a very troublesome loophole in the old U.S. tariff system, a loophole which allowed importers to enter multipurpose vehicles—jeeps, minivans and sports utility vehicles—as cars or trucks. Multipurpose vehicles are considered trucks by the auto industry and trucks by all U.S. Government agencies for the purpose of complying with U.S. emissions, fuel economy, gas guzzler, luxury tax and other regulations. In 1989, after an exhaustive year-long investigation, the U.S. Customs Service also determined that all multipurpose vehicles should be classified as trucks.

What's the big deal you ask? Until the 1989 Customs decision foreign multipurpose vehicles [MPV's] could enter the country at a considerably lower tariff rate than was appropriate. A difference of 22.5 percent to be precise. The U.S. Customs Service then acted and acted very appropriately I think. After completing a year long investigation, it determined that all multipurpose vehicles entering the United States should be classified as trucks and subject to a 25 percent tariff rate. Then, to the dismay of all, the U.S. Treasury reversed these findings and determined that all four-door multipurpose vehicles would be defined as cars and enter the U.S. market with foreign manufacturers paying only a 2.5 percent tariff rate.

The Congressional Budget Office estimates this reclassification could cost the U.S. Treasury over $1 billion in lost revenues.

Our colleagues on the House Ways and Means Committee recently received a letter from U.S. Customs Commissioner von Raab. I would like to share a piece of this letter with you. Commissioner von Raab writes:

On January 4, 1989, following a year long investigation, Customs rules that sport utility vehicles and most small vans would be classified under tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under United States law, the Customs Service has the responsibility for all such determination or rulings concerning the appropriate classification of products upon import to the United States. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two-door MPV's would be classified as trucks and that most four-door MPV's would be classified as passenger cars, a decision that defies logic.

A decision that defies logic, I agree. In my home State of Wisconsin several thousand people are employed manufacturing either MPV's or components for MPV's. In Janesville, WI, alone there are over 5,000 employees building Suburbans and Blazers. In Kenosha, WI, we have a plant that provides over 1,000 jobs to people who make engines for the Jeep Cherokee. Competition in the MPV industry is fierce. Let's level the playing field for our domestic producers. I urge you to vote "yes" on H.R. 4318 and save American jobs.

Mr. KOPETSKI. Mr. Chairman, I rise to associate myself with the remarks of the gentleman from Florida [Mr. GIBBONS], the chairman of the Ways and Means Trade Subcommittee. This is an antijob bill for my State of Oregon and I ask permission to revise and extend.

Mr. Chairman, I oppose H.R. 4318. This legislation is antijob for my congressional district and all of Oregon. I concede this legislation is good for Chrysler workers in Canada producing Caravans but for my State it is a disastrous piece of legislation. Additionally, passage of H.R. 4318 will surely cause the Japanese to take retaliatory measures. This threatens the economic health of my State in numerous industries, particularly within my congressional district.

Mr. Chairman, the Port of Portland in 1991 served as the port of entry for almost 290,000 vehicles. Each vehicle imported through Oregon has a $358 economic effect in Oregon. From the pilot who brings the ship into port, to the Longshoreman and customs broker who process and handle the vehicles, to the Teamster who trucks the vehicles across this country, and finally to the rail worker who ships these vehicles to 30 States.

This legislation will inhibit American attempts to penetrate the Japanese market. United States exports to Japan have increased by 50 percent in the last years. Passage of this legislation will threaten to erase the gains U.S. trade negotiators have made in the past and are currently negotiating. Oregon exports over $2 billion annually to Japan. It is estimated that over 100,000 Oregonians are employed in trade dependent jobs. This legislation threatens important Oregon exports to Japan like lumber and wood products, agriculture and food products, computers and industrial machinery, paper products, primary metals and numerous other products.

This legislation is anticonsumer. If this tariff is imposed, imported minivans and sport utility vehicles will increase in price by $4,000; essentially taking these vehicles out of the marketplace. Detroit already controls 90 percent of this market and this legislation will give them a monopoly with freedom to raise prices at will. According to the Brookings Institution, import quotas in the eighties, which is what this really is, increased the price of United States-made cars by $1,200 and Japanese imports by $1,700. This cost American consumers about $17 billion during the eighties.

Mr. Chairman, I oppose this legislation because it is anti-Oregon and anticonsumer. I urge all of my colleagues to join me in opposing this protectionist measure.

The CHAIRMAN. All time has expired. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 532, is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of substitute, as modified, is as follows:

H.R. 4318

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Tariff Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Reference.

TITLE I—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Subtitle A—New Duty Suspensions and Temporary Reductions

Sec. 1001. Pectin.
Sec. 1002A. High-purity luminescent grade zinc sulfide.
Sec. 1002B. Sodium formaldehyde sulfoxylate.
Sec. 1003. 1,2,4,5-Tetramethylbenzene (durene).
Sec. 1004A. 1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane.
Sec. 1004B. Tetrabromocyclooctane.
Sec. 1005. 2-Nitrobenzenesulfonyl chloride.
Sec. 1006. Fuel grade tertiary-butyl alcohol.
Sec. 1007. PCMX.
Sec. 1008. R Salt.
Sec. 1009. Chromotropic acid.
Sec. 1010. 4-Hydroxy-1-naphthalenesulfonic acid, monopotassium salt.
Sec. 1011. 1,1-Bis(1-methylethoxy)cyclohexane.
Sec. 1013. 1-(2-naphthalenyl)ethanone.
Sec. 1014. Chloranil.
Sec. 1015. Anthraquinonedisulfonic acid, sodium salt.
Sec. 1016. 4-(3,4-Dichlorophenyl)-1-tetralone.
Sec. 1017. Dicyclopentenyloxyethyl methacrylate.
Sec. 1018. m-Chloroperoxybenzoic acid.
Sec. 1019. Flurbiprofen.
Sec. 1020. Dimethylsuccinyl succinate.
Sec. 1021. Malonic acid.
Sec. 1022. 4,4'-(Hexafluoroisopropylidene)-bis(phthalic anhydride).
Sec. 1023. Mandelic acid.
Sec. 1024. Keto ester.
Sec. 1025. Benzenepropanoic acid, 2-chloro-4,5-difluoro-β-oxo, ethyl ester.
Sec. 1026. Oxalacetic acid diethyl ester sodium salt.
Sec. 1027. 4,4,4-Trifluoro-3-oxobutanoic acid, ethyl ester and 4,4,4-trifluoro-3-oxobutanoic acid, methyl ester.
Sec. 1028. 1-Hydroxy-6-docosyloxy-2-naphthalenecarboxylic acid.
Sec. 1029. 1-Hydroxy-6-octadecyloxy-2-naphthalenecarboxylic acid.
Sec. 1030. 2-Chloro-N,N-dimethylethylamine hydrochloride, 2-(diethylamino)-ethyl chloride hydrochloride, and dimethylaminoisopropyl chloride hydrochloride.
Sec. 1031. Orthanilic acid.
Sec. 1032. 2,5-Dichloroaniline.
Sec. 1033. 2,4,5-Trichloroaniline.
Sec. 1034. o-Nitroaniline-p-sulfonic acid, sodium salt.
Sec. 1035. 2,4-Dinitroaniline.
Sec. 1036. 2,5-Dichloroaniline-4-sulfonic acid and its monosodium salt.
Sec. 1037. 2,6-Dichloro-4-nitroaniline.
Sec. 1038. C-Amine.
Sec. 1039. m-Nitro-p-toluidine.
Sec. 1040. N-Nitrosodiphenylamine.

Sec. 1042. 1-Amino-2-napthalenesulfonic acid.
Sec. 1043. 2-Amino-1-naphthalenesulfonic acid.
Sec. 1044. 2,6-Xylidine.
Sec. 1045. 2-Amino-5-chloro-4-ethylbenzenesulfonic acid.
Sec. 1046. Toluene-2,4-diamine.
Sec. 1047. 4,4'-Methylenebis-(2,6-diethylaniline).
Sec. 1048. 4,4'-Benzidine-2,2'-disulfonic acid.
Sec. 1049. Ethambutol hydrochloride.
Sec. 1050. 2,4-Dimethoxyaniline.
Sec. 1051. 2,2-Bis[4-(4-aminophenoxy)phenyl]propane.
Sec. 1052. 2-Amino-5-chlorobenzophenone.
Sec. 1053. 3-Aminocrotonic acid, methyl ester.
Sec. 1054. Fluometuron.
Sec. 1055. p-Acetanisidide.
Sec. 1056. 4'-Amino-N-methylacetanilide.
Sec. 1057A. Naphthol ASBS.
Sec. 1057B. N-[[(4-Chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide.
Sec. 1058. N,N'-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide).
Sec. 1059. N,N-Dimethyl-N'-[3-[[(methylamino) carbonyl]oxy]phenyl]methanimidamide monohydrochloride.
Sec. 1060. Formetanate A-HCl.
Sec. 1061. Tetramethylguanidine.
Sec. 1062. 2-Cyano-4-nitroaniline.
Sec. 1063. p-Aminoazobenzenedisulfonic acid.
Sec. 1064. p-Aminoazobenzenedisulfonic acid, monosodium salt.
Sec. 1065. p-Aminoazobenzenedisulfonic acid, disodium salt.
Sec. 1067. p-Aminoazobenzene.
Sec. 1068. p-Aminoazobenzene hydrochloride.
Sec. 1069. Phenylhydrazine.
Sec. 1070. 1,3-Phenylenebis(1-methylethylidenebis)cyanic acid, 1,4-phenylene ester.
Sec. 1071. 1-Isocyanato-3-(trifluoromethyl)benzene.
Sec. 1073. Tetramethylthiuram monosulfide.
Sec. 1074. Diphenylthiourea.
Sec. 1075. Pentachlorothiophenol.
Sec. 1076. N,N'-(Dithiodi-2,1-phenylene)bisbenzamide.
Sec. 1077. 2,2-Dinitrodiphenyl disulfide.
Sec. 1078. Dibutylthiourea.
Sec. 1079. 2-Phosphonobutane-1,2,4-tricarboxylic acid and sodium salts.
Sec. 1080. Phospholan mixed with ethylene glycol.
Sec. 1081. Piperonyl butoxide (PBO).
Sec. 1082. Calcium lactobionate.
Sec. 1083. 2-Chloro-5-sulfophenylmethylpyrazolone.
Sec. 1084. p-Sulfophenylmethylpyrazolone.
Sec. 1085. Ethylene thiourea.
Sec. 1086. 2-Methyl-5-ethylpyridine.
Sec. 1088. Piperidinoethyl chloride hydrochloride.
Sec. 1090. Pyrmethyl alcohol.
Sec. 1093. Halofuginone hydrobromide.
Sec. 1094A. 2-Amino-4-chloro-6-methoxypyrimidine and 2-amino-4,6-dimeth-oxypyrimidine.
Sec. 1094B. Methenamine hippurate.
Sec. 1095. 12-aminododecanoic acid lactam.
Sec. 1096. Acetoxy azetidinone.
Sec. 1097. Finasteride.
Sec. 1098A. Myclobutanil.
Sec. 1098B. Lisinopril.
Sec. 1099. Fenbendazole.
Sec. 1101. Carbazole.
Sec. 1102. A-I coupler.
Sec. 1103. Metmercazole.
Sec. 1104. Hexamethylenimine.
Sec. 1105. 2-Aminothiazole.
Sec. 1106. 4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one.
Sec. 1107. 2-Methyl-4-isothiazolin-3-one.
Sec. 1108. 2-Amino-6-nitrobenzothiazole.
Sec. 1109. 2-Amino-5,6-dichlorobenzothiazole.
Sec. 1110. Ethyl [10H-phenothiazin-2-yl]carbamate.
Sec. 1111A. Fenoxaprop-ethyl.
Sec. 1111B. Ofloxacin.
Sec. 1112. 2-Acetylbenzo(b)thiophene.
Sec. 1113. Diazo-2,1,4-sulfonic acid and its salts.
Sec. 1114. Morpholinoethyl chloride hydrochloride.
Sec. 1116. TAC.
Sec. 1117. Chlorthalidone.
Sec. 1118. Famotidine.
Sec. 1119. 7-(Hexadecylsulfonylamino)-1H-indole.
Sec. 1120. Physostigmine salicylate (Eserine salicylate).
Sec. 1121. Pilocarpine hydrochloride.
Sec. 1122. Lobeline sulfate.
Sec. 1123. D-Arabinose.
Sec. 1124. Tazobactam.
Sec. 1125. Oxytetracycline dihydrate.
Sec. 1126. UV-1084 light stabilizer.
Sec. 1127. 1,4,5,6-Tetrahydro-1-methyl-2-[2-(2-thienyl)ethenyl]pyrimidine tartrate.
Sec. 1128. Vigabatrin and clobazam.
Sec. 1129. Fustic liquid mixture.
Sec. 1130. Resolin red F3BS components I and II.
Sec. 1131. Acid violet 19.
Sec. 1132. Vat red 1 dye.
Sec. 1133A. Pigment yellow 101.
Sec. 1133B. Solvent yellow 172.
Sec. 1134. Solvent yellow 43.
Sec. 1135. Solvent yellow 44 or 85.
Sec. 1136. Benzoxazol.
Sec. 1137. Diflubenzuron.
Sec. 1138. 2-Methyl-4-isothiazolin-3-one with inerts.
Sec. 1139. 4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one with inerts.
Sec. 1140. Certain carbodiimide masterbatches.
Sec. 1141. Certain coposite diagnostic or laboratory reagents.
Sec. 1142. Certain thermosetting polyimide resins.
Sec. 1143. Chlorinated synthetic rubber.
Sec. 1144A. Sodium carboxymethylcellulose, technical grade.
Sec. 1144B. Baseball and softball gloves and mitts.
Sec. 1144C. Leather baseball and softball gloves and mitts.
Sec. 1145. Photographic paper.
Sec. 1146. Vinyon.
Sec. 1147. Certain twine.
Sec. 1148. Man-made fiber felt fabric for technical purposes.
Sec. 1149. Water-resistant wool men's and boys' trousers.
Sec. 1150. Water-resistant wool women's and girls' trousers.
Sec. 1151. Brassieres.
Sec. 1152A. Ceramic statues, statuettes, and hand-made flowers.
Sec. 1152B. Other ornamental articles of porcelain.
Sec. 1152C. Ceramic ferrules and sleeves.
Sec. 1153. Certain sheet glass.
Sec. 1154A. Imitation jewelry of plastics.
Sec. 1154B. Machinery for use in the manufacture of video laser discs.
Sec. 1155. Spring-beard needles.
Sec. 1156. Sewing machine needles.
Sec. 1157. Digital processing units for automatic data processing machines.
Sec. 1158. Radio-tape player combinations.
Sec. 1160. Certain lightweight bicycles.
Sec. 1161A. Mounted closed circuit television lenses.
Sec. 1161B. Fixed focus instant print cameras.
Sec. 1161C. Instant print cameras, other than fixed focus, over $10.
Sec. 1162. Unstuffed dolls, doll parts, and accessories.
Sec. 1163. Personal effects and other articles of participants and other individuals associated with the XXVI Summer Olympiad.

Subtitle B—Existing Temporary Duty Suspensions

Sec. 1201. Extension of certain suspensions and reductions of duty.
Sec. 1202. Extension of, and other modifications to, certain suspensions of duty.

TITLE II—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

Subtitle A—Tariff Classification and Other Technical Amendments

Sec. 2001. Pectin.
Sec. 2002. Certain motor fuel and motor fuel blending stock.
Sec. 2003. Linear alkylbenzenesulfonates.
Sec. 2004. Iron and steel pipes and tubes.
Sec. 2005. Imitation jewelry of plastics.
Sec. 2006. Reliquidation of certain petroleum products.

Subtitle B—Miscellaneous Provisions

Sec. 2101. Certain menthol feedstocks.
Sec. 2103. Wage certificates issued to certain producers of watches and watch movements.
Sec. 2104. Increase in duty-free tourist allowances.
Sec. 2105. Certain sweaters assembled in Guam.
Sec. 2106. Certain entries of N-acetylsufanilyl chloride.
Sec. 2107. Certain lead fuel test assemblies.
Sec. 2108. Duty exemptions for certain foreign repairs made to United States vessels.
Sec. 2109. Metallized or foil balloons of Mexican origin.
Sec. 2110. Certain entries.
Sec. 2111. Reissuance of production incentive certificate.
Sec. 2112. Liquidation and reliquidation of entries of certain paper products.
Sec. 2113. Exemption of semiconductors from country of origin marking requirements.
Sec. 2114. Renewal of existing customs exemption applicable to bicycle parts in foreign trade zones.
Sec. 2115. Certain entries.
Sec. 2116. Certain entries.
Sec. 2117. Customs treatment of certain fabric.
Sec. 2118. Reliquidating entries of industrial fasteners.
Sec. 2119. Reexportation of communications satellite articles.
Sec. 2120. Reliquidating entries of tubular tin.
Sec. 2121A. Reliquidating entries of rock wool manufacturing equipment.
Sec. 2121B. Tariff classification of light trucks.
Sec. 2122A. Effective dates.
Sec. 2122B. Definitions.
Sec. 2123. Cost estimate.

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States.

TITLE I—TEMPORARY SUSPENSIONS AND REDUCTIONS IN DUTIES

Subtitle A—New Duty Suspensions and Temporary Reductions

SEC. 1001. PECTIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.02	Pectin (provided for in subheading 1302.20.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1002A. HIGH-PURITY LUMINESCENT GRADE ZINC SULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.28.30	Luminescent grade zinc sulfide having a purity of at least 99.999% pure (provided for in subheading 2830.20.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1002B. SODIUM FORMALDEHYDE SULFOXYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.28.31	Sodium formaldehyde sulfoxylate (CAS No. 149-44-0) (provided for in subheading 2831.10.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1003. 1,2,4,5-TETRAMETHYLBENZENE (DURENE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.12	1,2,4,5-Tetramethylbenzene (durene) (provided for in subheading 2902.90.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1004A. 1,2-DIBROMO-4-(1,2-DIBROMOETHYL)CYCLO-HEXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.13	1,2-Dibromo-4-(1,2-dibromoethyl)- cyclohexane (CAS No. 3322-93-8) (provided for in subheading 2903.59.05)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1004B. TETRABROMOCYCLOOCTANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.14	Tetrabromo-cyclooctane (CAS No. 3194-57-8) (provided for in subheading 2903.59.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1005. 2-NITROBENZENESULFONYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.15	2-Nitrobenzene-sulfonyl chloride (CAS No. 1694-92-4) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1006. FUEL GRADE TERTIARY-BUTYL ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.16	tert-Butyl alcohol (CAS No. 75-65-0) (provided for in subheading 2905.14.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1007. PCMX.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.17	4-Chloro-3,5-dimethylphenol (CAS No. 88-04-0) (provided for in subheading 2908.10.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1008. R SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.18	2-Naphthol-3,6-disulfonic acid (CAS No. 148-75-4) and its salts (provided for in subheading 2908.20.04)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1009. CHROMOTROPIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.19	1,8-Dihydroxy-naphthalene-3,6-disulfonic acid (Chromotropic acid) (CAS No. 148-25-4) (provided for in subheading 2908.20.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1010. 4-HYDROXY-1-NAPHTHALENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.20	4-Hydroxy-1-naphthalene-sulfonic acid, monopotassium salt (CAS No. 37860-62-1) (provided for in subheading 2908.20.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1011. 1,1-BIS(1-METHYLETHOXY)CYCLOHEXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.21	1,1-Bis(1-methylethoxy)- cyclohexane (CAS No. 1132-95-2) (provided for in subheading 2911.00.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1013. 1-(2-NAPHTHALENYL)ETHANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.22	1-(2-Naphthalenyl) ethanone (CAS No. 93-08-3) (provided for in subheading 2914.30.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1014. CHLORANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.23	2,3,5,6-Tetrachloro-1,4-benzoquinone (CAS No. 118-75-2) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1015. ANTHRAQUINONEDISULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.24	Anthraquinone-disulfonic acid, sodium salt (CAS No. 60553-45-9) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1016. 4-(3,4-DICHLOROPHENYL)-1-TETRALONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.25	4-(3,4-Dichlorophenyl)-1-tetralone (CAS No. 79560-19-3) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1017. DICYCLOPENTENYLOXYETHYL METHACRYLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.26	Dicyclopentenyloxyethyl methacrylate (CAS No. 68586-19-6) (provided for in subheading 2916.14.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1018. M-CHLOROPEROXYBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.27	m-Chloroperoxy-benzoic acid (CAS No. 937-14-4) (provided for in subheading 2916.39.04)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1019. FLURBIPROFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.28	2-(2-Fluoro-4-biphenylyl)propionic acid (Flurbiprofen) (provided for in subheading 2916.39.40)	6.8%	No change	No change	On or before 12/31/96 ".

SEC. 1020. DIMETHYLSUCCINYL SUCCINATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.29	Dimethyl succinyl succinate (provided for in subheading 2917.19.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1021. MALONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.30	Malonic acid (CAS No. 141-82-2) (provided for in subheading 2917.19.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1022. 4,4'-(HEXAFLUOROISOPROPYLIDENE)BIS(PHTHA-LIC ANHYDRIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.31	4,4'-(Hexafluoro-isopropylidene)-bis(phthalic anhydride) (provided for in subheading 2917.39.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1023. MANDELIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.32	Mandelic acid (CAS Nos. 90-64-2 and 611-71-2) (provided for in subheading 2918.17.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1024. KETO ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.33	Ethyl 2-keto-4-phenylbutanoate (CAS No. 64920-29-2) (provided for in subheading 2918.30.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1025. BENZENEPROPANOIC ACID, 2-CHLORO-4,5-DIFLUORO-β-OXO, ETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.34	Benzenepropanoic acid, 2-chloro-4,5-difluoro-β-oxo, ethyl ester (provided for in subheading 2918.30.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1026. OXALACETIC ACID DIETHYL ESTER SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.35	Oxalacetic acid, diethyl ester, sodium salt (CAS No. 40876-98-0) (provided for in subheading 2918.30.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1027. 4,4,4-TRIFLUORO-3-OXOBUTANOIC ACID, ETHYL ESTER AND 4,4,4-TRIFLUORO-3-OXOBUTANOIC ACID, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.36	4,4,4-Trifluoro-3-ozobutanoic acid, ethyl ester (CAS No. 372-31-6), and 4,4,4-trifluoro-3-ozobutanoic acid, methyl ester (CAS No. 83643-84-9) (provided for in subheading 2918.30.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1028. 1-HYDROXY-6-DOCOSYLOXY-2-NAPHTHALENECARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.37	1-Hydroxy-6-docosyloxy-2-naphthalenecarboxylic acid (provided for in subheading 2918.90.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1029. 1-HYDROXY-6-OCTADECYLOXY-2-NAPHTHALENECARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.38	1-Hydroxy-6-octadecyloxy-2-naphthalenecarboxylic acid (CAS No. 38134-94-0) (provided for in subheading 2918.90.45)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1030. 2-CHLORO-N,N-DIMETHYLETHYLAMINE HYDROCHLORIDE, 2-(DIETHYLAMINO)ETHYL CHLORIDE HYDROCHLORIDE, AND DIMETHYLAMINOISOPROPYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.39	2-Chloro-N,N-dimethylethylamine hydrochloride (CAS No. 4584-46-7); 2-(Diethylamino) ethyl chloride hydrochloride (CAS No. 869-24-9); and Dimethylaminoisopropyl chloride hydrochloride (CAS No. 4584-49-0) (provided for in subheading 2921.19.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1031. ORTHANILIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.40	o-Aminobenzene-sulfonic acid (CAS No. 88-21-1) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1032. 2,5-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.41	2,5-Dichloroaniline (CAS No. 95-82-9) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1033. 2,4,5-TRICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.42	2,4,5-Trichloroaniline (CAS No. 636-30-6) (provided for in subheading 2921.42.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1034. O-NITROANILINE-P-SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.43	o-Nitroaniline-p-sulfonic acid, sodium salt (CAS No. 5042-33-1) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1035. 2,4-DINITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.44	2,4-Dinitroaniline (CAS No. 97-02-9) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1036. 2,5-DICHLOROANILINE-4-SULFONIC ACID AND ITS MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.45	2,5-Dichloroaniline-4-sulfonic acid and its monosodium salt (CAS Nos. 88-50-6 and 41295-98-1) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1037. 2,6-DICHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.46	2,6-Dichloro-4-nitroaniline (CAS No. 99-30-9) (provided for in subheading 2921.42.75)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1038. C-AMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.47	2-Amino-5-chloro-p-toluenesulfonic acid (CAS No. 88-53-9) (provided for in subheading 2921.43.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1039. M-NITRO-P-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.48	m-Nitro-p-toluidine (CAS No. 89-62-3) (provided for in subheading 2921.43.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1040. N-NITROSODIPHENYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.49	N-Nitrosodiphenylamine (CAS No. 86-30-6) (provided for in subheading 2921.44.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1042. 1-AMINO-2-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.50	1-Amino-2-naphthalenesulfonic acid (CAS No. 81-06-1) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1043. 2-AMINO-1-NAPHTHALENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.51	2-Amino-1-naphthalenesulfonic acid (CAS No. 81-16-3) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1044. 2,6-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.52	2,6-Xylidine (CAS No. 87-62-7) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1045. 2-AMINO-5-CHLORO-4-ETHYLBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.53	2-Amino-5-chloro-4-ethylbenzenesulfonic acid (CAS No. 88-56-2) (provided for in subheading 2921.49.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1046. TOLUENE-2,4-DIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.54	Toluene-2,4-diamine (CAS No. 95-80-7) (provided for in subheading 2921.51.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1047. 4,4'-METHYLENEBIS-(2,6-DIETHYLANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.55	4,4'-Methylenebis-(2,6-diethylaniline) (CAS No. 13680-35-8) (provided for in subheading 2921.51.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1048. 4,4'-BENZIDINE-2,2'-DISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.56	4,4'-Benzidine-2,2'-disulfonic acid (CAS No. 117-61-3) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1049. ETHAMBUTOL HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.57	Ethambutol hydrochloride (CAS No. 1070-11-7) (provided for in subheading 2922.19.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1050. 2,4-DIMETHOXYANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.58	2,4-Dimethoxy-aniline (CAS No. 2735-04-8) (provided for in subheading 2922.29.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1051. 2,2-BIS-[4-(4-AMINOPHENOXY)PHENYL]PROPANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.59	2,2-Bis-[4-(4-aminophenoxy)phenyl]-propane (CAS No. 13080-86-9) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1052. 2-AMINO-5-CHLOROBENZOPHENONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.60	2-Amino-5-chlorobenzophenone (CAS No. 719-59-5) (provided for in subheading 2922.30.35)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1053. 3-AMINOCROTONIC ACID, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.61	3-Aminocrotonic acid, methyl ester (CAS No. 14205-39-1) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1054. FLUOMETURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.62	1,1-Dimethyl-3-(α,α,α-trifluoro-m-tolyl)urea (Fluometuron) (CAS No. 2164-17-2) (provided for in subheading 2924.21.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1055. P-ACETANISIDIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.63	p-Acetanisidide (CAS No. 51-66-1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1056. 4'-AMINO-N-METHYLACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.64	4'-Amino-N-methylacetanilide (CAS No. 119-63-1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1057A. NAPHTHOL ASBS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.65	3-Hydroxy-3'-nitro-2-naphthoic anilide (CAS No. 135-65-9) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1057B. N-[[(4-CHLOROPHENYL)AMINO]CARBONYL]-2,6-DIFLUOROBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.66	N-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide (Diflubenzuron) (provided for in subheading 2924.29.19.)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1058. N,N'-ETHYLENEBIS(5,6-DIBROMO-2,3-NORBORNANEDICARBOXIMIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.67	N,N'-Ethylenebis(5,6-dibromo-2,3-norbornanedicarboximide) (CAS Nos. 52907-07-0 and 41291-34-3) (provided for in subheading 2925.19.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1059. N,N-DIMETHYL-N'-[3-[[(METHYLAMINO) CARBONYL]OXY]PHENYL] METHANIMIDAMIDE MONOHYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.68	N,N-Dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl] methanimidamide monohydrochloride (CAS No. 23422-53-9) (provided for in subheading 2925.20.40) ...	Free	No change	No change	On or before 12/31/96 ".

SEC. 1060. FORMETANATE A-HCL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.69	3-Dimethylaminomethyleneiminophenol hydrochloride (provided for in subheading 2925.20.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1061. TETRAMETHYLGUANIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.70	Tetramethyl-guanidine (CAS No. 80-70-6) (provided for in subheading 2925.20.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1062. 2-CYANO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.71	2-Cyano-4-nitroaniline (CAS No. 17420-30-3) (provided for in subheading 2926.90.04)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1063. P-AMINOAZOBENZENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.72	p-Aminoazobenzenedisulfonic acid (CAS No. 101-50-8) (provided for in subheading 2927.00.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1064. P-AMINOAZOBENZENEDISULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.73	p-Aminoazobenzenedisulfonic acid, monosodium salt (CAS No. 61950-37-6 or 74543-21-8) (provided for in subheading 2927.00.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1065. P-AMINOAZOBENZENEDISULFONIC ACID, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.74	p-Aminoazobenzenedisulfonic acid, disodium salt (CAS No. 2706-28-7) (provided for in subheading 2927.00.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1067. P-AMINOAZOBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.76	p-Aminoazo-benzene (CAS No. 60-09-3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1068. P-AMINOAZOBENZENE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.77	p-Aminoazo-benzene hydrochloride (CAS No. 3457-98-5) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1069. PHENYLHYDRAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.78	Phenylhydrazine (CAS No. 100-63-0) (provided for in subheading 2928.00.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1070. 1,3-PHENYLENEBIS(1-METHYLETHYLIDENEBIS)CYANIC ACID 1,4-PHENYLENE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.79	1,3-Phenylenebis(1-methylethylidenebis)cyanic acid, 1,4-phenylene ester (CAS No. 127667-44-1) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1071. 1-ISOCYANATO-3-(TRIFLUOROMETHYL)BENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.80	1-Isocyanato-3-(trifluoromethyl)benzene (CAS No. 329-01-1) (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1073. TETRAMETHYLTHIURAM MONOSULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.81	Tetramethylthiuram monosulfide (CAS No. 97-74-5) (provided for in subheading 2930.30.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1074. DIPHENYLTHIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.82	Diphenylthiourea (CAS No. 102-08-9) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1075. PENTACHLOROTHIOPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.83	Pentachlorothio-phenol (CAS No. 113-49-3) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1076. N,N'-(DITHIODI-2,1-PHENYLENE) BISBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.84	N,N'-(Dithiodi-2,1-phenylene)bis-benzamide (CAS No. 135-57-9) (provided for in subheading 2930.90.28)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1077. 2,2-DINITRODIPHENYL DISULFIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.85	2,2-Dinitrodiphenyl disulfide (CAS No. 1155-00-6) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1078. DIBUTYLTHIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.86	Dibutylthiourea (CAS No. 109-46-6) (provided for in subheading 2930.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1079. 2-PHOSPHONOBUTANE-1,2,4-TRICARBOXYLIC ACID AND SODIUM SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.87	2-Phosphonobutane-1,2,4-tricarboxylic acid (CAS No. 37971-36-1) and sodium salts (CAS Nos. 40372-66-5, 62682-12-6, 66669-53- 2, and 67170-90-5) (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1080. PHOSPHOLAN MIXED WITH ETHYLENE GLYCOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.88	3-(Hydroxymethylphosphinyl)-1-propanoic acid, 2-hydroxyethyl ester (CAS No. 68334-62-3) (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1081. PIPERONYL BUTOXIDE (PBO).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.89	Piperonyl butoxide (PBO) (CAS No. 51-03-6) provided for in subheading 2932.90.41)	6.3%	No change	No change	On or before 12/31/96 ".

SEC. 1082. CALCIUM LACTOBIONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.90	Calcium lactobionate (CAS No. 5001-51-4) (provided for in subheading 2932.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1083. 2-CHLORO-5-SULFOPHENYLMETHYLPYRAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.91	2-Chloro-5-sulfophenylmethylpyrazolone (CAS No. 88-76-6) (provided for in subheading 2933.19.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1084. P-SULFOPHENYLMETHYLPYRAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.92	p-Sulfo-phenylmethylpyrazolone (CAS No. 89-36-1) (provided for in subheading 2933.19.42)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1085. ETHYLENE THIOUREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.93	Ethylene thiourea (CAS No. 96-45-7) (provided for in subheading 2933.29.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1086. 2-METHYL-5-ETHYLPYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.94	2-Methyl-5-ethylpyridine (CAS No. 104-90-5) (provided for in subheading 2933.39.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1088. PIPERIDINOETHYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.95	Piperidinoethyl chloride hydrochloride (CAS No. 2008-75-5) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1090. PYRMETHYL ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.96	3,5-Dimethyl-2-hydroxymethyl-4-methoxypyridine (CAS No. 86604-78-6) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1093. HALOFUGINONE HYDROBROMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.97	Halofuginone hydrobromide (CAS No. 64924-67-0) (provided for in subheading 2933.59.36)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1094A. 2-AMINO-4-CHLORO-6-METHOXYPYRIMIDINE AND 2-AMINO-4,6-DIMETHOXYPYRIMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.98	2-Amino-4-chloro-6-methoxypyrimidine (CAS No. 5734-64-5); and 2-Amino-4,6-dimethoxypyrimidine (CAS No. 36315-01-2) (provided for in subheading 2933.59.90)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1094B. METHENAMINE HIPPURATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.99	Methenamine hippurate (provided for in subheading 2933.90.46)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1095. 12-AMINODODECANOIC ACID LACTAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.00	12-Amino-dodecanoic acid lactam (CAS No. 947-04-6) (provided for in subheading 2933.79.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1096. ACETOXY AZETIDINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.01	[3R-[3α(R*), 4β]]-4-(Acetyloxy)-3-[1-[[(1,1-dimethylethyl)dimethylsilyl]oxy]ethyl]-2-azetidinone (CAS No. 76855-69-1) (provided for in subheading 2933.79.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1097. FINASTERIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.02	(5α,17β)-(1,1-Dimethylethyl)-3-ozo-4-azaandrost-1-ene-17-carboxamide (Finasteride) (CAS No. 98319-26-7) (provided for in subheading 2933.79.50 or 3004.90.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1098A. MYCLOBUTANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.03	α-Butyl-α-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (Myclobutanil) (CAS No. 88671-89-0) (provided for in subheading 2933.90.20)	11.1%	No change	No change	On or before 12/31/96 ".

SEC. 1098B. LISINOPRIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.05	Lisinopril (provided for in subheading 2933.90.53)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1099. FENBENDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.11	Methyl 5-(phenylthio)-2-benzimidazolecarbamate (Fenbendazole) (CAS No. 43210-67-9) (provided for in subheading 2933.90.75)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1101. CARBAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.12	Carbazole (CAS No. 86-74-8) (provided for in subheading 2933.90.80)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1102. A-I COUPLER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.13	Acetoacetyl-5-aminobenzimidazolone (CAS No. 26576-46-5) (provided for in subheading 2933.90.80)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1103. METMERCAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.14	2-Mercapto-5-methoxybenzimidazole (CAS No. 37052-78-1) (provided for in subheading 2933.90.80)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1104. HEXAMETHYLENIMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.15	Hexamethyl-enimine (CAS No. 111-49-9) (provided for in subheading 2933.90.95)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1105. 2-AMINOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.16	2-Aminothiazole (CAS No. 96-50-4) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1106. 4,5-DICHLORO-2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.17	4,5-Dichloro-2-n-octyl-4-isothiazolin-3-one (CAS No. 64359-81-5) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1107. 2-METHYL-4-ISOTHIAZOLIN-3-ONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.18	2-Methyl-4-isothiazolin-3-one (CAS No. 2682-20-4) (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1108. 2-AMINO-6-NITROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.19	2-Amino-6-nitrobenzothiazole (CAS No. 6285-57-0) (provided for in subheading 2934.20.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1109. 2-AMINO-5,6-DICHLOROBENZOTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.20	2-Amino-5,6-dichlorobenzothiazole (CAS No. 24072-75-1) (provided for in subheading 2934.20.60)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1110. ETHYL [10H-PHENOTHIAZIN-2-YL] CARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.21	Ethyl [10H-phenothiazin-2-yl] carbamate (CAS No. 37711-29-8) (provided for in subheading 2934.30.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1111A. FENOXAPROPETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.22	Ethyl 2-[4-[(6-chloro-2-benzoxazolyl) oxy]phenoxy] propanoate (Fenoxapropethyl) (provided for in subheading 2934.90.14)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1111B. OFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.23	Ofloxacin (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1112. 2-ACETYLBENZO(B)THIOPHENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.24	2-Acetylbenzo(b)thiophene (CAS No. 22720-75-8) (provided for in subheading 2934.90.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1113. DIAZO-2,1,4-SULFONIC ACID AND ITS SALTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.25	Naphth[2,1-d]-1,2,3-oxadiazole-5-sulfonic acid and its sodium salt (provided for in subheading 2934.90.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1114. MORPHOLINOETHYL CHLORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.26	Morpholinoethyl chloride hydrochloride (CAS No. 3647-69-6) (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1116. TAC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.28	2-Thiopheneacetyl chloride (CAS No. 39098-97-0) (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1117. CHLORTHALIDONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.29	Chlorthalidone (CAS No. 77-36-1) (provided for in subheading 2935.00.57)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1118. FAMOTIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.31	Famotidine (provided for in subheading 2935.00.57)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1119. 7-(HEXADECYLSULFONYLAMINO)-1H-INDOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.32	7-(Hexadecylsulfonylamino)-1H-indole (CAS No. 51501- 27-0) (provided for in subheading 2935.00.90)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1120. PHYSOSTIGMINE SALICYLATE (ESERINE SALICYLATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.33	Physostigmine salicylate (Eserine salicylate) (CAS No. 57-64-7) (provided for in subheading 2939.90.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1121. PILOCARPINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.34	Pilocarpine hydrochloride (provided for in subheading 2939.90.50)	1.8%	No change	No change	On or before 12/31/96 ".

SEC. 1122. LOBELINE SULFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.35	Lobeline sulfate (CAS No. 134-64-5) (provided for in subheading 2939.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1123. D-ARABINOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.36	D-Arabinose (CAS No. 10323-20-3) (provided for in subheading 2940.00.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1124. TAZOBACTAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.37	Tazobactam and its sodium salt, in bulk or put up in measured doses (CAS Nos. 89786–04–9 and 89785–84–2) (provided for in subheading 2941.10.50 or 3004.10.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1125. OXYTETRACYCLINE DIHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.38	Oxytetracycline dihydrate containing not less than 80 percent by weight of oxytetracycline (provided for in subheading 2941.30.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1126. UV-1084 LIGHT STABILIZER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.39	[2,2'-Thiobis[4-(1,1,3,3-tetramethyl-n-butyl)phenolato](2,1)]-0,0',s-(1-butanamine), nickel II (CAS No. 14516–71–3) (provided for in subheading 2942.00.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1127. 1,4,5,6-TETRAHYDRO-1-METHYL-2-[2-(2-THIENYL)ETHENYL]PYRIMIDINE TARTRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.40	1,4,5,6-Tetrahydro-1-methyl-2-[2-(2-thienyl)ethenyl]pyrimidine tartrate (Pyrantel tartrate) blended with sodium aluminosilicate (provided for in subheading 3003.90.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1128. VIGABATRIN AND CLOBAZAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.41	Vigabatrin and clobazam (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/94 ".

SEC. 1129. FUSTIC LIQUID MIXTURE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.42	Mixtures of 3,4-dihydroxyphenyl-2,4,6-trihydroxyphenylmethanone (CAS No. 480–16–0), and 2-(2,4-dihydroxyphenyl)-3,5,7-trihydroxy-4H-1-benzopyran-4-one (CAS No. 519–34–6) (provided for in subheading 3203.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1130. RESOLIN RED F3BS COMPONENTS I AND II.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.43	N-[2-[(2,6-dicyano-4-methylphenyl)-azo]-5-(diethylamino)-phenyl]methanesulfonamide and N-[2-[(2,6-dicyano-4-methylphenyl)-azo]-5-(di-l-propylamino)-phenyl]-methanesulfonamide (provided for in subheading 3204.11.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1131. ACID VIOLET 19.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.44	Acid violet 19 (CAS No. 3244–88–0) (provided for in subheading 3204.12.10 or 3707.90.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1132. VAT RED 1 DYE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.45	Vat red 1 dye (CAS No. 2379–74–0) (provided for in subheading 3204.15.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1133A. PIGMENT YELLOW 101.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.46	Pigment yellow 101 (provided for in subheading 3204.17.10)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1133B. SOLVENT YELLOW 172.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.47	Solvent yellow 172 (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1134. SOLVENT YELLOW 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.48	Solvent yellow 43 (CAS No. 19125–99–6) (provided for in subheading 3204.19.15)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1135. SOLVENT YELLOW 44 OR 85.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.49	Solvent yellow 44 or solvent yellow 85 (CAS No. 12271–01–1) (provided for in subheading 3204.19.19)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1136. BENZOXAZOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.32.50	Benzoxazol (provided for in subheading 3204.20.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1137. DIFLUBENZURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.13	Mixtures of N-[[(4-chlorophenyl)amino] carbonyl]-2,6-difluorobenzamide (Diflubenzuron) and inert substances (provided for in subheading 3808.10.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1138. 2-METHYL-4-ISOTHIAZOLIN-3-ONE WITH INERTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.15	Mixtures of 2-methyl-4-isothiazolin-3-one (CAS No. 2682-20-4) and application adjuvants, with or without stabilizers (provided for in subheading 3808.90.20 or 3808.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1139. 4,5-DICHLORO-2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE WITH INERTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.16	Mixtures of 4,5-dichloro-2-n-octyl-4-isothiazolin-3-one (CAS No. 64359- 81-5) and application adjuvants, with or without stabilizers (provided for in subheading 3808.90.20 or 3808.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1140. CERTAIN CARBODIIMIDE MASTERBATCHES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.17	Masterbatches of poly[nitrilomethanetetraarylnitrilo[2,4,6-tris-(1-methylethyl)-1,3-phenylene]],[2,6-bis(1-methylethyl)-phenyl]omega-[[[[2,6-bis(1-methylethyl)-phenyl]amino]-methylene]-amino] or 2,4-diisocyanate-1,3,5-tris(1-methylethyl)-benzene homopolymer with polyethylene, with polyethylene terephthalate, or with thermoplastic polyurethanes (provided for in subheading 3812.30.40, 3901.10.00, 3907.60.00, or 3909.50.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1141. CERTAIN COMPOSITE DIAGNOSTIC OR LABORATORY REAGENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.22	Composite diagnostic or laboratory reagents, comprising strips of plastics each incorporating on one side a pad of fibrous or porous material impregnated with chemical reagents for blood chemistry analysis and having, either on the reverse side or on an accompanying separate strip of plastics, a magnetic bar code containing machine-readable instructions designating the desired chemical analysis and calibrating the instrument performing such analysis (provided for in subheading 3822.00.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1142. CERTAIN THERMOSETTING POLYIMIDE RESINS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	1,1'-Bis(methylenedi-4,1-phenylene)-1H-pyrrole-2,5-dione, copolymer with 4,4'-methylenebis-(benzenamine) (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1143. CHLORINATED SYNTHETIC RUBBER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.13	Chlorinated synthetic polyisoprene, having a viscosity of 100 centipoise or more (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1144A. SODIUM CARBOXYMETHYLCELLULOSE, TECHNICAL GRADE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.15	Sodium carboxymethylcellulose, technical grade (65% to 85% pure) (provided for in subheading 3912.31.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1144B. BASEBALL AND SOFTBALL GLOVES AND MITTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.25	Baseball and softball gloves and mitts (provided for in subheading 3926.20.20)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1144C. LEATHER BASEBALL AND SOFTBALL GLOVES AND MITTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.42.03	Baseball and softball gloves and mitts (except batting gloves), specially designed for use in sports, of leather or of composition leather (provided for in subheading 4203.21.40)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1145. PHOTOGRAPHIC PAPER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.48.11	Base paper to be sensitized for use in photography, less than 0.3 mm in thickness (provided for in subheading 4811.31.40)	0.9%	No change	No change	On or before 12/31/96 ".

SEC. 1146. VINYON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.55.03	Synthetic staple fibers, not carded, combed or otherwise processed for spinning, containing 85% or more by weight of vinyl chloride and 14% or more by weight of vinyl acetate (provided for in subheading 5503.90.00)	Free	No change	No change	On or before 12/31/96 ".

SEC. 1147. CERTAIN TWINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.56.07	Twine, defined as a plied yarn made from medium twist single yarns with ply twist in the opposite direction, measuring less than 4.8 mm in diameter and composed of the following fibers having an approximate percentage by weight of: 25 to 35% polyester, 18 to 28% acrylic, 17 to 27% nylon, 8 to 18% cotton, and 7 to 17% rayon (provided for in subheading 5607.50.20)	8%	No change	No change	On or before 12/31/96 ".

SEC. 1148. MAN-MADE FIBER FELT FABRIC FOR TECHNICAL PURPOSES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.59.11	Nonlaminated, chemically treated or coated, needleloom felt of man-made fibers (provided for in subheading 5911.40.00)	12.5%	No change	No change	On or before 12/31/96	".

SEC. 1149. WATER-RESISTANT WOOL MEN'S AND BOYS' TROUSERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.03	Men's and boys' wool trousers and breeches containing elastomeric fiber, water resistant, without belt loops, weighing more than 9 kg per dozen (provided for in subheading 6203.41.10)	7.6%	No change	No change	On or before 12/31/96	".

SEC. 1150. WATER-RESISTANT WOOL WOMEN'S AND GIRLS' TROUSERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.05	Women's and girls' wool trousers and breeches containing elastomeric fiber, water resistant, without belt loops, weighing more than 6 kg per dozen (provided for in subheading 6204.61.00)	7.6%	No change	No change	On or before 12/31/96	".

SEC. 1151. BRASSIERES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.12	Brassieres containing net, lace, or embroidery (provided for in subheading 6212.10.10)	18%	No change	No change	On or before 12/31/96	".

SEC. 1152A. CERAMIC STATUES, STATUETTES, AND HAND-MADE FLOWERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.13	Statues, statuettes, and handmade flowers, of porcelain or china, valued at more than $2.50 each and produced by professional sculptors or directly from molds made from original models produced by professional sculptors (provided for in subheading 6913.10.10)	2.6%	No change	No change	On or before 12/31/96	".

SEC. 1152B. OTHER ORNAMENTAL ARTICLES OF PORCELAIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.14	Other ornamental articles of porcelain (provided for in subheading 6913.10.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1152C. CERAMIC FERRULES AND SLEEVES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.69.15	Ceramic ferrules and mating sleeves of either alumina or zirconia, not exceeding 3 mm in diameter and 25 mm in length, and having a fiber channel opening (provided for in subheading 6914.90.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1153. CERTAIN SHEET GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.05	Float glass and surface ground or polished glass suitable for use in liquid crystal displays, in sheets, nonwired, whether or not having an absorbent or reflecting layer, but not otherwise worked, whether or not polished, measuring not more than 1.2 mm in thickness and not over 0.8m² in area (provided for in subheading 7005.10.00, 7005.29.05, or 7005.29.15)	Free	No change	No change	On or before 12/31/96	".

SEC. 1154A. IMITATION JEWELRY OF PLASTICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.71.17	Imitation jewelry of plastics (except parts) (provided for in subheading 7117.90.50)	Free	No change	No change	On or before 12/31/96	".

SEC. 1154B. MACHINERY FOR USE IN THE MANUFACTURE OF VIDEO LASER DISCS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.24	Machinery for use in the manufacture of video laser discs (provided for in subheading 8424.89.00, 8428.90.00, or 8477.10.60)	Free	No change	No change	On or before 12/31/96	".

SEC. 1155. SPRING-BEARD NEEDLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.52	Spring-beard needles (provided for in subheading 8448.51.20)	Free	No change	No change	On or before 12/31/96	".

SEC. 1156. SEWING MACHINE NEEDLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.53	Sewing machine needles (provided for in subheading 8452.30.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1157. DIGITAL PROCESSING UNITS FOR AUTOMATIC DATA PROCESSING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.71	Digital processing units not classifiable under subheading 9903.41.20 for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20.00, including units entered from a foreign-trade zone which may be subsequently readmitted to a foreign-trade zone for further processing, notwithstanding any provision of section 3 of the Foreign Trade Zone Act (provided for in subheading 8471.91.00)	Free	No change	No change	On or before 12/31/96	".

SEC. 1158. RADIO-TAPE PLAYER COMBINATIONS.

Subchapter II of chapter 99 is amended by adding in numerical sequence the following new heading:

"	9902.85.28	*Radiobroadcast receivers capable of operating without an external source of power, incorporating tape players which are incapable of recording (provided for in subheading 8527.11.11)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1160. CERTAIN LIGHTWEIGHT BICYCLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.87.12	*Bicycles having front wheels exceeding 55 cm but not exceeding 63.5 cm in diameter and rear wheels exceeding 63.5 cm in diameter, weighing less than 16.3 kg complete without accessories and not designed for use with tires having a cross-sectional diameter exceeding 4.13 cm, valued at $200 or greater (provided for in subheading 8712.00.40)*	*5.5%*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1161A. MOUNTED CLOSED CIRCUIT TELEVISION LENSES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.02	*Mounted lenses consisting of lenses suitable for use in, and presented separately from, closed circuit television cameras, with or without attached electrical or non-electrical closed circuit television camera connectors, and with or without attached motors (provided for in subheading 9002.11.80, 9002.90.90, or 8529.90.30)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1161B. FIXED FOCUS INSTANT PRINT CAMERAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.20	*Fixed focus instant print cameras (provided for in subheading 9006.40.40)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1161C. INSTANT PRINT CAMERAS, OTHER THAN FIXED FOCUS, OVER $10.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.90.25	*Instant print cameras, other than fixed focus, valued over $10 each (provided for in subheading 9006.40.90)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1162. UNSTUFFED DOLLS, DOLL PARTS, AND ACCESSORIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.95.03	*Dolls, whether or not dressed, other than stuffed dolls, not over 30 cm in height (provided for in subheading 9502.10.40), and doll parts and accessories, including garments and accessories thereof, footwear and headgear (provided for in subheading 9502.91.00), artificial eyes (provided for in subheading 9502.99.20), and other parts and accessories (provided for in subheading 9502.99.30)*	*Free*	*No change*	*No change*	*On or before 12/31/96*	".

SEC. 1163. PERSONAL EFFECTS AND OTHER ARTICLES OF PARTICIPANTS AND OTHER INDIVIDUALS ASSOCIATED WITH THE XXVI SUMMER OLYMPIAD.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.04	*Personal effects of participants in, officials of, and other individuals associated with the XXVI Summer Olympiad or the Cultural Olympiad associated with the XXVI Summer Olympiad; and other articles associated with the XXVI Summer Olympiad or the Cultural Olympiad:* *(1) Personal effects of participants in, officials of, or accredited members of delegations to the XXVI Summer Olympiad or the Cultural Olympiad associated with the XXVI Summer Olympiad, or of individuals who are members of the immediate families or servants of any of the foregoing persons.* *(2) Any article for which entry is sought by participants in, officials of, or accredited members of delegations to the XXVI Summer Olympiad and which is to be used or consumed at or in connection with the Olympiad.* *(3) Any article for which entry is sought by participants in, officials of, or accredited members of delegations to the Cultural Olympiad associated with the XXVI Summer Olympiad and which is to be used at or in connection with the Cultural Olympiad.* *(4) Subject to regulations prescribed by the Secretary of the Treasury, any other article for which entry is sought for use at or in connection with the XXVI Summer Olympiad*	*Free*	*No change*	*Free*	*On or before 10/4/96*	".

Subtitle B—Existing Temporary Duty Suspensions

SEC. 1201. EXTENSION OF CERTAIN SUSPENSIONS AND REDUCTIONS OF DUTY.

(a) EXTENSIONS UNTIL JANUARY 1, 1995.—Each of the following subheadings or headings is amended by striking the date in the effective period column and inserting "12/31/94":

(1) Subheadings 9902.05.10 and 9902.05.11 (relating to crude feathers and down).

(2A) Heading 9902.07.04 (relating to fresh, chilled, or frozen brussels sprouts).

(2B) Heading 9902.08.07 (relating to fresh cantaloupes).

(3) Heading 9902.26.14 (relating to synthetic rutile).

(4) Heading 9902.29.06 (relating to 1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol)).

(5) Heading 9902.29.08 (relating to β-Naphthol).

(6) Heading 9902.29.09 (relating to o-Benzyl-p-chlorophenol).

(7) Heading 9902.29.11 (relating to Triethylene glycol dichloride).

(8) Heading 9902.29.14 (relating to Dinocap).

(9) Heading 9902.29.21 (relating to m-Hydroxybenzoic acid).

(10) Heading 9902.29.24 (relating to 3-Amino-3-methyl-1-butyne).

(11) Heading 9902.29.25 (relating to 4-Chloro-2-nitroaniline).

(12) Heading 9902.29.26 (relating to p-Nitro-o-toluidine).

(13) Heading 9902.29.27 (relating to Tetraaminobiphenyl).

(14) Heading 9902.29.32 (relating to certain oxygen-function amino compounds).

(15) Heading 9902.29.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).

(16) Heading 9902.29.36 (relating to m-Nitro-p-anisidine).

(17) Heading 9902.29.37 (relating to m-Nitro-o-anisidine).

(18) Heading 9902.29.39 (relating to p-Nitro-o-anisidine).

(19) Heading 9902.29.41 (relating to 3-Ethylamino-p-cresol).

(20) Heading 9902.29.42 (relating to 4-Chloro-2,5-dimethoxyaniline).

(21) Heading 9902.29.44 (relating to 1-Amino-4-bromo-2-anthraquinonesulfonic acid (Bromamine acid) and its sodium salt).

(22) Heading 9902.29.45 (relating to 3,4-Diaminophenetole dihydrogen sulfate).

(23) Heading 9902.29.46 (relating to certain oxygen-function amino compounds).

(24) Heading 9902.29.49 (relating to Benzethonium chloride).

(25) Heading 9902.29.51 (relating to N-(7-Hydroxy-1-naphthyl)acetamide).

(26) Heading 9902.29.52 (relating to 2,5-Dimethoxyacetanilide).

(27) Heading 9902.29.55 (relating to certain carbodiimides).

(28) Heading 9902.29.58 (relating to N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine).

(29) Heading 9902.29.62 (relating to Paraldehyde, USP grade).

(30) Heading 9902.29.63 (relating to Aminomethylphenylpyrazole (Phenylmethylamino-pyrazole).

(31) Heading 9902.29.64 (relating to 6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (Amino-J-pyrazolone) and 3-Methyl-1-phenyl-5-pyrazolone (Methylphenylpyrazolone).

(32) Heading 9902.29.67 (relating to 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolylmethylpyrazo-lone)).

(33) Heading 9902.29.68 (relating to Phenylcarbethoxypyrazolone).

(34) Heading 9902.29.71 (relating to Barbituric acid).

(35) Heading 9902.29.73 (relating to 4,11-Diamino-1H-naphth[2,3-f]isoindole-1,3,5,10(2H)-tetrone).

(36) Heading 9902.29.74 (relating to Terfenadone).

(37) Heading 9902.29.75 (relating to 1-(3-Sulfopropyl)pyridinium hydroxide).

(38) Heading 9902.29.76 (relating to 2-n-Octyl-4-isothiazolin-3-one, and its mixtures with application adjuvants).

(39) Heading 9902.29.78 (relating to 2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid).

(40) Heading 9902.29.80 (relating to Sulfamethazine).

(41) Heading 9902.29.81 (relating to Sulfaquinoxaline and sulfanilamide).

(42) Heading 9902.29.82 (relating to Sulfathiazole).

(43) Heading 9902.29.83 (relating to Sulfaguanidine).

(44) Heading 9902.29.84 (relating to Sulfapyridine).

(45) Heading 9902.29.85 (relating to Acetylsulfaguanidine).

(46) Heading 9902.29.86 (relating to 2,4-Dichloro-5-sulfamoylbenzoic acid).

(47) Heading 9902.29.89 (relating to 4-Chloro-3-methylphenol).

(49) Heading 9902.29.96 (relating to Dicyclomine hydrochloride).

(50) Heading 9902.29.97 (relating to N-Acetylsulfanilyl chloride).

(51) Heading 9902.29.99 (relating to Terfenadine and mepenzolate bromide).

(52) Heading 9902.30.00 (relating to Desipramine hydrochloride).

(53) Heading 9902.30.03 (relating to Lactulose).

(54) Heading 9902.30.04 (relating to Nicotine resin complex put up in measured doses in chewing gum form).

(55) Heading 9902.30.08 (relating to 2,3,6-Trimethylphenol).

(56) Heading 9902.30.12 (relating to 6-t-Butyl-2,4-xylenol).

(57) Heading 9902.30.15 (relating to 7-Hydroxy-1,3-naphthalenedisulfonic acid, dipotassium salt).

(58) Heading 9902.30.16 (relating to 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene).

(59) Heading 9902.30.18 (relating to 1,4-Dihydroxyanthraquinone).

(60) Heading 9902.30.20 (relating to 1-Chloro-5-hexanone).

(61) Heading 9902.30.23 (relating to Diflunisal).

(62) Heading 9902.30.25 (relating to 6-Hydroxy-2-naphthoic acid).

(63) Heading 9902.30.30 (relating to 4,4'-Methylenebis(2,6-diisopropylaniline)).

(64) Heading 9902.30.31 (relating to 2-Chloro-4-nitroaniline).

(65) Heading 9902.30.34 (relating to 5-Amino-2-naphthalenesulfonic acid).

(66) Heading 9902.30.35 (relating to 7-Amino-1,3-naphthalenedisulfonic acid, monopotassium salt).

(67) Heading 9902.30.36 (relating to 4-Amino-1-naphthalenesulfonic acid, sodium salt).

(68) Heading 9902.30.37 (relating to 8-Amino-2-naphthalenesulfonic acid).

(69) Heading 9902.30.38 (relating to mixtures of 5- and 8-Amino-2-naphthalenesulfonic acid).

(70) Heading 9902.30.39 (relating to 1-Naphthylamine).

(71) Heading 9902.30.40 (relating to 6-Amino-2-naphthalenesulfonic acid).

(72) Heading 9902.30.41 (relating to 2-Naphthylamine-6-sulfonic acid).

(73) Heading 9902.30.42 (relating to 2-Naphthylamine-1,5-disulfonic acid and its monosodium salt).

(74) Heading 9902.30.43 (relating to 2,4-Diaminobenzenesulfonic acid).

(75) Heading 9902.30.44 (relating to 1,4-Diaminobenzene-2-sulfonic acid).

(76) Heading 9902.30.47 (relating to 1-Amino-2-methoxybenzene (o-Anisidine)).

(77) Heading 9902.30.48 (relating to 2-Amino-4-chlorophenol).

(78) Heading 9902.30.49 (relating to L-Ornithine, ethyl ester).

(79) Heading 9902.30.51 (relating to 7-Anilino-4-hydroxy-2-naphthalenesulfonic acid).

(80) Heading 9902.30.52 (relating to 1,4-Diamino-2,3-dihydroanthraquinone).

(81) Heading 9902.30.53 (relating to Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms).

(82) Heading 9902.30.55 (relating to 1-Amino-2-bromo-4-hydroxyanthraquinone).

(83) Heading 9902.30.57 (relating to L-Carnitine).

(84A) Heading 9902.30.59 (relating to Acetoacet-para-toluidide).

(84B) Heading 9902.30.60 (relating to 3-hydroxy-2-naphthanilide, 3-hydroxy-2-naphtho-o-toluidine, 3-hydroxy-2-naphtho-o-anisidine, 3-hydroxy-2-naphtho-o-phenetidide, 3-hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide, and N,N'-bis(aceto-acetyl-o-toluidine)).

(85) Heading 9902.30.61 (relating to Diltiazem hydrochloride).

(86) Heading 9902.30.62 (relating to 3-Aminomethoxybenzanilide).

(87) Heading 9902.30.63 (relating to Acetoacetsulfanilic acid, potassium salt).

(88) Heading 9902.30.65 (relating to Iopamidol).

(89) Heading 9902.30.66 (relating to N-(2-Hydroxyethyl)-2,4,6-triiodo-5-[2-(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl)benzamido)acetamido]isophthalamic acid (Ioxaglic acid)).

(90) Heading 9902.30.67 (relating to 4-Aminoacetanilide).

(91) Heading 9902.30.69 (relating to 2,6-Dichlorobenzonitrile).

(92) Heading 9902.30.73 (relating to 2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane).

(93) Heading 9902.30.74 (relating to 4,4'-Thiodiphenyl cyanate).

(94) Heading 9902.30.75 (relating to 2-[(4-Aminophenyl)sulfonyl]ethanol, hydrogen sulfate ester).

(95) Heading 9902.30.77 (relating to Diphenyldichlorosilane and phenyltrichlorosilane).

(96) Heading 9902.30.78 (relating to Bendiocarb).

(97) Heading 9902.30.80 (relating to 2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)benz-enesulfonic acid).

(98) Heading 9902.30.85 (relating to Norfloxacin).

(99) Heading 9902.30.86 (relating to 6-Methyluracil).

(100) Heading 9902.30.88 (relating to Amiloride hydrochloride).

(101A) Heading 9902.30.89 (relating to 1,3,3-Trimethyl-2-methyleneindoline).

(101B) Heading 9902.30.90 (relating to L-Alanyl-L-proline).

(101C) Heading 9902.30.92 (relating to Ethyl 2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate).

(101D) Heading 9902.30.93 (relating to Ethyl 2-(2-aminothiazole-4-yl)-2-methoxyiminoacetate).

(102) Heading 9902.30.98 (relating to Mixed ortho/para-toluenesulfonamides).

(103) Heading 9902.31.01 (relating to Theobromine).

(104) Heading 9902.31.02 (relating to Cefixime).

(105) Heading 9902.31.06 (relating to Sucralfate).

(106) Heading 9902.32.04 (relating to 3,7-Bis(dimethylamino)phenazathionium chloride (Methylene blue)).

(107) Heading 9902.36.06 (relating to Metaldehyde).

(108) Heading 9902.38.06 (relating to Mixtures of dinocap and application adjuvants).

(109) Heading 9902.38.08 (relating to Maneb, zineb, mancozeb, and metiram).

(110) Heading 9902.38.09 (relating to Sethoxydim).

(111) Heading 9902.38.10 (relating to Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants).

(112) Heading 9902.38.11 (relating to Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) and application adjuvants).

(113) Heading 9902.38.14 (relating to Mixtures of 2,6-Dichlorobenzonitrile and inerts).

(114) Heading 9902.38.25 (relating to chemical light activator blend).

(115) Heading 9902.39.11 (relating to Hydrocarbon novolac cyanate ester).

(116) Heading 9902.39.14 (relating to Cross-linked polyvinylbenzyltrimethylammonium chloride) (Cholestyramine resin USP).

(117) Heading 9902.40.11 (relating to bicycle tires, inner tubes, and rim strips).

(118) Heading 9902.44.21 (relating to certain manmade or recomposed wood veneer).

(119) Heading 9902.51.01 (relating to certain unimproved wools).

(121) Heading 9902.64.02 (relating to skating boots for use in the manufacture of in-line roller skates).

(122) Heading 9902.66.01 (relating to self-folding collapsible umbrellas).

(123) Heading 9902.66.03 (relating to umbrella frames).

(126) Heading 9902.71.04 (relating to diamond tool and drill blanks).

(127) Heading 9902.73.12 (relating to cable or inner wire for caliper and cantilever brakes and casing therefor).

(128) Heading 9902.73.15 (relating to bicycle chains).

(129) Heading 9902.78.01 (relating to unwrought lead).

(130) Heading 9902.84.19 (relating to molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment, when imported as an entirety).

(131) Heading 9902.84.48 (relating to circular sweater strip and garment length knitting machines, parts therefor, and auxiliary machines).

(132) Heading 9902.84.49 (relating to certain power driven flat knitting machines, parts therefor, and auxiliary machinery).

(133) Heading 9902.84.51 (relating to needles for knitting machines).

(134) Heading 9902.84.79 (relating to machines suitable for use in the manufacture of wheels for bicycles).

(135) Heading 9902.85.03 (relating to parts of aircraft generators).

(136) Heading 9902.85.12 (relating to generator lighting sets for bicycles, and parts thereof).

(137) Heading 9902.85.24 (relating to certain video tape recordings).

(138) Heading 9902.85.27 (relating to certain entertainment broadcast band receivers).

(139) Heading 9902.87.14 (relating to certain bicycle brakes and brake mechanisms).

(140) Heading 9902.87.15 (relating to bicycle handlebar stems wholly of aluminum alloy).

(141) Heading 9902.87.16 (relating to bicycle handlebar stem rotor assemblies).

(142) Heading 9902.95.01 (relating to stuffed dolls and stuffed doll skins).

(143) Heading 9902.95.02 (relating to certain stuffed or filled toys).

(144) Heading 9902.95.04 (relating to skins for certain stuffed toys).

SEC. 1202. EXTENSION OF, AND OTHER MODIFICATIONS TO, CERTAIN SUSPENSIONS OF DUTY.

Subchapter II of chapter 99 is further amended as follows:

(1) PHOTOGRAPHIC COUPLER INTERMEDIATE.—Heading 9902.29.01 is amended—

(A) by inserting "2,3-Dihydroxynaphtha-lene-6-sulfonic acid, sodium salt, a.k.a." after "but excluding"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(2) P-TOLUENESULFONYL CHLORIDE.—Heading 9902.29.04 is amended—

(A) by inserting "(CAS No. 98-59-9)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(3) 2,6-DICHLOROBENZALDEHYDE.—Heading 9902.29.13 is amended—

(A) by inserting "(CAS No. 83-38-5)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(4) M-TOLUIC ACID.—Heading 9902.29.20 is amended—

(A) by inserting "(CAS No. 99-04-7)" before "(provided";

(B) by striking "2916.39.50" and inserting "2916.39.60"; and

(C) by striking "12/31/90" and inserting "12/31/94".

(5) α,α,α-TRIFLUORO-O-TOLUIDINE.—Heading 9902.29.28 is amended—

(A) by inserting "(CAS No. 88-17-5)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(6) 8-AMINO-1-NAPHTHALENESULFONIC ACID AND ITS SALTS.—Heading 9902.29.30 is amended—

(A) by inserting "(CAS No. 82-75-7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(7) 5-AMINO-2-(P-AMINOANILINO)BENZENESULFONIC ACID.—Heading 9902.29.31 is amended—

(A) by inserting "(CAS No. 119-70-0)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(8) 1-AMINO-8-HYDROXY-3,6-NAPHTHALENEDISULFONIC ACID AND 4-AMINO-5-HYDROXY-2,7-NAPHTHALENEDISULFONIC ACID, MONOSODIUM SALT (H ACID, MONOSODIUM SALT).—Heading 9902.29.33 is amended—

(A) by inserting "(CAS No. 90-20-0)" after "acid" the first place it appears;

(B) by inserting "(CAS No. 5460-09-3)" before "(provided"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(9) 6-AMINO-4-HYDROXY-2-NAPHTHALENESULFONIC ACID.—Heading 9902.29.35 is amended—

(A) by inserting "(CAS No. 90-51-7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(10) 3,3'-DIMETHOXYBENZIDINE (O-DIANISIDINE) AND ITS DIHYDROCHLORIDE.—Heading 9902.29.38 is amended—

(A) by inserting "(CAS No. 119-90-4)" after "(o-Dianisidine)";

(B) by inserting "(CAS No. 20325-40-0)" before "(provided"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(11) 2-AMINO-5-NITROPHENOL.—Heading 9902.29.40 is amended—

(A) by inserting "(CAS No. 121-88-0)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(12) 1-AMINO-2,4-DIBROMOANTHRAQUINONE.—Heading 9902.29.43 is amended—

(A) by inserting "(CAS No. 88-49-2)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(13) 4-METHOXYANILINE-2-SULFONIC ACID.—Heading 9902.29.47 is amended—

(A) by inserting "(CAS No. 13244-33-2)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(14) 1-AMINO-2-CHLORO-4-HYDROXYANTHRAQUINONE.—Heading 9902.29.48 is amended—

(A) by inserting "(CAS No. 2478-67-3)" before "(provided"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(15) 1,3-DIPHENYLGUANIDINE AND 1,3-DI-O-TOLYLGUANIDINE.—Heading 9902.29.56 is amended—

(A) by amending the article description to read as follows: "1,3-Diphenylguanidine (CAS No. 102-06-7) (provided for in subheading 2925.20.15) and 1,3-di-o-tolylguanidine (CAS No. 97-39-2) (provided for in subheading 2925.20.40)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(16) N,N-BIS(2-CYANOETHYL)ANILINE.—Heading 9902.29.57 is amended—

(A) by inserting "(CAS No. 1555-66-4)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(17) 2,2-BIS(4-CYANATOPHENYL)PROPANE.—Heading 9902.29.59 is amended—

(A) by striking "2929.10.40" and inserting "2929.90.10"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(18) 3-(4-AMINOBENZAMIDO)PHENYL-β-HYDROXYETHYLSULFONE.—Heading 9902.29.61 is amended—

(A) by amending the article description to read as follows: "3-(4-Aminobenzamido)phenyl-β-hydroxyethylsulfone (CAS No. 20241-68-3) (provided for in subheading 2930.90.28)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(19) 1,2-DIMETHYL-3,5-DIPHENYL-1H-PYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).—Heading 9902.29.65 is amended—

(A) by amending the article description to read as follows: "1,2-Dimethyl-3,5-diphenyl-1H-pyrazolium methyl sulfate (Difenzoquat methyl sulfate) (provided for in subheading 2933.19.25)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(20) 3-METHYL-5-PYRAZOLONE.—Heading 9902.29.69 is amended—

(A) by inserting "(CAS No. 108-26-9)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(21) BUTYL 2-[4-(5-TRIFLUOROMETHYL-2-PYRIDINYLOXY)PHENOXY]PROPANOATE.—Heading 9902.29.72 is amended—

(A) by striking "2933.90.20" and inserting "2933.39.25"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(22) N,N-DICYCLOHEXYL-2-BENZOTHIAZOLESULFENAMIDE.—Heading 9902.29.77 is amended—

(A) by amending the article description to read as follows: "N,N-Dicyclohexyl-2-benzothiazolesulfenamide (CAS No. 4979-32-2) (provided for in subheading 2934.20.60)"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(23) 2-AMINO-N-ETHYLBENZENESULFANOANILIDE.—Heading 9902.29.79 is amended—

(A) by inserting "(CAS No. 81-10-7)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(24) 3,5,6-TRICHLOROSALICYLIC ACID.—Heading 9902.29.90 is amended—

(A) by inserting "(CAS No. 40932-60-3)" after "acid"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(25) CLOMIPHENE CITRATE.—Heading 9902.29.95 is amended—

(A) by inserting "or 3004.90.60" after "2922.19.15"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(26) RIFAMPIN.—Heading 9902.30.06 is amended—

(A) by inserting "or 3004.20.00" after "2941.90.30"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(27) 1,5-NAPHTHALENE DIISOCYANATE.—Heading 9902.30.07 is amended—

(A) by striking "(provide" and all that follows through "2929.90.40)" and inserting "(CAS No. 3173-72-6) (provided for in subheading 2929.10.40)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(28) 2-TERTIARY-BUTYL-4-ETHYLPHENOL.—Heading 9902.30.11 is amended—

(A) by amending the article description to read as follows: "2-tertiary-Butyl-4-ethylphenol (CAS No. 96-70-8) (provided for in subheading 2907.19.50)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(29) 4,4'-METHYLENEBIS(2,6-DIMETHYLPHENYLCYANATE.—Heading 9902.30.13 is amended—

(A) by striking "2907.29.60" and inserting "2929.90.10"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(30) 1-NAPHTHOL-4-SULFONIC ACID AND ITS MONOSODIUM SALT.—The article description for heading 9902.30.14 is amended—

(A) by amending the article description to read as follows: "1-Naphthol-4-sulfonic acid (CAS No. 84-87-7) (provided for in subheading 2908.20.08) and its monosodium salt (CAS No. 6099-57-6) (provided for in subheading 2908.20.04)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(31) ANTHRAQUINONE.—Heading 9902.30.17 is amended—

(A) by inserting "(CAS No. 84-65-1)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(32) 4,4'-METHYLENEBIS(3-CHLORO-2,6-DIETHYLANILINE).—Heading 9902.30.29 is amended—

(A) by amending the article description to read as follows: "4,4'-Methylenebis(3-chloro-2,6-diethylaniline) (provided for in subheading 2921.42.30)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(33) 4-CHLORO-α,α,α-TRIFLUORO-O-TOLUIDINE.—Heading 9902.30.32 is amended—

(A) by amending the article description to read as follows: "4-Chloro-α,α,α-trifluoro-o-toluidine (CAS No. 445-03-4) (provided for in subheading 2921.43.10)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(34) CLENTIAZEM MALEATE.—Heading 9902.30.50 is amended—

(A) by inserting "(Clentiazem maleate)" before "(provided"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(36) IOHEXOL.—Heading 9902.30.64 is amended—

(A) by inserting "(CAS No. 66108–95–0)" before "(provided"; and

(B) by striking "9/30/91" and inserting "12/31/94".

(37) 2,2-DIMETHYLCYCLOPROPYLCARBOXAMIDE.—Heading 9902.30.68 is amended—

(A) by inserting before the parenthetical the following: "(CAS No. 75885–58–4)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(38) 1,1-ETHYLIDENEBIS(PHENYL-4-CYANATE).—Heading 9902.30.72 is amended—

(A) by amending the article description to read as follows: "1,1-Ethylidenebis(phenyl-4-cyanate) (provided for in subheading 2929.90.10)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(39) 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.—Heading 9902.30.87 is amended—

(A) by inserting "(CAS No. 91–76–9)" after "2,4-Diamino-6-phenyl-1,3,5-triazine"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(41) THIOTHIAMINE HYDROCHLORIDE.—Heading 9902.30.91 is amended—

(A) by striking "2934.10.10 or"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(44) N-(4-(((2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL)METHYL)AMINO)BENZOYL)-L-GLUTAMIC ACID.—Heading 9902.31.00 is amended—

(A) by striking the article description and inserting "Leucovorin calcium (provided for in subheading 2936.29.20)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(45) TEICOPLANIN.—Heading 9902.31.03 is amended—

(A) by inserting ", 2941.90.10," before "3003.20.00"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(46) 1-[1-((4-CHLORO-2-TRIFLUOROMETHYL)PHENYL)IMINO)-2-PROPOXYETHYL]-1-H-IMIDAZOLE.—Heading 9902.31.07 is amended—

(A) by inserting "(triflumizole)" after "1[1-((4-Chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl]-1-H-imidazole"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(47) N,N'-BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-1,6-HEXANEDIAMINE.—Heading 9902.31.11 is amended—

(A) by striking "(CAS No. 612–55–7)" and inserting "(CAS No. 1260–55–7)"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(48) PHOTOGRAPHIC COLOR COUPLERS.—Heading 9902.37.07 is amended—

(A) by inserting ", excluding 2,3-Dihydroxynaphthalene-6-sulfonic acid, sodium salt (a.k.a. 6,7-dihydroxy-2-naphthalenesulfonic acid, sodium salt)" after "couplers"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(49A) TRANSPARENT SHEETING OF PLASTICS.—Heading 9902.39.26 is amended—

(A) by inserting "3920.59.50 or" after "subheading"; and

(B) by striking "12/31/90" and inserting "12/31/94".

(49B) DISPOSABLE SURGICAL GOWNS AND DRAPES.—Heading 9902.62.10 is amended by striking "12/31/92" and inserting "12/31/94".

(50) FIBERGLASS RUBBER REINFORCING CORD OR YARN.—Heading 9902.70.19 is amended—

(A) by striking "9 microns in diameter or 10 microns in diameter" and inserting "7 microns in diameter to 11.5 microns in diameter"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(51) FIBERGLASS TIRE CORD FABRIC.—Heading 9902.70.20 is amended—

(A) by striking "9 microns in diameter or 10 microns in diameter" and inserting "7 microns in diameter to 11.5 microns in diameter"; and

(B) by striking "12/31/92" and inserting "12/31/94".

(52) INTERNAL COMBUSTION PISTON-TYPE ENGINES.—Heading 9902.84.07 is amended—

(A) by striking "heading 8407.32.20 or 8407.33.20" and inserting "subheading 8407.32.20, 8407.33.20, 8407.32.90, or 8407.33.90";

(B) by inserting "; or heading 8709" after "8704.31.00"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(53) CERTAIN WEAVING MACHINES FOR FABRICS MORE THAN 4.9 METERS WIDE.—(HR 1896) Heading 9902.84.46 is amended—

(A) by striking ", parts thereof, and" and inserting "(provided for in subheading 8446.21.00 or 8446.30.00),";

(B) by striking "use therewith" and inserting "such machines";

(C) by striking "8446.21.00, 8446.30.00,";

(D) by striking ", 8848.41.00, 8448.42.00, or 8448.49.00)" and inserting "); and parts and accessories of the foregoing (provided for in subheading 8448.41.00, 8448.42.00 or 8448.49.00,"; and

(E) by striking "12/31/90" and inserting "12/31/94".

(54) HOSIERY KNITTING MACHINES.—Heading 9902.84.47 is amended—

(A) by striking ", and parts thereof";

(B) by striking "8447.20.60, or 8448.59.10" and inserting "or 8447.20.60"; and

(C) by striking "12/31/92" and inserting "12/31/94".

(55) CERTAIN ELECTROSTATIC COPYING MACHINE PARTS AND ACCESSORIES.—Heading 9902.90.90 is amended—

(A) by striking "not including photoreceptors or assemblies containing photoreceptors," and inserting "not including selenium/tellurium photoreceptors or assemblies containing selenium/tellurium photoreceptors,"; and

(B) by striking "12/31/92" and inserting "12/31/94".

TITLE II—OTHER TARIFF AND MISCELLANEOUS PROVISIONS

Subtitle A—Tariff Classification and Other Technical Amendments

SEC. 2001. PECTIN.

(a) IN GENERAL.—Chapter 13 is amended by striking subheading 1302.20.00 and inserting in numerical sequence the following new superior text and subheadings, with such new superior text having the same degree of indentation as the article description in subheading 1301.90:

"	1302.20	Pectic substances, pec-tinates, and pectates:				
	1302.20.20	Pectin	5%	Free (E,IL) 1% (CA)	25%	
	1302.20.40	Other	5%	Free (E,IL) 1% (CA)	25%	"

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 1302.20.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 1302.20.20 and 1302.20.40 (as added by subsection (a)).

SEC. 2002. CERTAIN MOTOR FUEL AND MOTOR FUEL BLENDING STOCK.

(a) IN GENERAL.—Chapter 27 is amended—

(1) in additional U.S. Note 3, by striking "subheading 2710.00.15," and inserting "subheading 2707.50.10 or 2710.00.15,";

(2) in additional U.S. Note 4, by striking "subheading 2710.00.18," and inserting "subheading 2707.50.20 or 2710.00.18,"; and

(4) by inserting after subheading 2707.50.00 the following, with the article description for subheading 2707.50.10 having the same indentation as the article description for subheading 2707.91.00:

"	2707.50.10	Motor fuel	52.5¢/bbl	Free (IL) 10.5¢/bbl (CA)	$1.05/bbl	
	2707.50.20	Motor fuel blending stock	52.5¢/bbl	Free (IL) 10.5¢/bbl (CA)	$1.05/bbl	"

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 2707.50.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 2707.50.10 and 2707.50.20 (as added by subsection (a)).

SEC. 2003. LINEAR ALKYLBENZENESULFONATES AND LINEAR ALKYLBENZENESULFONIC ACIDS.

(a) IN GENERAL.—Chapter 34 is amended by striking subheading 3402.11.10 and inserting in numerical sequence the following new superior text and subheadings, with such new superior text having the same degree of indentation as the article description in subheading 3402.11.50:

"		Aromatic or modified aromatic:				
	3402.11.15	Linear alkyl- benzene- sulfonates and linear alkyl-benzene- sulfonic acids	3.7¢/kg+15.9%	Free (E,IL) 1.4% (CA)	15.4¢/kg+53%	
	3402.11.30	Other	7.2%	Free (A,E,IL) 1.4% (CA)	15.4¢/kg+53.5%	"

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 3402.11.10 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 3402.11.15 and 3402.11.30 (as added by subsection (a)).

SEC. 2004. IRON AND STEEL PIPES AND TUBES.

(a) NONALLOY IRON AND STEEL PIPES AND TUBES.—

(1) The superior text for subheadings 7306.30.30 and 7306.30.50 is amended to read as follows: "Having a wall thickness of 1.65 mm or more, not galvanized:".

(2) Subheadings 7306.30.30 and 7306.30.50 are redesignated as subheadings 7306.30.35 and 7306.30.55, respectively.

(3) Subheadings 7306.10.10, 7306.20.60, 7306.30.55 (as redesignated by paragraph (2)), and 7306.90.10 are each amended—

(A) by striking "1.9%" in column 1 General and inserting "4.9%"; and

(B) by striking "5.5%" in column 2 and inserting "20%".

(4) Subheadings 7306.20.20 and 7306.60.10 are each amended—

(A) by striking "0.5%" in column 1 General and inserting "4.9%"; and

(B) by striking "1%" in column 2 and inserting "20%".

(5) Chapter 73 is amended by inserting in numerical order the following new subheading having the same degree of indentation as the superior text for subheadings 7306.30.35 and 7306.30.55 (as redesignated by paragraph (2):

"	7306.30.60	Having a wall thickness of 1.65mm or more, galvanized	6.5%	Free (C, E, IL) 1.1% (CA)	21.5% ",

(b) ALLOY IRON AND STEEL PIPES AND TUBES.—

(1) Subheadings 7306.50.50 and 7306.90.50 are each amended—

(A) by striking "4.9%" in column 1 General and inserting "9.5%"; and

(B) by striking "10%" in column 2 and inserting "28%".

(c) STAINLESS STEEL PIPES AND TUBES.—

(1) Subheading 7306.40.10 is amended by striking "7.6%" in column 1 General and inserting "10.1%".

(2) Subheading 7306.40.50 is amended—

(A) by striking "5%" in column 1 General and inserting "10.1%"; and

(B) by striking "11%" in column 2 and inserting "29%".

(d) NEGOTIATING AUTHORITY.—In the event that a claim for compensation under any provision of the General Agreement on Tariffs and Trade or any other trade agreement to which the United States is a party is made by any Contracting Party to that agreement as a result of the amendments made by this section, the United States Trade Representative is authorized to negotiate such reasonable compensation as may be appropriate.

(e) APPLICABILITY OF STAGED RATE REDUCTIONS UNDER THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.—

(1) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.30 applies to the corresponding special rate of duty set forth in subheading 7306.30.35.

(2) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.50 applies to the corresponding special rate of duty set forth in subheading 7306.30.55.

(3) Any staged reduction under the United States-Canada Free-Trade Agreement of special rates of duty for Canada set forth in subheading 7306.30.55 (as redesignated by subsection (a)(2)) also applies to the corresponding special rate of duty set forth in subheading 7306.30.60.

(f) EFFECTIVE DATE.—Except as provided in subsection (g), the amendments made by subsections (a), (b), and (c), shall apply with respect to goods entered, or withdrawn from warehouse for consumption, beginning on July 1, 1993.

(g) WAIVER.—In the event that—

(1) negotiations on market access and tariffs in the General Agreement on Tariffs and Trade provide for a tariff rate elimination schedule on steel products that will remove the tariff rate inversion on certain pipe and tube products; and

(2) the President or the United States Trade Representative certifies in writing to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that such schedule will eliminate such tariff inversion,

the provisions of this section shall not take effect.

SEC. 2005. IMITATION JEWELRY OF PLASTICS.

Heading 9902.71.13 is amended by striking "7117.90.40 (except parts) or 7117.90.50 (except parts)" and inserting "or 7117.90.40 (except parts)".

SEC. 2006. RELIQUIDATION OF CERTAIN PETROLEUM PRODUCTS.

(a) IN GENERAL.—Part 2 of subtitle G of title I of the Omnibus Trade and Competitiveness Act of 1988 is amended by adding at the end the following new section:

"SEC. 1846. APPLICATION FOR RELIQUIDATION OF CERTAIN PETROLEUM PRODUCTS.

"Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law to the contrary, the Secretary of the Treasury shall reliquidate on or after January 1, 1991, the entries numbered 86-121854-9, filed in San Francisco, California, with an entry date of October 8, 1985, and 86-436228-5, filed in Portland, Oregon, with an entry date of October 4, 1985, such entries covering certain petroleum products, as though the column 2 rate of duty in effect on the applicable entry date applied to such entries.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Omnibus Trade and Competitiveness Act of 1988.

Subtitle B—Miscellaneous Provisions

SEC. 2101. CERTAIN MENTHOL FEEDSTOCKS.

(a) IN GENERAL.—Chapter 29 is amended by striking subheading 2906.19.00 and inserting the following new subheadings, with the article description for subheading 2906.19 having the same degree of indentation as the article description in subheading 2906.14.00:

"	2906.19	Other:				
	2906.19.10	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer	Free	Free (A,E,IL) 1.4% (CA)	45%	
	2906.19.90	Other	7.1%	Free (A,E,IL) 1.4% (CA)	45%	".

(b) STAGED RATE REDUCTIONS.—Any staged rate reduction of a special rate of duty set forth in subheading 2906.19.00 that was proclaimed by the President before the date of enactment of this Act and that takes effect after the date of enactment of this Act shall apply to the corresponding special rates of duty in subheadings 2906.19.10 and 2906.19.90 (as added by subsection (a)).

(c) CONFORMING AMENDMENT.—Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking subheading 9902.29.05.

SEC. 2103. WAGE CERTIFICATES ISSUED TO CERTAIN PRODUCERS OF WATCHES AND WATCH MOVEMENTS.

(a) IN GENERAL.—Additional United States note 5(h) to chapter 91 is amended by adding at the end of subparagraph (v) the following new sentence: "At the election of the certificate holder, the Secretary of the Treasury shall pay to the holder the face value of the certificate less the value of—

"(A) any duty refund claimed by the holder under the certificate; and

"(B) any duty refund under the certificate that is sold by the holder under subparagraph (vi).".

(b) APPLICABILITY.—The amendment made by subsection (a) applies with respect to wage certificates issued under paragraph (h) of such additional United States note 5 or headnote 6(h) to subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) that are in effect on or after the date of the enactment of this Act.

SEC. 2104. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—U.S. Note 4 of subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting "and Bermuda" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to residents of the United States who arrive in the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 2105. CERTAIN SWEATERS ASSEMBLED IN GUAM.

(a) IN GENERAL.—Heading 9902.61.00 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking "Sweaters that—" and inserting "Sweaters—";

(2) in clause (i), by inserting "that" before "do not";

(3) in clause (ii)—

(A) by inserting "that" before "are assembled";

(B) by striking ", exclusively" and all that follows through "aliens,"; and

(C) by striking the semicolon and inserting a comma; and

(4) by inserting after clause (ii) the following: "(iii) for which the number of United States citizens, nationals, or resident aliens who perform the assembly operation comprises at least 50 percent of the total number of assembly production workers; and".

(b) CONDITIONS.—Subchapter II of chapter 99 is amended—

(1) by redesignating U.S. Notes 8, 9, 10, 11, and 12 as U.S. Notes 9, 10, 11, 12, and 13, respectively; and

(2) by inserting after U.S. Note 7 the following new note:

"8. Notwithstanding any other provision of law, subheading 9902.61.00:

"(a) shall only apply to Guam; and

"(b) shall not apply in the case of any sweaters assembled by workers paid less than the United States minimum wage.".

SEC. 2106. CERTAIN ENTRIES OF N-ACETYLSUFANILYL CHLORIDE.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 180th day after the date of the enactment of this Act, any entry of a good classified under item 906.38 of the Appendix to the Tariff Schedules of the United States that was made—

(1) after December 31, 1987; and

(2) before the effective date of the amendment made to such item by section 9004(a)(4) of the Technical and Miscellaneous Revenue Act of 1988;

shall be liquidated or reliquidated as though such entry occurred on such effective date.

SEC. 2107. CERTAIN LEAD FUEL TEST ASSEMBLIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry of any partially assembled lead fuel assembly (described in subsection (b)) made—

(A) on March 9, 1990 (Entry No. 110-0675952-3),

(B) on September 19, 1990 (Entry No. 110-1525996-0),

(C) on November 7, 1990 (Entry No. 110-3667810-7, and

(D) on December 21, 1990 (Entry No. 110-1526938-1), and

(2) refund any duties paid with respect to such entry,

if certification is given that such entry will be reexported or destroyed within 8 years of entry and such certification is submitted to the appropriate customs officer within 60 days after the date of the enactment of this Act.

(b) PARTIALLY ASSEMBLED LEAD FUEL ASSEMBLY.—A partially assembled lead fuel assembly is described in this subsection if it consists of not more than 4 partially assembled fuel bundles, composed of nuclear fuel rods of zircaloy tubes filled with slightly enriched uranium dioxide (UO_2) pellets, arranged into bundles of 96 rods, including a channel and upper handles and lower tie plates.

SEC. 2108. DUTY EXEMPTIONS FOR CERTAIN FOREIGN REPAIRS MADE TO UNITED STATES VESSELS.

(a) IN GENERAL.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

(3) by adding at the end the following new paragraph:

"(3) the cost of spare parts necessarily installed before first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) APPLICABILITY.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended to read as follows:

"(B) on or before December 31, 1994.".

SEC. 2109. METALLIZED OR FOIL BALLOONS OF MEXICAN ORIGIN.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any liquidated entry of metallized or foil balloons of Mexican origin classified in subheading 9503.90.50 which was made after June 30, 1989, and before July 1, 1990, shall be reliquidated as though such entry had been made on July 1, 1990, and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry.

SEC. 2110. CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930, or any other provision of law, upon proper request filed with the customs officer concerned within 180 days after the date of the enactment of this Act, the entry of any stuffed dolls with or without clothing classified in item 737.23, renumbered item 737.18 effective June 1, 1988, and item 912.30 of the Tariff Schedules of the United States which was made on or after December 31, 1985, and before October 1, 1988, shall be liquidated as though such entry had been made on October 1, 1988.

SEC. 2111. REISSUANCE OF PRODUCTION INCENTIVE CERTIFICATE.

The production incentive certificate numbered PIC-EV-89, issued jointly by the Secretary of Commerce and the Secretary of the Interior, as provided in subdivision (h)(i)(B) of Additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States shall be deemed to have been reissued on the 15th day after the date of the enactment of this Act, in the amount of its balance remaining on February 28, 1990, and shall expire 1 year after such 15th day.

SEC. 2112. LIQUIDATION AND RELIQUIDATION OF ENTRIES OF CERTAIN PAPER PRODUCTS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, but subject to subsection (b), upon proper request filed with the appropriate customs officer on or before the 180th day after the date of the enactment of this Act, any entry made after December 31, 1988, and before July 1, 1990, of a tissue paper product of Mexican origin classified under subheading 4818.10.00, 4818.20.00, or 4818.30.00 of the Harmonized Tariff Schedule of the United States shall be liquidated or reliquidated as though such entry had been made on July 1, 1990.

(b) ELIGIBLE LIQUIDATED ENTRIES.—A liquidated entry is eligible for reliquidation under subsection (a) only if the liquidation has been protested in accordance with section 514 of the Tariff Act of 1930.

(c) TIME LIMITATION FOR LIQUIDATION OR RELIQUIDATION.—Any liquidation or reliquidation for which a timely request is filed under subsection (a) shall occur within 180 days after the date of filing.

(d) REFUND OF DUTIES.—Customs duties that were—

(1) deposited with respect to any entry before liquidation under subsection (a); or

(2) paid on any entry that is reliquidated under subsection (a);

shall be refunded to the importer of record of the tissue paper product concerned within 90 days after the date of such liquidation or reliquidation.

SEC. 2113. EXEMPTION OF SEMICONDUCTORS FROM COUNTRY OF ORIGIN MARKING REQUIREMENTS.

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by striking "Except as hereinafter provided," at the beginning of subsection (a) and inserting "Except as otherwise provided in this section,";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FROM MARKING FOR SEMICONDUCTORS.—Articles provided for in headings 8541 and 8542 of the Harmonized Tariff Schedule of the United States and their containers are exempt from the marking requirements of subsection (a).".

SEC. 2114. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

(a) IN GENERAL.—Section 3(b) of the Act of June 18, 1934 commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking "on or before December 31, 1992" and inserting "on or before December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

SEC. 2115. CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 90 days after the date of the enactment of this Act, shall, upon proper request filed with the appropriate customs officer, reliquidate each entry listed in subsection (b) as if any synthetic filaments which were tipped and flagged, or tipped, flagged and dyed abroad were properly classified under subheadings 5404.10.20 and 9802.00.50 of the Harmonized Tariff Schedule of the United States and make the appropriate refund of duty.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the Port of Laredo, Texas, are as follows:

Entry Number	Date of Liquidation
0014819-3	July 20, 1990
0015228-6	July 20, 1990
0015409-2	July 20, 1990
0015586-7	July 20, 1990
0015668-3	July 20, 1990
0015736-8	July 20, 1990
0015824-2	July 20, 1990
0015872-1	July 20, 1990
0015906-7	July 20, 1990
0015960-4	July 20, 1990
0016039-6	July 20, 1990
0016350-7	July 20, 1990
0016396-0	July 20, 1990
0016540-3	July 20, 1990
0016590-8	July 20, 1990
0016623-7	July 20, 1990
0016708-6	July 20, 1990
0016753-2	July 20, 1990
0042492-5	July 20, 1990
0047845-9	July 20, 1990
0051495-6	July 20, 1990
0052146-4	July 20, 1990
0053348-5	July 20, 1990
0055273-3	July 20, 1990
0062536-4	August 3, 1990
0058825-7	August 31, 1990
1900104-5	November 2, 1990

SEC. 2116. CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision

of law, the Secretary of the Treasury, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall—

(1) reliquidate each entry listed in subsection (b) at the rate of duty that would have been assessed if that entry had been made on the day before the effective date of the Harmonized Tariff Schedule of the United States; and

(2) make the appropriate refund of duty.

Such reliquidations and refunds shall be made within 180 days after the date on which the request is made.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the Port of Los Angeles, California, are as follows:

Entry Number	Date of Liquidation
175-0125515-6	January 13, 1989
175-0126469-5	January 27, 1989
175-0126831-6	February 13, 1989
175-0127616-0	February 23, 1989
175-0127611-1	March 2, 1989
175-0128512-0	March 23, 1989
175-0129675-4	April 17, 1989
175-0132267-5	June 5, 1989

SEC. 2117. CUSTOMS TREATMENT OF CERTAIN FABRIC.

(a) IN GENERAL.—Any fabric wholly of polyamide covered by an entry listed in subsection (c) shall be treated as having been exported from the United States in accordance with the temporary importation bond applicable to that entry and all obligations of The Umbrellas: Joint Project for Japan and U.S.A. Corporation, a California corporation, (referred to in this section as the "importer of record") under such bond with respect to the fabric shall be treated as having been satisfied, if—

(1) before the first anniversary of the date of the enactment of this Act, the importer of record donates the fabric to an organization (referred to in this section as the "donee organization") within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code of 1986; and

(2) before donation under paragraph (1), the donee organization enters into an agreement with the Secretary of the Treasury that meets the requirements in subsection (b).

(b) AGREEMENT REQUIREMENTS.—Any agreement entered into under subsection (a)(2) shall be subject to such terms and conditions as the Secretary of the Treasury considers necessary or appropriate to carry out the purposes of this section, including, but not limited to, the following:

(1) With respect to any of the fabric donated under subsection (a)(1), the donee organization shall be liable for—

(A) the duty that would have been assessed on the fabric at the time of entry but for the duty-free temporary importation under bond, and

(B) a penalty in the amount of the duty referred to in subparagraph (A),

if the donee organization, at any time before the tenth anniversary of the date of donation—

(i) sells the fabric, or

(ii) uses, or permits the use of, the fabric in the production of any article that is sold, or otherwise entered, into commerce.

(2) The donee corporation may, at any time within the 10-year period referred to in paragraph (1) and under customs supervision, destroy the fabric or export the fabric from the United States.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a), made at the Port of San Diego, California, are as follows:

Entry No.	Date of Entry
11-44451-5	9/16/90
11-44719-8	10/28/90
11-44964-6	11/09/90
11-44836-2	11/09/90
11-17258-3	12/13/90
11-17274-9	12/27/90
11-18025-2	1/14/91
11-10889-6	1/10/91
11-18135-8	2/28/91
11-18155-2	3/07/91
11-10100-2	3/16/91
11-18221-8	3/23/91
11-18237-3	3/28/91
11-18279-7	4/11/91
11-18333-8	4/18/91
11-18366-8	5/02/91
11-10684-9	6/21/91

(d) DENIAL OF CHARITABLE DEDUCTION.—No deduction shall be allowed under section 170 of the Internal Revenue Code of 1986 for any donation referred to in subsection (a)(1).

SEC. 2118. RELIQUIDATING ENTRIES OF INDUSTRIAL FASTENERS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, where proper request is made within 180 days after the date of the enactment of this Act—

(1) any entries of industrial fasteners that were products of Japan provided for under items 646.17, 646.40, 646.41, 646.49, 646.51, 646.53, 646.54, 646.56, 646.58, 646.60, 646.63, 646.65, 646.72, 646.74, 646.75, 646.76, or 646.78 of the Tariff Schedules of the United States, and

(2) that were entered, or withdrawn from warehouse for consumption, between June 4, 1979, and December 31, 1981, inclusive, shall be reliquidated within 90 days of the date on which proper request is made, without liability of the importers of record for countervailing duties; and, except as provided in subsection (2), all countervailing duties which have been paid on these entries shall be refunded with interest according to law.

(b) CERTAIN ENTRIES UNDER ITEMS 646.54 AND 646.56.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, where proper request is made within 180 days after the date of the enactment of this Act, with respect to any entries of industrial fasteners that were products of Japan provided for under items 646.54 and 646.56 of the Tariff Schedules of the United States, and that were entered, or withdrawn from warehouse for consumption, between June 4, 1979, and December 31, 1979, countervailing duties which have been paid and which are in excess of 0.37 percent ad valorem shall be refunded with interest according to law.

SEC. 2119. REEXPORTATION OF COMMUNICATIONS SATELLITE ARTICLES.

(a) IN GENERAL.—(1) The first sentence of U.S. Note 1(a) to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by striking the period at the end and inserting the following: ", and (3) for articles imported under heading 9813.00.05, the time for exportation may be extended for 1 or more further periods which, when added to the initial 1 year, shall not exceed a total of 5 years, but any application for an extension beyond the 3rd year must be accompanied by the importer's certification that the articles are dedicated for incorporation into a communications satellite.".

(2) The amendments made by subsection (a) apply with respect to goods entered on or after the date that is 3 years before the date of the enactment of this Act.

(b) EXPEDITED MITIGATION OF PENALTY ASSESSMENTS ON REEXPORTATIONS DELAYED BY LAUNCH SYSTEM FAILURES.—Goods imported under heading 9813.00.05 of the Harmonized Tariff Schedule of the United States after January 1, 1983, and before the effective date established under subsection (a)(2) that are certified by the importer—

(1) as having been dedicated for incorporation into a communications satellite; and

(2) as not having been exported within the time required for exportation under the applicable bond directly or indirectly as a result of launch schedule delays resulting from any launch failure, launch system failure, or technical delay;

are subject to liquidated damages not exceeding 1 percent of the liquidated damages established in the applicable bond.

SEC. 2120. RELIQUIDATING ENTRIES OF TUBULAR TIN.

Notwithstanding any provision of the Tariff Act of 1930 or any other law, the Secretary of the Treasury shall pay interest, calculated as provided for under section 520 of the Tariff Act of 1930, on the aggregate amount of the duties that were paid with respect to the entries of tubular tin products that were reliquidated on November 14, 1988, under the authority of section 1843 of the Omnibus Trade and Competitiveness Act of 1988.

SEC. 2121A. RELIQUIDATING ENTRIES OF ROCK WOOL MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall—

(1) reliquidate the entries listed in subsection (b) within 90 days after the date on which application for reliquidation is made; and

(2) if any duty has been paid with respect to such entries, refund such duty with interest.

(b) ENTRIES DESCRIBED.—The entries referred to in subsection (a) were filed at the Port of Charleston, South Carolina, and are as follows:

Entry Number	Date of Entry
222-0123146-5	May 2, 1989.
222-0123350-3	May 4, 1989.
222-0123625-8	May 17, 1989.
222-0123624-1	May 17, 1989.
222-0124105-0	June 6, 1989.
222-0124579-6	June 27, 1989.
222-0124888-1	July 12, 1989.
222-0124889-9	July 12, 1989.
222-0125004-4	July 14, 1989.
222-0125355-0	July 31, 1989.
222-0126131-4	September 8, 1989.
222-0126516-6	October 3, 1989.
222-0127644-5	December 5, 1989.
222-0128043-9	December 20, 1989.
222-0128238-5	January 9, 1990.
222-0128359-9	January 16, 1990.
222-0129304-4	March 5, 1990.

SEC. 2121B. TARIFF CLASSIFICATION OF LIGHT TRUCKS.

(a) IN GENERAL.—The Additional U.S. Notes to chapter 87 are amended—

(1) by redesignating Note 2 as Note 3; and

(2) by inserting after Note 1 the following new note:

"2. Passenger vans (other than those of heading 8702), multipurpose vans, sport utility vehicles and other 'Jeep'-type vehicles with a gross vehicle weight not exceeding 3.65 metric tons and a basic vehicle frontal area of 4.2 square meters or less shall be classified under heading 8704.".

(b) SPECIAL RULES.—(1) The U.S. Notes to subchapter II of chapter 99 are amended by inserting after U.S. Note 1 the following new note: "2. Heading 9902.87.20 applies only to motor vehicles described in Additional U.S. Note 2 to chapter 87 which—

"(a)(i) are, and are certified to be, of a vehicle line which (A) was first entered before December 4, 1963, and (B) was entered every calendar year between 1963 and 1992; or

"(ii) are, and are certified to be (A) of a vehicle line which was entered before the date of the enactment of this Act and during calendar year 1992, and (B) the product of a small supplier country.

"(b) For purposes of this Note, the term—

"(i) 'vehicle line' means a group of vehicles within a make which has a high degree of commonality in construction (e.g., body, chassis); and

"(ii) 'small supplier country' means a country in which motor vehicles described in Additional U.S. Note 2 to chapter 87 are produced if importations into the customs territory of the United States of such vehicles produced in such country exceeded one unit, but did not exceed 10,000 units, in the aggregate, during calendar year 1988.".

(2) Subchapter I of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9901.87.10	Motor vehicles described in Additional U.S. Note 2 to chapter 87, other than motor vehicles of heading 9902.87.20	16.5%	Free (B,CA,E,IL)	25%	On or before 12/31/2012	".

(3) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.87.20	Motor vehicles described in Additional U.S. Note 2 to chapter 87, which meet the requirements of U.S. Note 2 to this subchapter	2.5%	Free (B,CA,E,IL)	25%	On or before 12/31/2012	".

(c) PUBLICATION.—The Secretary of the Treasury shall publish the list of small supplier countries, if any, described in U.S. Note 2 to subchapter II of chapter 99 (as added by subsection (b)(1) of this section) not later than the day before the 15th day after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2122A. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act—

(1) the amendments made by subtitle A of title I (other than sections 1128 and 1163) shall apply with respect to goods entered on or after January 1, 1995; and

(2) the amendments made by sections 1128 and 1163 and subtitle B of title I shall apply with respect to goods entered on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after the 15th day after the enactment of this Act and before the 195th day after the date of the enactment of this Act, any entry—

(A) that was made after the applicable date and before such 15th day; and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by—

(i) paragraph (5), (6), (12), (14), (15), (16), (17), (18), (19), (23), (27), (28), (33), (35), (37), (39), (40), (41), (42), (43), (44), (45), (88), (89), (110), or (138) of section 1201, or

(ii) paragraph (4), (14), (15), (19), (21), (22), (36), (49), or (53) of section 1202,

applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this subsection, the term "applicable date" means—

(A) if the amendment described in paragraph (1)(B) is made by section 1202(25), December 31, 1988;

(B) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (5), (6), (12), (14), (15), (16), (17), (18), (19), (23), (27), (28), (33), (35), (37), (39), (40), (41), (42), (43), (44), (45), or (110) of section 1201, or

(ii) paragraph (14), (15), (19), (21), (22), (49), or (53) of section 1202,

December 31, 1990;

(C) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (88) or (89) of section 1201, or

(ii) paragraph (36) of section 1202,

September 30, 1991; and

(D) if the amendment described in paragraph (1)(B) is made by—

(i) paragraph (138) of section 1201, or

(ii) paragraph (4) of section 1202,

December 31, 1990.

(c) SPECIAL EFFECTIVE DATES.—

(1) SECTION 1201(2A).—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 90th day after the date of the enactment of this Act, any entry—

(A) which was made after December 31, 1987, and before January 1, 1989; and

(B) with respect to which there would have been reduced duty if the amendment made by section 1201(2A) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) SECTION 1201(126).—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before the 180th day after the date of the enactment of this Act, any entry—

(A) which was made after December 31, 1987, and before November 10, 1988; and

(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by section 1201(126) applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(d) SUNSET PROVISION FOR CERTAIN SUSPENSION OF DUTY.—Heading 9902.32.41 (as added by section 1128 of this Act) shall cease to apply—

(1) after the date in the effective period column; or

(2) on the date on which the Food and Drug Administration approves vigabatrin and clobazam for marketing in the United States,

whichever date is later.

SEC. 2122B. DEFINITIONS.

For purposes of this Act:

(1) The term "entry" includes any withdrawal from warehouse.

(2) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(3) The term "proper request" means a request that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute, as modified, is in order.

The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. VALENTINE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4318) to make certain miscellaneous and technical amendments to the Harmonized Tariff Schedule of the United States, and for other purposes, pursuant to House Resolution 532, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MURTHA). Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARCHER. Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit H.R. 4318 to the Committee on Ways and Means with instructions to promptly report the bill back to the House, striking section 2121B and including an alternative funding mechanism that is consistent with U.S. international obligations under the General Agreement on Tariffs and Trade (GATT) and the Balanced Budget and Emergency Deficit Control Act of 1985.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, section 2121B of this legislation changes the tariff classification for multipurpose family vehicles [MPV's] from passenger cars to trucks and raises the duty on such vehicles from 2.5 to 25 percent. As I have already stated, the President intends to veto H.R. 4318 in its current form, primarily because it contains this GATT-illegal and economically destructive provision. It is clear that the MPV tariff reclassification will kill H.R. 4318 and doom a variety of other important tariff changes also included in this legislation. If Members want to

see their own tariff provisions become law, and not just symbolically pass the House, we must find a way to move this bill without the unacceptable MPV tariff increase.

My motion to recommit includes instructions to send the bill back to the Committee on Ways and Means and directs the committee to promptly report the bill back to the House, striking the MPV tariff reclassification. It also directs the committee to develop an alternative funding mechanism that is consistent with U.S. international obligations under the General Agreement on Tariffs and Trade [GATT] and the Balanced Budget and Emergency Deficit Control Act of 1985.

We have heard lengthy debate on the tariff reclassification provision and I am amazed that Members seem ready to embrace a single tariff change that will be so costly to consumers and in the process forfeit all the other tariff improvements that will help small- and medium-sized businesses stay competitive. Without my motion to recommit with instructions, that is what will happen.

The reclassification of MPV's does not merely conform the tariff on these vehicles to Federal emission standards, safety standards, or fuel economy standards. Indeed, none of these regulations are uniform in how they distinguish between passenger cars and trucks. These standards are unrelated to tariffs, just as agriculture and OSHA standards do not dictate tariff classifications.

Tariff classifications are established in concert with our trading partners, in order to ensure predictability and similar rules for all exporters. The rest of the world classifies MPV's as passenger vehicles. Also, the reclassification of MPV's contained in H.R. 4318 does violate our international obligations because it changes a bound tariff rate and applies different rates to imports from Japan and imports from Europe. This could result in retaliation against our competitive imports amounting to more than $500 million.

This provision works at cross-purposes with the export-led economic growth in our country. Domestic manufacturers of MPV's do not need protection from international competition. U.S. minivans and multipurpose vehicles enjoy an 84-percent market share and are a huge profit-maker for the Big Three. Just this week, Chrysler announced strong second-quarter earnings, primarily on the strength of its MPV and truck sales.

Our domestic industry is second to none in this field and does not need to be protected from import competition. Imports merely offer consumers more choice.

Mr. Speaker, once again, we cannot ensure enactment of our individual tariff measures if the MPV reclassification is not removed. I urge my colleagues to support the motion to recommit.

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This could result in retaliation against our competitive imports amounting to more than $500 million. The provision works at cross-purpose with the export-led economic growth in our country.

Why do we have so little confidence in the ability of our workers and our ingenuity and our craftsmanship to be able to compete in the world? Domestic manufacturers of MPV's do not need protection from international competition. U.S. minivans and multipurpose vehicles enjoy an 84-percent market share and are a huge profitmaker for the Big Three.

Just this week Chrysler announced strong second-quarter earnings, primarily on the strength of its MPV and truck sales. Our domestic industry is second to none in this field, and does not need to be protected from import competition. Imports merely offer consumers more choice.

Mr. Speaker, once again, we cannot ensure enactment of all of the good parts of this bill unless we remove the bad. It will be vetoed if my motion to recommit does not pass. I urge passage and a vote for the motion to recommit.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to recommit H.R. 4318 to the Committee on Ways and Means. During committee consideration of this bill, no credible alternative to the MPV reclassification was proposed for funding H.R. 4318.

It is as clear now as it was when the committee considered this bill that, without the provision relating to the classification of MPV's and minivans, the bill would lose significant revenue and would not comply with the pay-go requirements of the Budget Act. Thus, inclusion of this provision in H.R. 4318 is essential to the proper funding of the bill and to allow the other 394 meritorious provisions to move forward.

The Committee on Ways and Means will not report a bill to the floor that is not in compliance with the pay-go requirements of the Budget Act. Recommitting the bill to the Committee on Ways and Means will not result in an alternative revenue source. It will simply result in killing any chances for the many meritorious provisions of H.R. 4318 to become law.

Mr. Speaker, I urge my colleagues to oppose the motion to recommit H.R. 4318.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Georgia.

Mr. JENKINS. Mr. Speaker, this is the problem we get into with a motion to recommit in this form. We have 391 provisions of this trade bill that everybody wants passed but nobody wants to pay for them, so the motion to recommit says: "Yes, we want the 391 sections, but we do not want to pay for it. We will direct the Committee on Ways and Means to find some tax somewhere, gas tax or something, to pay for this motion to recommit, but we are not going to be responsible for it."

Is it any wonder that the American people are beginning to say, "This institution cannot legislate. They do not want to take any responsibility." This is a good example of a motion to recommit that ought to be voted against by everybody in this House, regardless of how they feel about the trade bill.

Mr. LEVIN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Michigan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the distinguished chairman for yielding.

Mr. Speaker, I am in favor of increased trade, and I am in favor of tearing down barriers, taking into account U.S. interests. The Treasury decision did not take into account American interests. It sold them out, and got nothing in return.

This is not a matter of GATT violation. There is none. This is not a matter of the consumer interest. There is already a lot of competition in this country among the Big Three. This is not a tax issue. This is a fairness issue. This is an integrity issue.

I close by reading the statement by the then-Commissioner of Customs. Please listen to what is at stake. He said, "On January 4, 1989, following a year-long investigation, Customs ruled that sport utility vehicles and most small vans would be classified * * * as light trucks."

That is what the issue is here.

Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations * * * However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper customs ruling and concluded that two-door MPVs would be classified as trucks, but that most four-door MPVs would be classified as passenger cars, a decision that defies logic.

The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached,

That is what he said, and that is what is at stake here—

and make clear that the trade rules of the United States Government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

The motion to recommit should be defeated, and this bill should be passed to keep the integrity of the U.S. system. Let us open trade barriers. Let us do it, keeping in mind American interests first and foremost.

Mr. ROSTENKOWSKI. Mr. Speaker, I urge a "no" vote on the motion to recommit, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act of 1992.

The tariff changes in this legislation are generally noncontroversial. We are merely reducing or ending tariffs which do not protect U.S. industry. In many cases, these tariffs actually harm U.S. competitiveness by raising the prices American producers must pay for foreign-made components or raw materials.

Mr. Chairman, I am very pleased that two provisions I authored have been included in H.R. 4318. Both of these amendments to the Harmonized Tariff Schedule have been carefully reviewed and approved by the International Trade Commission and the Commerce Department's International Trade Administration. Furthermore, both were endorsed by the Ways and Means Committee and, of course, the Subcommittee on Trade.

I introduced H.R. 2364 to assist Lenox, Inc. by temporarily reducing the import duty on certain ceramic statues, statuettes, and flowers which were made by professional sculptors. As my colleagues may know, Lenox, Inc. is an internationally renowned domestic producer and merchant of fine china whose headquarters is located in Lawrenceville, NJ—within my congressional district.

Lenox noted that due to an unexpected change in trade policy, the tariff rate for handmade figurines was actually increased above the rate for the products not made by hand. The traditional rates always had a lower tariff for the handmade products because it would encourage artistic work from sculptors.

I agreed to assist Lenox by sponsoring legislation which would temporarily reduce the duty for these items made by professional sculptors. Lenox, while a domestic maker of many ceramic products, markets the imported, handmade statuettes by mail order. Under my provision contained in the Miscellaneous Tariff Act, the duty for these figurines would be reduced from 3.1 percent to 2.6 percent. Passage of this provision would reduce the duties paid by Lenox and make it a stronger employer and more profitable enterprise.

Mr. Speaker, another bill I sponsored has also been included in H.R. 4318. On April 16, 1991, I introduced H.R. 1835 to strengthen the international competitiveness of the U.S. commercial communication satellite industry. I was pleased that after consideration and markup by the Subcommittee on Trade, my bill—H.R. 1835—was embraced by Chairman ROSTENKOWSKI and included in both the House trade expansion package, H.R. 5100, and today's bill, H.R. 4318. My satellite provisions were already passed in H.R. 5100, but I urge its approval in H.R. 4318 to further ensure its ultimate enactment.

Under current law, entire communication satellites and most parts may be imported into the United States free of duty as long as the satellite is subsequently reexported or launched into orbit. However, certain components which are necessary for the domestic manufacture of communication satellites have different tariff classifications and are therefore subjected to high import duties. The importer may put up a bond in exchange for paying the duty and can have the bond and the tariff excused if the manufacturer launches or reexports the satellite within 3 years. This procedure is known as temporary importation under bond [TIB].

Unfortunately, Mr. Chairman, the shuttle *Challenger* disaster and other launch failures played havoc with communication satellite launch schedules. As my colleagues know, the schedules for launches are determined years in advance and the repercussions from these past failures are still being felt by the industry.

My bill would provide satellite manufacturers with an additional 2 years, for a total of 5 years, to launch their satellites without the builder sacrificing the bond or suffering the impact of liquidation damages as long as the delay was no fault of their own.

Mr. Chairman, if enacted, my reform of TIB will ease the burden on those manufacturers who face harsh penalties through no fault of their own.

I am grateful that General Electric's Astro-Space division in East Windsor, NJ brought this situation to my attention. While passage of my measure will provide substantial benefits to a local constituent, I see broad positive implications from this legislation.

I urge approval of H.R. 4318 without further delay.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act. Imported multipurpose vehicles [MPV's] are classified as trucks only for emissions and fuel economy regulations, and luxury and gas guzzler for tax purposes. In other words, the Japanese car industry is again taking an unfair advantage over the American car industry and dumping minivans in our country at a rate of up to 7.19 percent below fair market value.

This legislation will correct an inconsistency in U.S. Government regulations that costs the American taxpayer about $300 million in annual revenue. The American taxpayer has a heavy enough burden without having to foot the bill for the Japanese as well. Classification of MPV's should be based on structural and design features and not on cosmetic features that can be easily manipulated by importers.

In 1989 the U.S. customs service determined that imported MPV's should be classified as trucks for tariff purposes. Within a week of that decision, the Treasury Department disagreed and determined that 2-door MPV's should be considered trucks and 4-door MPV's should be considered cars. Foreign political pressure allowed the customs decision to be overturned and by passing this legislation today we can correct this unfair decision.

I fully support free trade and competition, but when a country continues to blatantly break the rules, it is time to play hard ball. Mr. Chairman, more American jobs will be at stake if this legislation is not passed.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 4318, the Miscellaneous Tariff Act. Imported multipurpose vehicles [MPV's] are classified as trucks only for emissions and fuel economy regulations, and luxury and gas guzzler for tax purposes. In other words, the Japanese car industry is again taking an unfair advantage over the American car industry and dumping minivans in our country at a rate of up to 7.19 percent below fair market value.

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I fully support free trade and competition, but when a country continues to blatantly break the rules, it is time to play hardball. Mr. Chairman, more American jobs will be at stake if this legislation is not passed.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appear to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 125, nays 263, not voting 46, as follows:

[Roll No. 356]

YEAS—125

Allard	Gibbons	Miller (WA)
Allen	Gilchrest	Molinari
Anderson	Gingrich	Moorhead
Archer	Goodling	Moran
Armey	Goss	Morella
Baker	Gradison	Nichols
Barrett	Grandy	Nussle
Barton	Green	Oxley
Bateman	Hammerschmidt	Packard
Beilenson	Hancock	Panetta
Berman	Hansen	Paxon
Bilirakis	Hefley	Penny
Bliley	Herger	Petri
Boehner	Hopkins	Pickett
Callahan	Hubbard	Porter
Campbell (CA)	Ireland	Quillen
Chandler	James	Ramstad
Coble	Johnson (TX)	Ravenel
Combest	Klug	Rhodes
Cox (CA)	Kolbe	Riggs
Crane	Kopetski	Rinaldo
Cunningham	Kyl	Roberts
Dannemeyer	Lagomarsino	Rohrabacher
DeLay	Leach	Ros-Lehtinen
Dicks	Lewis (FL)	Roth
Dixon	Lightfoot	Schaefer
Dooley	Livingston	Schumer
Doolittle	Lloyd	Sensenbrenner
Dornan (CA)	Machtley	Shaw
Dreier	Marlenee	Shays
Fawell	McCandless	Skaggs
Fields	McCollum	Skeen
Fish	McCurdy	Smith (OR)
Gallegly	McMillan (NC)	Smith (TX)
Gallo	Meyers	Spence
Gekas	Miller (OH)	Stark

Stearns
Stump
Synar
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Waxman
Weber
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—263

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Ballenger
Barnard
Bennett
Bentley
Bereuter
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bryant
Bunning
Burton
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hughes
Hunter
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Ritter
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schiff
Schroeder
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solomon
Spratt
Staggers
Stallings
Stenholm
Studds
Sundquist
Swett
Swift
Tallon
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Young (FL)

NOT VOTING—46

Ackerman
Alexander
Atkins
Bacchus
Boxer
Broomfield
Brown
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Dickinson
Donnelly
Dwyer
Early
Eckart
Edwards (OK)
Ford (TN)
Gaydos
Hatcher
Huckaby
Hyde
Lehman (FL)
Levine (CA)
Lowery (CA)
Mavroules
McCrery
Michel
Morrison
Mrazek
Myers
Oakar
Owens (UT)
Pelosi
Scheuer
Schulze
Smith (IA)
Solarz
Stokes
Tauzin
Towns
Traxler
Yatron

□ 1345

The Clerk announced the following pairs:

On this vote:

Mr. Levine of California for, with Mr. Atkins against.

Mr. Lowery of California for, with Mr. Broomfield against.

Mr. SMITH of Florida changed his vote from "yea" to "nay."

Messrs. COBLE, SPENCE, BEILENSON, RINALDO, and PENNY changed their vote from "nay" to "yea."

So the motion to recommit was rejected

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. VOLKMER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 112, not voting 49, as follows:

[Roll No. 357]

AYES—273

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Baker
Ballenger
Barnard
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Bryant
Bunning
Burton
Bustamante
Camp
Cardin
Carper
Carr
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Condit
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gephardt
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gunderson
Hall (OH)
Hamilton
Hancock
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hughes
Hunter
Inhofe
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Meyers
Mfume
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Pursell
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Young (FL)

NOES—112

Allard
Allen
Anderson
Archer
Armey
Barrett
Barton
Bateman
Bliley
Boehner
Boucher
Callahan
Campbell (CA)
Chandler
Coble
Combest
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dooley
Doolittle
Dornan (CA)
Dreier
Fawell
Fields
Fish
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Goss
Gradison
Grandy
Green
Hall (TX)
Hammerschmidt
Hansen
Herger
Hopkins
Hubbard
Hutto
Ireland
Johnson (TX)
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Marlenee
McCollum
McHugh
McMillan (NC)
Miller (CA)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Nichols
Nussle
Orton
Oxley
Packard
Panetta
Parker
Paxon
Penny
Petri
Pickle
Porter
Quillen
Ramstad
Ravenel
Rhodes
Riggs
Roberts
Rohrabacher
Roth
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Skeen
Smith (OR)
Smith (TX)
Stark
Stearns
Stenholm
Stump

Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Weber
Wyden
Young (AK)
Zeliff
Zimmer

NOT VOTING—49

Ackerman
Alexander
Atkins
Bacchus
Boxer
Broomfield
Brown
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Dickinson
Donnelly
Dwyer
Early
Eckart
Edwards (OK)
Ford (TN)
Gaydos
Guarini
Hatcher
Hefley
Huckaby
Hyde
Jacobs
Lehman (FL)
Levine (CA)
Lowery (CA)
Mavroules
McCrery
Michel
Morrison
Mrazek
Myers
Oakar
Owens (UT)
Pelosi
Scheuer
Schroeder
Schulze
Smith (IA)
Solarz
Stokes
Towns
Traxler
Yatron

□ 1358

The Clerk announced the following pairs:

On this vote:

Mr. Stokes, for, with Mr. Levine of California against.

Mr. Atkins, for, with Mr. Lowery of California against.

Mr. DANNEMEYER and Mr. HALL of Texas changed their vote from "aye" to "no."

Mr. GOODLING and Ms. ROS-LEHTINEN changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON S. 12, CABLE TELEVISION CONSUMER PROTECTION ACT OF 1992

Mr. LENT. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. LENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill, S. 12, be instructed to maintain the protections and remedies provided in section 20 of the House amendment against theft of cable service.

The SPEAKER. The gentleman from New York [Mr. LENT] will be recognized for 30 minutes and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The gentleman from New York [Mr. LENT] is recognized for 30 minutes.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand that House conferees for S. 12, the Cable Television Consumer Protection and Competitiveness Act will be appointed shortly.

My motion to instruct is intended to act as a significant deterrent to the prevalent problem of theft of cable service. This instruction is critical to bring into conformity penalties and remedies for theft of cable service with those penalties and remedies for theft of satellite service.

□ 1400

The Senate failed to include such a provision in their bill. We think such a remedy is important to ensure the integrity and protection of property rights of cable.

Accordingly, Mr. Speaker, I strongly urge my colleagues to support my motion.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman for offering this motion. I support it. I urge my colleagues to do likewise.

Mr. LENT. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York [Mr. LENT].

The motion to instruct was agreed to.

APPOINTMENT OF CONFEREES ON S. 12

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the authority to make supplemental appointments, including the naming of additional conferees from the Committee on the Judiciary: Messrs. DINGELL, MARKEY, TAUZIN, ECKART, MANTON, HALL of Texas, HARRIS, LENT, RINALDO, BILIRAKIS, and FIELDS, provided that Mr. RITTER is appointed in place of Mr. FIELDS for consideration of so much of section 16 of the Senate bill as would add a new section 614(g) to the Communications Act of 1934 and so much of section 5 of the House amendment as would add a new section 614(f) to the Communications Act of 1934.

There was no objection.

RECOMMITTAL OF H.R. 5231, STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980 AMENDMENTS

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the technology administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, be recommitted.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The bill, H.R. 5231, is recommitted to the Committee on Science, Space, and Technology.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1991

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, with a House amendment thereto, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BOEHNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 531 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5191.

□ 1407

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, with Mr. OBEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 30 minutes, and the gentleman from Florida [Mr. IRELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 5191, the Small Business Equity Enhancement Act of 1992.

This legislation is sponsored by Representative IRELAND, the ranking minority member, and 17 other members of the Small Business Committee, and it has been endorsed by the administration. It received unanimous support in committee and was ordered reported by a vote of 39–0.

Over the years, the small business investment company or SBIC Program has worked very well.

Under this program, the Small Business Administration or SBA helps finance small firms through privately

owned SBIC's. These companies are SBA-licensed to supply equity capital and long-term loan financings to small firms for expansion, modernization, and sound financings of their operations, as well as venture capital for startup costs or research and development expenses. SBIC's must operate within SBA regulations, but their individual transactions with small companies are private arrangements and have no connection with SBA.

The program has created over 1 million jobs.

Over the past 15 years, corporate form SBIC's have paid more than $500 million in taxes.

In addition, the program is filling not only a broad public policy goal of encouraging venture capital to go to small businesses, but also is assisting socially and economically disadvantaged individuals, is financing firms that are actively involved in exporting, and is providing substantial funding of firms in the technology sector.

In recent years, however, the program has had problems due to program structure and the economy. Possibly, it is a reflection of the overall state of the sharp decline in new money going to venture funds; in the past 5 years new capital has dropped 70 percent.

SBA Administrator Saiki appointed a blue ribbon commission under the leadership of a former Deputy Administrator, Patricia Cloherty. The Commission's report pointed out that the industry's problems are essentially cash flow related; that is, an SBIC during certain short cycles is receiving less income on its investments than is required to pay interest on its debts. The inevitable result is temporary insolvency, unless the SBIC has large cash assets.

This legislation proposes to create a new instrument, called a participating security, through which the Government could provide matching capital funds to SBIC's. It would be guaranteed by SBA and would be sold to private investors the same as in the current program. But, it would have two key features.

First, interest would be payable only to the extent that the SBIC had sufficient earnings or gross profits from which to do so, with SBA, at least temporarily making up any shortfall in interest.

Second, the Government would receive a share in the profits of the SBIC, with the profit participation being based on the amount of Government-guaranteed capital: If the Government provides guarantees equal to the amount of private capital, it would receive 9 percent of the SBIC's profits; and if it provides double the amount of private capital, it would receive 12 percent of the profits.

Although we believe this new mechanism will work, we are proposing it on a pilot basis. We are proposing to phase it in with an initial program level of $100 million in fiscal year 1993 and with annual increases until it reaches $700 million in guarantees in 1997.

We also believe that we can provide this assistance at a lower cost per dollar than under the current program. The present program, under the Credit Reform Act, costs about 15 cents on the dollar. We project the cost of the new security at 10 cents on the dollar, or a one-third improvement.

In addition, we could recover all of our costs. The program is designed to promote investments in sound, growth-oriented small firms, but occasionally SBIC's have invested in really stellar performers such as Cray Research, Apple Computer, Intel Corp., and Federal Express.

Under our profit participation provision, the Federal Government could cover years of program costs, assuming history repeats itself and the Government receives 10 percent, for example, of an SBIC's profits on another Federal Express-type investment.

There are, of course, many other changes being made by the bill, ranging from provisions imposing new requirements to provide greater safety and soundness on the Government's guarantees, to provisions directing that restrictions be removed or decreased for those SBIC's which have not obtained any Federal guarantees.

I particularly want to point out that the bill would require more private investments in these companies in order to obtain matching Federal guarantees. This new safety requirement would apply to both the current debenture guarantee program and to the proposed participating securities. The amount of the SBA financing generally would be limited to a maximum of $90 million per company; and the specific amount would be determined by the amount of private capital in the SBIC:

On the first $15 million of private capital, it could obtain up to $45 million in Federal guarantees;

On the second $15 million of private capital, it could obtain up to an additional $30 million; and

On the third $15 million of private capital, it could obtain up to an additional $15 million.

Thus, if an SBIC receives the maximum amount of Federal assistance, it would have private capital equal to one-half of the amount of Federal guarantees rather than the one-fourth permitted today.

This legislation will not cure all of the problems confronting the SBIC industry today, but it is clearly a good first step and will provide the agency and the industry the tools with which they can move forward.

Mr. Chairman, before closing, I want to thank the other members of the committee for their cooperation and contributions, particularly my ranking minority member, ANDY IRELAND. I know that without his strong support, we would not be here today.

I also want to say that I have enjoyed working with him on this bill and others. The Members know that he is retiring at the end of this term and I hope we will be back here on the floor with other legislation before he leaves, but just in case we are not, I want to thank him for all of his efforts to promote small business and secure the adoption of much needed legislation. It has been a pleasure having him as the ranking minority member, although I would have preferred that he be one of the senior Democratic members on the committee.

ANDY, you will be missed, but I wish you well.

I reserve the balance of my time.

□ 1410

Mr. IRELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to start by commending my colleague, the chairman of the Committee on Small Business, for his considerable efforts in developing this legislation and bringing it to the floor for our consideration today. I also want to thank him for the spirit of bipartisan cooperation that he has fostered throughout this bill's development process.

As the gentleman from New York has so ably explained, H.R. 5191's purpose is, first and foremost, to create jobs for Americans by restoring the flow of venture capital to our Nation's emerging growth companies. At the same time, the bill will reduce the Federal Government's risk in guaranteeing debentures issued by SBA-certified small business investment companies, known as SBICs.

Let us face it: As big businesses in America continue to down size, hard-working Americans continue to lose jobs. Where are those hard-working Americans finding new jobs? In our Nation's smaller firms.

What can we in Congress do to help those small, but growing, businesses employ even more Americans? We can stimulate investment—in the form of patient capital—in these emerging growth firms. That is exactly what H.R. 5191 will do.

The chairman has explained that requiring SBIC's to pay interest semiannually from the start on their SBA-guaranteed debt makes it virtually impossible for those SBIC's to make the kind of equity investments that emerging growth—and job-creating—companies so desperately need. H.R. 5191 solves this problem in a very innovative—yet sound—way.

Currently, SBIC's issue debentures for 5 or 10 years that are pooled periodically by the SBIC Funding Corporation. Certificates of interest in those pools—which are guaranteed by SBA—are then sold to private investors. The debentures pay interest semiannually;

principal is returned when the term of the debenture expires.

Let me make clear that H.R. 5191 will not change the nature of the debt instrument sold into the private market. The procedure I just described will continue virtually unchanged once H.R. 5191 becomes law. What will change is the relationship between the SBIC and the SBA.

Under the current system, SBA steps in and makes good on its guarantee only when an SBIC is unable to make a semiannual interest payment, or is unable to return the principal when a debenture comes due. The best that can happen to SBA under this arrangement is that it doesn't lose money by having to make good in its guarantee.

H.R. 5191 allows an SBIC to opt for a different arrangement with the SBA than that of SBA as a simple guarantor of debt. By allowing SBA to step in and make semiannual interest payments on SBIC-issued debentures until that SBIC begins to realize a profit on its investments, H.R. 5191 encourages SBIC's to make the patient-capital, equity-type investments in smaller, startup firms that will allow them to grow and create jobs.

In return for SBA's willingness to step in on the front end of the investment, SBA receives a share of the profits once that investment starts to yield a return. For as long as the SBIC profits from the investment, the SBA profits as well.

This ability to share in the upside as well as the downside of an SBIC's investments will greatly reduce the overall costs associated with the SBIC program.

In addition, H.R. 5191 reduces the Federal Government's exposure to loss by placing several important safeguards on the SBIC Program:

First of all, an SBIC's shareholders and investors assume a higher proportion of risk than the Government. All private capital in an SBIC must be lost before the Government loses a penny.

Second, the amount of leverage available under this new security will be limited to 2:1.

The ratio of SBA-guaranteed debt to private capital will be reduced as an SBIC grows in size. This means that, when an SBIC takes down larger amounts of leverage, the ratio of required private capital will increase correspondingly.

H.R. 5191 strengthens the responsibility and accountability of an SBIC's Board or general partners for portfolio-company valuations. It also requires the adoption of written valuation guidelines by every SBIC. SBIC's must also submit valuation reports to SBA at least semiannually.

SBA's regulatory examination function is returned to the Investment Division under H.R. 5191. This will allow program staff to systematically monitor the financial condition of participating SBIC's, and to step in quickly when there is a problem.

Finally, by making clear that investments in SBIC's by public pension funds qualify as private capital, H.R. 5191 will open up pension funds—the primary source of venture capital in this country—to the SBIC industry.

By attracting substantial amounts of new private capital to the program, SBIC's will be able to invest in a greater number of emerging growth companies. The result will be more jobs, more taxes paid, and more opportunities to pursue the American dream of starting your own business.

And H.R. 5191 does all this, while actually reducing the subsidy rate for the program by one-third. It's no wonder that the bill has the unanimous support of Republicans and Democrats on the Small Business Committee, and the enthusiastic support of the administration, as well.

Mr. Chairman, I especially want to commend SBA Administrator Pat Saiki, the Investment Advisory Council she put together to look for ways to strengthen and improve the SBIC Program, and the SBIC industry for their willingness to work with the Small Business Committee in developing this important legislation.

H.R. 5191 demonstrates that when we can get cooperation among the executive branch, the Congress and the private sector, we can indeed do good things for America.

I ask my colleagues to vote for fiscal responsibility, and for jobs for Americans, by voting for H.R. 5191.

Mr. LAFALCE. Mr. Chairman, I yield 2½ minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank my friend, the gentleman from New York [Mr. LAFALCE], the chairman of the Committee on Small Business, for yielding to me. I salute the gentleman for bringing this bill to this point in the legislative process.

Mr. Chairman, I also commend my friend, the gentleman from Florida [Mr. IRELAND], with whom I have very much enjoyed serving over the years in this Chamber and on the Committee on Small Business, and wish the gentleman well.

Mr. Chairman, from one standpoint this is a somewhat complicated bill. The gentleman described it fairly straightforwardly and as simply as it could be. But it is a complicated bill.

However, there is a simple element as well. I think that what ought to be kept in mind is this simple fact: Most of the jobs in the United States are now being created by smaller companies, and among those, primarily among the smaller entrepreneurial type companies. Those are the very ones that need the capital which the small business investment companies are able to provide.

This bill will revolutionize the whole process by which capital will flow into these new, young, vigorous companies. This, in turn, will create the jobs which we very, very much need in America.

Mr. Chairman, the gentleman has done this in the way that I really like to see legislation crafted. It has been done in a bipartisan fashion. This is characteristic of the gentleman from New York [Mr. LAFALCE] as a legislator. The gentleman has been trying to figure out ways that both sides of the aisle can come together behind legislation which is sensible, which is cost effective, and which does the job.

Mr. Chairman, this is really what this bill before us today does. It is bipartisan. It is a good, solid piece of legislation, and I very much support it because it will get the job done.

Mr. Chairman, to sort of localize this legislation, back in Kentucky our Lt. Gov. Paul Patton, has been assigned a very important duty by our Governor, and that is to head up the whole statewide economic development program.

Mr. Chairman, I would tell the gentleman from New York [Mr. LAFALCE] that I have just heard from our Lieutenant Governor, who is very supportive of this bill, because it will allow, if I am not mistaken, a State, under some circumstances, to itself become a participant in these small business investment companies, so long as the picket fence is kept between the public and private character of that activity. Lieutenant Governor Patton says this is a very innovative and very important step forward.

So, Mr. Chairman, I support the bill for many reasons, including that, and also because, overall, it is a very, very fine piece of legislation which will help create jobs in America.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise today to compliment and give praise to Chairman LAFALCE and Representative IRELAND for their work on this important piece of legislation. H.R. 5191 may be one of the most significant and effective bills that this Congress can pass to help restart our economy and the small business community. Through this legislation, we will increase the amount of investment capital that is available to newly developing small businesses by strengthening the Small Business Investment Corporation Program.

The lack of investment and capital in this country has left small businesses throughout the country in a downward spiral. The effect of the downward spiral has left the American people wondering if we can continue to promote small businesses in this country. By passing H.R. 5191, we can help small, young companies to remain competitive by allowing them access to investment capital that is desperately needed. By passing H.R. 5191 into law, Con-

gress can tell the American people, yes we can be competitive, yes we can be No. 1 in developing new products and businesses, and yes Congress is supportive of the American small businessperson.

In Las Vegas, we are hard at work to rebuild areas of West Las Vegas that have been ravaged and destroyed by the recent racial riots. As a participant of the recently formed, Multijurisdictional Community Empowerment Commission, whose purpose is to design a program to rebuild the West Las Vegas area, one of the measures which is central to this rebuilding process, is the establishment of a specialized small business investment corporation. H.R. 5191 will make the creation of SBIC's and SSBIC's in Las Vegas a reality and a means to revitalize the economically disadvantaged neighborhoods of West Las Vegas.

For the small businessperson in Las Vegas and around the country, I ask all Members to support H.R. 5191, a bill that helps to give the small businessperson an advantage in bringing America, once again to the forefront of developing the finest business enterprises in the world.

Mr. MAVROULES. Mr. Chairman, today the House of Representatives resoundingly endorsed the Small Business Equity Enhancement Act of 1992, H.R. 5191. This legislation would provide enhanced opportunities for small business investment companies [SBIC's] to succeed, and for small businesses to obtain much needed capital by making loans available to SBIC's through Small Business Administration [SBA] guarantees.

Given the climate in the banking industry and the scarcity of venture capital for even proven large business concerns, small businesses, especially disadvantaged businesses, have little access to capital and reduced chances of succeeding. Licensed by the SBA, SBIC's are often the only source of capital for small businesses. Serving the needs of socially or economically disadvantaged businesses, specialized SBIC's provide a much needed service to the disadvantaged community. The issue is simple—helping SBIC's helps small businesses, and helping small businesses helps our struggling economy.

Between 1986 and 1990, SBIC's financed over 5,800 small businesses. As for the New England region, it ranks second in the number of SBA-licensed SBIC's, third in the amount of private capital held by SBIC's, and third in the amount of capital leveraged from the SBA through the program. In my home State of Massachusetts alone, 304 small businesses have benefited from SBIC financing since 1986. Let me note that 155 of these businesses fall into the disadvantaged category. I submit to my colleagues that not only does this program pay off, it pays off in spades.

Mr. Chairman, it is time we realize that small businesses are the way out of our current economic doldrums. Initiatives such as the Small Business Equity Enhancement Act and the Small Business Credit Crunch Relief Act (H.R. 4111), which was overwhelmingly passed earlier this year, are the medicine our economy needs to get well. I am pleased to be associated with such legislation and as a member of the Small Business and Armed Services Committees will continue to work towards increasing the role small businesses play in the national economy.

Mr. RITTER. Mr. Chairman, I rise today to enthusiastically support H.R. 5191, the Small Business Equity Enhancement Act of 1992.

I congratulate both Chairman LAFALCE and the ranking minority member of the committee, Mr. IRELAND for their efforts to reach a bipartisan accord on this bill.

Mr. IRELAND perhaps sums it up best—a vote for H.R. 5191 is a vote for small business. And we must make no mistake about it—small business is one of the most important engines for economic growth in this country. The majority of Americans are now employed in small business across the country. If we are to provide the employment opportunities needed to sustain the economic growth we all desire, then we must provide a way for new startup ventures and expanding small businesses to get the capital they need to grow and to innovate.

That is what this bill is all about. By reinvigorating the Small Business Investment Company Program, we will be augmenting the ability of small businesses to attract desperately needed working capital. The credit crunch is well known. But less well known is the fact that in the last 5 years, new capital commitments to venture funds have declined by almost 70 percent. We cannot let this decline stand.

For in the last analysis, venture capital invested in American small business translates to money and jobs which stay in America. We can no longer afford to export more capital overseas than we invest in domestic small business.

I urge my colleagues to support this bill, and the jobs and opportunity it will ultimately bring to Americans across this country.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in support of H.R. 5191, the Small Business Equity Enhancement Act. This legislation will revitalize the small business investment company [SBIC] industry and will encourage investment in smaller firms. We cannot overemphasize the importance of making capital available to small businesses. The existence of the credit crunch and the challenges facing small businesses which need loan capital is something that we all know. However, less well known is that there is a similar shortage of funds to make equity investments and provide other venture capital to small firms. For example, between 1987 and 1991 commitments to venture funds decreased from $4.1 billion to $1.2 billion, or by almost 70 percent. Clearly, there is a need to act.

H.R. 5191 is a well thought out response to the problem of the lack of equity capital within the SBIC industry. Not only does H.R. 5191 stimulate much needed investment, it will also reduce the subsidy rate for the program by almost one-third.

If you will recall, the Small Business Investment Company Act was initiated in the midst of the 1958 recession. The act created one of the most exceptional public-private sector partnerships in the history of economic development. The success of the program can be attributed to the order of private capital in the capital structures of SBIC's, which has the effect of insulating Government funds from losses, and to the private ownership and management of the SBIC's, which have had the effect of assuring that the investment decision-making is prudent.

Though the SBIC program has had an overall sound record, several negative trends have emerged in recent years. These problems were acknowledged by Administrator Saiki at hearings in July of 1991. The Small Business Administration [SBA] under the direction of Administrator Saiki made a commitment to do "what it takes to restore integrity and purpose of this program."

Mr. Chairman, I am proud to proclaim that the Small Business Equity Enhancement Act restores integrity and the purpose of the program. H.R. 5191 provides several enhancements to what has been a fundamentally sound program. The basic flaw in the program for those SBIC's which provide much needed venture capital in the form of equity rather than as subordinated debt has been corrected. Programmatic changes will ensure a reduction of risk, return regulatory functions to SBA's investment division, allow SBIC's to charge market rates of interest, as well as allow pension fund investment to be counted as private capital.

In short, this is the type of progrowth, probusiness, projobs bill that we need to keep the economy moving.

Mr. CLEMENT. Mr. Chairman, as we debate this measure improving the Small Business Investment Corporation Program, I would like to share with you a story about a particular form of SBIC called a minority enterprise business investment corporation, or MESBIC.

My story asks whether the Small Business Administration is adequately monitoring the activities of MESBIC's and, by extension, SBIC's, and taking prompt administrative and legal action when violations of SBA rules are detected.

This is the story of Tennessee Equity Capital Corp. and several of the businesses which were financed through it. But it is a sad story because the owner of Tennessee Equity, Walter Cohen, has been indicted on fraud charges and the owners of the companies financed by Tennessee Equity are out in the cold and frustrated, disillusioned, and, in some cases, bankrupt.

One of the small companies financed by this MESBIC was Pointer Oil. Its owner, John Pointer, is in bankruptcy and unable to obtain capital to start a new business. His pleas for assistance to the SBA have fallen on deaf ears. He is told that there is nothing the SBA can do to help him get back on his feet, even though his track record as head of Pointer Oil was good, notwithstanding the active and illegal intervention into its operations by Tennessee Equity Capital Corp.

The SBA says it owes Mr. Pointer no special consideration at the same time it admits it should have been more diligent in its oversight of Tennessee Equity.

Ironically, the Federal investigation and indictment of Walter Cohen and Tennessee Equity would not have occurred without Mr. Pointer. For soon after his association with Tennessee Equity 3 years ago, Mr. Pointer

began alerting the Small Business Administration to evidence that resulted in the indictment.

And now, despite his actions to blow the whistle on Tennessee Equity and owner Walter Cohen, SBA officials are unable and unwilling to help him get back into business or to help him promptly recover his assets.

But this story raises questions about the administration of the MESBIC and SBIC Programs and whether sufficient safeguards are in place to investigate alleged improprieties in these MESBIC–SBIC programs before they cause problems for the small companies financed through them. It raises questions as to whether the SBA is adequately protecting the taxpayers who guarantee the securities issued by MESBIC's and SBIC's.

In the case of Tennessee Equity, it appears that the office of the SBA's inspector general was working closely with the Justice Department in the investigation. However, the inspector general did not work closely with the other SBA officials who could have taken action ahead of any indictment. Information being gathered about Tennessee Equity's alleged improprieties was not shared with other offices at the SBA which could have taken separate administrative action against Tennessee Equity. In fact, at a meeting this spring between SBA officials, John Pointer, and my staff, one of the SBA associate administrators present leaned over to the SBA's attorney and whispered "Gee, why didn't we take action earlier?"

For, as a consequence of this meeting, a meeting that, by the way, took months of requests to get scheduled, the SBA went to Federal court and asked that Tennessee Equity be put under SBA receivership. But even this motion would have been lost by the SBA if it hadn't been for John Pointer's testimony to the court. John Pointer was not asked by the SBA to be present at the court hearing. SBA attorneys apparently thought they could do it themselves.

Mr. Chairman, in a recent Wall Street article about the case of John Pointer and Tennessee Equity, the head of SBA's investment division is quoted as saying "We license these investment companies. But we can't guarantee to the world at large that they follow all our rules."

Well, Mr. Chairman, it is critical that the SBA do a better job monitoring the activities of the SBIC's and MESBIC's. The SBA may not be able to guarantee that they follow the rules, but information about irregularities and improprieties should be investigated by those responsible for administering these programs so that prompt administrative action can be taken earlier against those suspected of fraud or violation of any SBA rules.

[FROM THE WALL STREET JOURNAL, JUNE 26, 1992]

BUSINESSMAN SAYS U.S. AID ROLE BLINDED HIM TO FRAUD—FEDERAL INVOLVEMENT OFTEN ENCOURAGES ENTREPRENEURS TO LOWER GUARD

(By Jeanne Saddler)

Entrepreneur John Pointer was delighted when an investment company licensed by the Small Business Administration took him under its wing a few years ago. Tennessee Equity Capital Corp. not only promised to invest in his fuel-brokerage company but also started the ball rolling to get additional funds from the SBA.

Mr. Pointer was a little taken aback at the active management role that Tennessee Equity's owner, Walter Cohen, insisted on taking in his Nashville company, but he felt little reason to worry. After all, Mr. Pointer figured, the SBA connection was all but a guarantee that the arrangement was on the up and up.

But today, bitter and bankrupt, he knows better. In violation of federal law, he says. Mr. Cohen essentially took control of Pointer Oil Co's finances—and helped himself to much of the money. As a result, Mr. Pointer lost control of his company to Mr. Cohen, who early this year was indicted for fraud.

"Basically, he claimed he had a business-incubator kind of setup for minority firms, but it was just a way of controlling those firms and having black 'front companies,'" says Mr. Pointer, who is black. He says he let Tennessee Equity officials run his day-to-day operations, even giving them authority to co-sign his firm's checks, because "my mind and thought pattern was that this guy was federally regulated."

That faith destroyed his business. "All of my hopes to pursue the 'American Dream' have been completely shattered by this SBA program, which was designed to aid and assist minorities," Mr. Pointer said in a letter he sent to the SBA last month.

He isn't alone. Each year, tens of thousands of entrepreneurs take part in government-backed private-sector programs, from SBA lending to lotteries by other agencies for winning federal cable licenses and oil leases. Often, they simply assume that the federal involvement safeguards them against fraud. Unfortunately, though federal agencies are expected to oversee the programs, they can't be held accountable for everything that goes wrong.

'LESS ON GUARD'

"Certainly, consumers will be less on guard when private firms are pretending their service is officially sanctioned by the government," says Dean Graybill, associate director of enforcement for the Federal Trade Commission's Bureau of Consumer Protection.

Mr. Pointer, though, says he eventually put his guard up. Starting three years ago, he says, he began alerting the SBA to evidence that resulted in the federal indictment against Mr. Cohen. The indictment, handed up in U.S. District Court in Nashville in February, accuses Mr. Cohen of defrauding the government by misusing federal funds and by taking direct control of companies that were supposed to receive the funds, in violation of federal law.

Mr. Cohen's attorney hasn't responded to requests for comment on the charges against him in the federal indictment and the accusations by Mr. Pointer.

Despite his actions to blow the whistle on Mr. Cohen. Mr. Pointer complains that he can't get SBA officials to help him recover some of his assets and get back into business. The SBA, while voicing sympathy for Mr. Pointer's plight and acknowledging it should have been more diligent in its oversight, says it owes him no special considerations.

"We license these [investment] companies" such as Mr. Cohen's, says Wayne Foren, head of the SBA's investment division. "But we can't guarantee to the world at large that they follow all our rules. When we find that they don't, we bring [them] back into compliance or do our best to get them out of the program."

Under the SBA's small business investment company program, a firm with about $2 million in cash can get as much as $3 million in federal money to invest in high-risk ventures that can't attract traditional bank financing. A small number of these SBICs—including Tennessee Equity—target minority firms.

STUDIES FAULT OVERSIGHT

Several recent studies, including one last year commissioned by the Senate Small Business Committee, concluded that the SBA's oversight and regulation of the SBIC program in the 1980s had been inadequate. In the wake of several SBIC failures, the SBA last year adopted new rules to govern the program and beefed up the staff charged with their oversight. The failed companies still owe SBA about $525 million.

In Mr. Pointer's case, according to the federal indictment, Tennessee Equity used the ruse of investing in Pointer Oil to secure $250,000 in SBA financing. The indictment accuses Mr. Cohen of submitting fraudulent documents to get the SBA to approve Tennessee Equity's applications for financial assistance.

Mr. Pointer says he never received any of the money and that most aspects of his business, other than winning contracts to purchase oil, were controlled by Tennessee Equity officers.

Grady Ring, a black business owner in Franklin, Tenn., who also lost control of his company after getting financing through Tennessee Equity, says Mr. Cohen convinced many minority business owners that his control of their companies was part of the bargain. "He would put his employees on your board and take control of the checkbook before people knew what was going on. They [the business owners] thought he was regulated by the government," Mr. Ring says. Both Messrs. Ring and Pointer now are suing Mr. Cohen in Nashville state court for fraud and misrepresentation.

The federal indictment of Mr. Cohen and two of his associates lists nine small Tennessee concerns that allegedly were improperly financed and managed by Tennessee Equity beginning in 1985.

INQUIRY IN 1989

The SBA's inspector general started looking into the case when Mr. Pointer took his complaints to the agency in 1989. But because the inspector general's office is independent and doesn't share details of its work with other SBA officials, no administrative action was taken against Tennessee Equity until after the indictment in February. Then, the SBA took control of the investment company, and officials say they're trying to unravel two years' worth of legal actions brought by and against the company.

AFFIDAVIT

I, John L. Pointer, home address 5488 Village Way, Nashville, Tennessee, telephone (615) 833–8610, do hereby provide the following statement to Gerald M. Struchen, who has identified himself to me as a Special Agent, U.S. Small Business Administration, Office of Inspector General. This statement is being provided in regard to my dealings with Tennessee Equity Capital Corporation (TECC), its principal, Walter S. Cohen, Brenda M. Resha and William Renick. I provide this statement voluntarily without threat, duress, or promise of reward.

I state that: Pointer Oil Company, Inc. is a small concern, owned by myself and operating as a petroleum products broker. Tennessee Equity Capital Corporation (TECC) is known to me a (sic) Minority Enterprise Small Business Investment Company owned

and operated by Walter S. Cohen and licensed by the U.S. Small Business Administration to act as a lender to disadvantaged concerns such as Pointer Oil Company, Inc. Brenda Resha is known by me to be an employee of Walter S. Cohen. Brenda Resha (Resha) works for an office located at 4711 Trousdale Avenue, Suite 24, Nashville, Tennessee, which is the office for Tri-Star Cablevision, Inc. William Renick is known to me as a former associate of Walter S. Cohen. William Renick (Renick) also maintained an office at 4711 Trousdale Avenue, Suite 24, Nashville, Tennessee.

During the initial stages of trying to get Pointer Oil Company, Inc. (POC) started, I had contacted several lenders trying to establish a line-of-credit for POC, however, was turned down by all. Subsequently, an acquaintance of mine referred me to Walter S. Cohen (Cohen) who was known to them as a company that finances minority owned concerns.

When I approached Cohen for a loan, he told me that TECC is a company licensed by the U.S. Small Business Administration and that TECC receives money from the government to invest into small minority owned concerns. I never asked Cohen for a specific loan amount, he instead told me that he would commit to a $250,000 funding of POC to be used for working capital.

When the funding took place during February 1988, Cohen told me that it was his money that he was investing in POC and that he wanted the unused portion of the working capital funds to be placed into a money market. Cohen further told him that control of the funds were to be placed in the hands of Brenda Resha and maintained at the 4711 Trousdale Avenue address. Cohen further required that two (2) signatures be required to draw funds from any of the accounts established and that the account signators be myself, himself, Brenda Resha and William Renick.

When the $250,000 was disbursed by TECC to POC, Brenda Resha had me endorse the disbursement check which was then used to open an operating account for POC, with the remainder used to open a money market type account at Shearson/Lehman Brothers. The money which was placed in the Shearson Lehman account has since been transferred to an account at Goldman-Sachs in Memphis. From the records which I have just recently seen, there is approximately $189,000 in the Goldman Sach account.

I have no control over the Goldman Sach account, do not receive the statements of account and do not know the rate of return on the account.

I have not been permitted by Cohen to draw any salary, wages, bonus or other type of remuneration from POC.

I wanted to set up an office for POC in my home, however, Cohen told me that he wanted all of the POC business to be conducted from the 4711 Trousdale Avenue address and that all records are to be maintained at that address. Further, the telephone number which I use for my business is a telephone number for Tri-Star Cablevision, Inc.

In order to pay vendors, I have to go to the offices located at 4711 Trousdale Avenue and counter-sign the checks. To the best of my knowledge, vendors are being paid.

During August, 1989, Renick and Cohen had a parting of ways. At that time, I was told to sign a check drawn on the account of POC and payable to Brenda Resha in the amount of $2,000. Cohen told me that Resha does work for all of the small concerns such as POC and that they all share the expense on a rotating basis. This is the first time that I had any knowledge of money being paid to Resha from the POC account.

I have had no choice as to who is retained to do accounting and tax work for POC or who insurance is purchased from.

Sometime during 1989, I inquired of Walter Cohen as the filing of the 1988 tax returns for POC. Cohen told me that it had already been taken care of and not to be concerned about it.

During November, 1989, Cohen fired an office worker at the 4711 Trousdale Avenue address and a new girl was hired. Because I was concerned that something was amiss, I wanted to get access to my business records to see what was going on. The new girl, who apparently didn't know better, gave me access to the records.

Subsequent to getting access to most of my business records, I have found that my signature has been forged to several checks, mostly ones issued to Brenda Resha, and that my signature was forged to the 1988 federal tax return for POC. Additionally, I have found that my signature has been forged to federal fuel tax exemption certificate. I have not confronted Cohen with any of these findings.

I am aware that Cohen has applied to the U.S. Small Business Administration for additional funds indicting, in part, that a further commitment has been made for additional funding to POC. I have not requested further financing from TECC and can't even get control of the approximately $190,000 that is still in the Goldman-Sachs account.

In regards to other small concerns, I have seen records located at the 4711 Trousdale Avenue address for Celebrations Unlimited, Inc. and I know that Advanced Innovative Technology, Inc. uses an office at the address. I also know that money is going from Advanced Innovative Technology, Inc. to Tri-Star Cablevision, Inc., but do not know the reason. I have also seen files for Freetech Building Corporation and know that Capital Security Corporation has their offices at the 4711 Trousdale address. I also know that Theodora Morrison, a salesperson for Tri-Star Cablevision, Inc. has been placed as a front for a company called Floridavision, Inc. A Gerard Schackman, who is a troubleshooter for the Tri-Star Cablevision, Inc. lines, is being used as the president of a company called Starvision Cable, Inc.

I have read the preceding five and one-half pages of handwritten statement and agree that it is accurate and true to the best of my knowledge. I have further initialled each page and corrections to the pages.

JOHN L. POINTER.

POINTER PETROLEUM COMPANY, INC.,
2100 WEST END AVENUE,
Nashville, TN, February 7, 1991.

Mr. ROBERT HARTMAN,
Small Business Administration, Nashville, TN.

DEAR MR. HARTMAN: It has been over a year since I alerted the SBA's division in Atlanta about problems I was having with Mr. Walter Cohen and his MESBIC interest, Tennessee Equity Capital Corporation. We both know that the Office of Inspector General is still running their investigation. And quite frankly we both do not really know when Mr. Cohen's case will be brought to court if indicted.

During the interval, my company and my family have suffered great hardships. However, through this I continually try to pursue my company's business potential with vigor.

Your assistant, Mr. Clinton Smith recently introduced me to Mr. Ron Reed. From my conversation Mr. Reed is your financial expert who packages loans in this district. I have met with Mr. Smith and Mr. Reed to seek financing for a complete new company, Pointer Petroleum, Inc. Listed below you will find ample reasons why through my counsel's advice, I developed a new entity:

I. (May, 1990) Cohen knew the SBA was investigating him so he along with his aid released an investment account (over $190,000) in Pointer Oil Company's name without my knowledge.

II. Suits were filed by his lawyers halting any tax refunds going to Pointer Oil Company (over $100,000). His suit claims the monies should be going to Tennessee Equity Capital Corporation.

In spite of those very serious hardships, Pointer Oil Company continued to maintain and generate new business opportunities as the following listed below:

Saturn, Metro Nashville, Metro Airport, Memphis Transit Authority,[1] Nashville Electric Service, TVA, Shelby County Support Services,[1] Shelby County Sheriff's Department, Chattanooga Transit Authority, City of Chattanooga, Chattanooga School Board, Lockheed Airforce, State Agencies of Tennessee, City of Knoxville, Memphis, Light & Gas, Memphis Airport, Nissan, Toyota, Kodak, Frito Lay, Shoney's, and Martin Marietta.[1]

In August, Pointer Oil Company, Inc. was the recipient of Award for Minority Supplier of the Year for Shelby County.

In closing, Mr. Hartman I again am asking for finances which in 1988 were not given to my wife and myself properly. I have developed a proven track record that can grow and develop into a thriving business entity. In whatever deceitful manner Mr. Cohen used the taxpayer's money only reflects how damaging a lending interest aimed toward minorities can cause a depressive gap in the economic development.

Yours in trust,

JOHN L. POINTER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 1991.

Mr. JOHN L. POINTER,
Pointer Oil Company, Inc., Nashville, TN.

DEAR MR. POINTER: Thank you for a copy of your recent letter to Senator Sasser. I appreciate you keeping me informed of the difficulties your company is facing.

I have written to the new administrator at the Small Business Administration in your behalf. I have asked for the status of the investigation involving your company as well as the agency reconsidering your request for assistance to capitalize a new company. As soon as I have received a response, I will be happy to share it with you.

Again, thank you for your letter. Please feel free to call on me when I can be of further assistance to you.

Sincerely,

BOB CLEMENT,
Member of Congress.

POINTER OIL COMPANY, INC.,
Nashville, TN, February 27, 1991.

Senator JIM SASSER,
Russell Building, Washington, DC.

DEAR SENATOR SASSER: It has been several months since our last discussion about the SBA investigation concerning my company which is still ongoing. In June, Ms. Carmen Buero with your office assured me you would

[1] Existing contracts already assigned to Pointer Petroleum Company, Inc.

keep abreast of the SBA investigation, and I have appreciated the concerned interest.

Since my last contact with Ms. Buero, there have been numerous legal attacks and maneuvers aimed at damaging my company and my family. Below, please find my monthly reportings of how the MESBIC investigation has heightened my exposure to more problems.

(A) June 1990—Walter Cohen (MESBIC) cleared all the monies ($190,000) in a investment account which was under the name of Pointer Oil Company without my knowledge.

(B) June 1990—My legal counsel filed suit against Cohen and his MESBIC (Tennessee Equity Capital Corp.).

(C) June, July 1990—Cohen's lawyers submitted counter claims, 1) that stated my wife and I were in default of the company, 2) I was ordered to give lengthy depositions with several of Cohen's attorney's, 3) Cohen filed a suit against Commissioner Joe Huddleston of the Tennessee Department of Revenue. He claimed the tax refunds owing monthly by the State should not be submitted to Pointer Oil Company but should be going to Tennessee Equity Capital Corp. to pay the guarantees my wife and I signed with the MESBIC.

(D) Pointer Oil Company in 1990 was the recipient of the State of Tennessee's gas and diesel contract (67 out of 95 counties). In December 1989, I informed staff members in General Services there was an ongoing investigation. At the start, they were lenient by only allotting 10 counties (Jan. until May). However, when I physically took the company over without any records at a new location, the state demanded that all agencies from the remainder of the counties start contacting my office for fuel. The average fuel use by the state during the summer and fall months was 900,000 gals. per month. This averaged out to almost $900,000 per month paid out by the state. My major supplier tried to help by giving me fuel supply financing with their bank in Charlotte, North Carolina.

(E) August-December (1990)—Cohen's purpose of his suit initially against the state was for only $50,000. He claimed my wife and I owed for guarantees. The state filed for an interpleader saying the courts could decide where the refunds should go. Recently, the tax refunds the state tax division is holding is over $300,000 and counting. Sprague Energy, my supplier for State of Tennessee's contract is now demanding in full payment of over $600,000. My counsel and I had acknowledged at the start about the litigation concerns with the MESBIC. The majority of the total sum is late invoice payments and tax refunds which are being withheld. Presently, we have been expecting a declaration of default by Sprague Energy. Their actions since December dictate these measures. A primary example is the fact of the constant communications with the State's General Services Department, Finance Division and also the Tax Revenue Division. My primary concern on that issue is the state has been communicating constantly with my supplier and not with myself being included. At one point my attorney and I demanded I be present on future meetings. Since the two December meetings, the State has been communicating with Sprague without my awareness. I now have possible legal concerns against Sprague (supplier) and even the State of Tennessee for not going through Pointer Oil Company as a contractor.

Currently Pointer Oil Company is no longer making sales. A new company has been formed (Pointer Petroleum Company, Inc.) in which I am not an owner. The State is penalizing this company because of my connection with Pointer Oil Company. The important fact which I have mentioned to the Tax Division is that I don't have any stock in Pointer Petroleum. I have asked the local SBA office to verify the investigation, in order to aid lenient penalties to receive Pointer Petroleum's license. The SBA stated they would not help.

Pointer Petroleum now has two contracts already assigned to the new company. These contracts are Martin Marietta (ammunitions plant) and Shelby County (support services). Please see enclosure.

Senator, I now need someone with authority to aid and assist me with my concerns, (1) receiving license with a minimum $3,000 bond and (2) getting some capital for operation purposes with the new company through the SBA. This summer when I revealed to members of the SBA committee the same information told to Ms. Buero about the MESBIC in Tennessee it was stated that this case will go down as the biggest scandal in the SBA's history. Millions of dollars have been defrauded, and presently I am still receiving all the attacks by the State, the supplier and Cohen. I have stood steadfast believing there will be justice in the court systems. I now have no capital to constantly seek legal advice with all my concerns. At this moment, I am contemplating national exposure on this entire incident because of my situation.

In closing, I am thanking you in advance for whatever you and your staff members can aid this Tennessean in need.

Yours in trust,

JOHN L. POINTER.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 1, 1991.

Hon. PATRICIA SAIKI,
Administrator, Small Business Administration, Washington, DC.

DEAR MRS. SAIKI: I would greatly appreciate your assistance in responding to the difficulties Mr. John Pointer has encountered since his company, the Pointer Oil Company, and the MESBIC to which he is associated, the Tennessee Equity Capital Corporation, became part of an SBA investigation.

As you can see from the enclosed correspondence, Mr. Pointer has been involved in an ongoing dispute with the Tennessee Equity Capital Corporation. In an effort to continue his business while the dispute and the investigation are resolved, Mr. Pointer would like to receive capital assistance from your agency for a new company.

As I understand, Mr. Pointer is not the subject of your agency's investigation. Nonetheless, the difficulties his is embroiled in have effectively stopped the operations of Pointer Oil and subjected it a string of countersuits and counterclaims.

I respectfully request your assistance in this matter. In addition, I would appreciate learning the status of the investigation and receiving advice and clarification of what issues are being investigated and whether Mr. Pointer has been implicated or is the subject of the investigation.

Thank you. If you have any questions or need any additional assistance, please feel free to call me or David Flanders of my Washington staff.

Sincerely,

BOB CLEMENT,
Member of Congress.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 22, 1991.

Hon. BOB CLEMENT,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CLEMENT: This is in reply to your letter of April 1st on behalf of Mr. John L. Pointer, Pointer Oil Company, Nashville, Tennessee.

We are enclosing a copy of a letter sent to Mr. Pointer concerning his request for a loan from the Small Business Administration (SBA).

In addition to the credit situation referred to in the attached letter, it should be noted that no formal loan application has been received from Mr. Pointer, either in the name of Pointer Oil Company or his new company, Pointer Petroleum. If a loan application is received, we assure you that it will receive every consideration possible consistent with the regulations of the SBA.

With regard to the status of the investigation of Tennessee Equity Capital Corporation by the SBA Office of Inspector General, we are referring your request to them for direct reply.

We hope this information will be helpful to your constituent. We appreciate your interest in this matter, and in our Agency.

Sincerely,

PATRICIA SAIKI,
Administrator.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, April 11, 1991.

Mr. JOHN L. POINTER,
Pointer Oil Company, Inc., Nashville, TN.

DEAR MR. POINTER: This is in reply to your letter of March 6, addressed to Administrator Engeleiter, concerning the difficulties you are having with Tennessee Equity Capital Corporation.

Your letter has been referred to this office for response since it is presumed to be concerned with the obtaining of a business loan under the regular business loan program of the Small Business Administration.

We have been in touch with both the Office of Inspector General and the Office of Investment and understand the difficult situation in which you find yourself. Unfortunately, there is no way in which we can approve a loan in the face of the adverse financial factors present.

We regret that there is nothing that can be done to alleviate your difficulties short of a successful law suit. We hope at least this information will be of some assistance to you.

Sincerely,

CHARLES R. HERTZBERG,
Assistant Administrator for Financial Assistance.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1991.

Mr. JOHN L. POINTER,
Pointer Petroleum Co., Inc., Nashville, TN.

DEAR JOHN: Thank you for sharing with me your recent letter to SBA Administrator Patricia Saiki. I appreciate you keeping me informed of your efforts to obtain SBA assistance.

I have also written to Ms. Saiki and asked her to respond to your questions and, in particular, your request for a meeting with her. As soon as I have received a response, I will be happy to share it with you.

Again, thank you for bringing this correspondence to my attention. Please feel free to call on me if I can be of further assistance.

Sincerely,

BOB CLEMENT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1991.

Hon. PATRICIA SAIKI,
Administrator, Small Business Administration, Washington, DC.

DEAR MRS. SAIKI: I recently received the enclosed letter from Mr. John Pointer of Pointer Petroleum Company, Inc., of Nashville, Tennessee.

I would greatly appreciate your assistance in reviewing Mr. Pointer's concerns and, in particular, honoring his request to meet with you. As you know, because of what I understand is a criminal investigation of a MESBIC associated with Pointer Petroleum, the company has little or no capital and, consequently, is losing contracts.

Thank you for your assistance in this important matter. If you or your staff have any questions or need any additional information, please feel free to call me or David Flanders of my Washington staff.

Sincerely,

BOB CLEMENT,
Member of Congress.

POINTER PETROLEUM CO., INC.,
Nashville, TN, May 22, 1991.

PATRICIA SAIKI,
Administrator, U.S. Small Business Administration, Washington, DC.

DEAR MS. SAIKI: I would like to congratulate you on your selection as the Chief Administrator to the U.S. Small Business Administration.

I have received your letter written to Congressman Bob Clement on my behalf. I also have your Chief Finance Director, Charles R. Hertzberg's letter. In your letter you state that there is no loan application for Pointer Oil nor Pointer Petroleum on file. However, Mr. Hertzberg writes a contradicting letter stating that there is no way SBA will approve a loan for my company. Also, in your local district office, I have been told that there would be no further form of communication for any interests on my behalf.

This letter is written to show that the SBA has completely failed me. Since the notification by me concerning the local MESBIC in Oct. 1989, there has been an insensitive attitude towards me starting from Nashville to Washington, D.C.

In your U.S.A. Today article (May 6, 1991), from my interpretation, you state that Minorities should be a great concern because "they" are behind the curve. You continued to state that "they" need our help. You concluded that SBA has to encourage Minorities and women to get into small businesses because that is where "they'll" do well.

Prior to my supposedly receiving a SBA loan (in Jan. 1988), I exhausted personal funds aligning government, state, municipal, and blue chip corporations for potential customers. Since this investigation, problems such as lack of funds, complete customer frustration, along with an assortment of litigations by your local MESBIC is forcing me completely out of the petroleum business. Effective today (May 21, 1991), I had to cancel a million dollar government contract (Martin Marietta) along with others because I have no funds.

Small businesses have a high ratio to falter, we both agree to that issue. And, being an African American businessman in today's economic structure, it is extremely difficult to stay in existence.

That is why programs developed by the SBA have to exist in a highly regulated manner. A good MESBIC program is the core for viable small businesses which need nurturing and development. My thoughts have completely changed since my signing for a SBA loan in 1988. Recently, Pointer Oil Company and my wife and I were forced into Bankruptcy.

I would like to set a meeting in Washington, D.C. to discuss my concerns soon.

Sincerely,

JOHN L. POINTER.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, July 18, 1991.

Hon. BOB CLEMENT,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CLEMENT: This is in response to your letter of June 17 on behalf of Mr. John L. Pointer, Pointer Petroleum Co., Inc. of Nashville, Tennessee, which was prompted by a copy of Mr. Pointer's May 22 letter to Patricia Saiki, the Administrator of the Small Business Administration (SBA).

Ms. Saiki wrote a letter to Mr. Pointer on June 21. In this letter, she explained that SBA is aware of Pointer Petroleum's funding through Tennessee Equity Capital Corporation, a MESBIC company undergoing grand jury investigation, as well as Pointer's past communications with our Office of Financial Assistance, with our District Office in Nashville, Tennessee and with our office of the Inspector General.

In prior communications with Mr. Pointer, I advised that there was no way SBA could approve a loan in the face of the adverse financial factors present. This opinion was based on information provided in a letter from Mr. Pointer, and dealt with the Pointer company as then organized. In a subsequent letter Mr. Pointer stated that a new company had been formed in which he had no interest. Responding to that letter, we advised that SBA had no record of receiving an application from the newly formed company.

We have been advised by our office of the Inspector General that the investigation of Tennessee Equity Capital Corporation is still continuing. As such, we are not in a position to comment on any allegations made against that company.

Your interest in this matter and in our Agency is appreciated. We are pleased to be of assistance whenever possible.

Sincerely,

CHARLES R. HERTZBERG,
Assistant Administrator for Financial Assistance.

NASHVILLE, TN, *July 12, 1991.*

Mr. ROBERT HARTMAN,
U.S. Small Business Administration, Nashville, TN.

DEAR MR. HARTMAN: I have been informed by your Chief Administrator, Patricia Saiki to pursue any financial assistance through your office. Again, I am requesting aid and assistance for my company.

Please note since my last direct effort to you and your staff members in February 1991 for financial assistance, Pointer Oil Company and my wife and I were forced to file for bankruptcy due to your local MESBIC, Tennessee Equity Capital Corporation.

Banks have already informed me that a standard SBA loan package from me would not be accepted by them.

I would appreciate your correspondence on this issue.

Sincerely,

JOHN L. POINTER.

[From the Tennessean, July 28, 1991]

MINORITY BUSINESS "HELP" INVESTIGATED—LOAN RECIPIENTS CLAIM TAKEOVERS

(By Don Hinkle)

A federal grand jury here and the U.S. Small Business Administration are investigating claims a Nashville businessman seized control of local minority-owned businesses he was supposed to help.

The grand jury probe of the activities of Walter Cohen, president of Tennessee Equity Capital Corp., has followed a trail of bankruptcies and multimillion-dollar lawsuits as investigators try to determine how Cohen dealt with businesses run by minorities or Vietnam-era veterans.

Investigators have declined to comment on or discuss the 21-month-old probe, but court documents indicate the SDA and the grand jury are examining whether Cohen and TECC violated SBA regulations.

"The basis of their [the SBA's] investigation and federal grand jury action is based on their belief that Tennessee Equity Capital Corp. and Mr. Cohen have defrauded the U.S. Small Business Administration," a Nashville oil products distributor said in a sworn affidavit filed in a lawsuit against Cohen and his company.

Repeated attempts over the past two weeks to reach Cohen at his home at 1102 Stonewall Jackson Court in Brentwood and at his TECC office at 4711 Trousdale Drive were unsuccessful. He did not return phone calls despite visits by reporters to his office.

Cohen's attorney, Carcy Thompson, said he was unaware of any investigation and said allegations in two separate lawsuits in Davidson County Chancery Court were untrue. Thompson said Cohen had received "no formal suspension" from the SBA and, in fact, has not received SBA funds "in quite some time."

The suits charge that Cohen improperly took over two separate businesses after the owners got loans from TECC through Cohen.

Three Nashville businessmen say they have testified before the grand jury about their dealings with Cohen, and a fourth man, an oil products distributor, says the federal grand jury has subpoenaed records of "all companies controlled by Cohen and Tennessee Equity."

The case has featured a string of charges and countercharges.

According to court records and interviews with the parties involved, this is what happened;

Cohen and Tennessee Equity were licensed by the SBA in January 1979 to serve as a Minority Enterprise Small Business Investment Corp. Since then TECC has received approximately $1.7 million in SBA funds after Cohen put up about $1.3 million of matching money, SBA officials said.

As part of the SBA program, Cohen's company had the authority to lend money to qualifying minorities and Vietnam-era veterans who wanted to start businesses.

Under the SBA program, Cohen could lend up to 30% of his $1.3 million to any single minority business and was authorized to receive up to $25 million from the SBA.

Three Nashville businessmen questioned by the federal grand jury here say investigators appear to be interested in how Cohen handled the financial dealings of the companies he lent money to and whether he seized control of some of them.

The three men are: Glenn Perdue and Stephen Smith, owners of Transouth Systems Group, a computer automation company which subcontracted their services to Cohen-financed businesses, and Grady Ring, a 50% partner of Tri-Star Cablevision, a company formed to provide cable service to apartment complexes in the Southeast.

Assistant U.S. Attorney Wendy Goggin, who questioned the three witnesses before the grand jury last September, refused to comment on the investigation.

SBA special agents started examining Cohen's dealings in October 1989, looking at transactions involving at least a half dozen minority businesses. One of those companies is in bankruptcy. Founders of two other businesses have multi-million dollar lawsuits pending against Cohen.

As recently as this month, Jerry Struchen, an investigator with the SBA's inspector general's office in Atlanta, was in Nashville working on the case.

The SBA investigation was initiated when John Pointer, a Nashville petroleum products distributor, complained to Sen. Jim Sasser and 5th District Rep. Bob Clement that Cohen was trying to take over his oil company and thus breaking SBA rules.

Pointer has filed a $4 million lawsuit in Chancery Court here, charging that Cohen illegally exercised "absolute dominion and control" over Pointer Oil Co., a company he started in January 1988 after Cohen agreed to lend him $250,000.

Pointer contends Cohen and Tennessee Equity did not permit him "to make managerial decisions for Pointer Oil" and that Pointer was unable to draw "any form of salary or compensation from Pointer Oil."

Pointer Oil filed for Chapter 7 bankruptcy last month, as did Pointer and his wife, Victoria, in a separate filing. Under Chapter 7, assets—personal or business—must be liquidated to pay debts.

Investigators have questioned Perdue, Smith and Ring about who controlled the SBA money and who was running the minority businesses in which Cohen had invested.

According to a countersuit filed by Cohen in Chancery Court last August, Pointer mismanaged and "practically abandoned the business in or around November 1989," forcing "Tennessee Equity and its employees to manage the day-to-day operations of the affairs of Pointer Oil Company in order to protect its investment."

Cohen maintains that Pointer has repaid him only $142,000 of the $250,000 loan.

SBA regulations provide for the Minority Enterprise Small Business Investment Corp. to take temporary control of a troubled company if a formal plan is filed 30 days prior.

SBA officials in Washington could not say last week whether Cohen filed such a plan. They said they could not provide the names of companies Cohen has lent money to because investigators have seized all SBA records on Tennessee Equity.

Cohen said the loan agreement provided for two signatures from four designated company directors before checks could be cashed. The four directors were Pointer, Cohen and two Cohen associates—Brenda Resha and William Renick.

Attempts to contact Resha and Renick for comment were unsuccessful.

Perdue and Smith, the two subcontractors, said Cohen exercised control of companies—like Pointer Oil—by controlling who signed the checks.

Pointer has declined "on-the-record" interviews concerning his dealings with Cohen.

"John had no control" over Pointer Oil, Perdue said.

In Pointer's original complaint to Sasser, he said that in June 1990, Cohen took $190,000 from an "investment account" of Pointer Oil Co. without Pointer's knowledge.

"That business was not capital-intensive," Smith said.

"It is a broker business where you basically take money out of the bank, buy gas or oil, sell it, get some more money to replace it and make a little profit.

"John Pointer should have never run out of money."

In less than a year, Pointer had built Pointer Oil sales to $2 million.

By 1990, sales hit $5 million after Pointer got contracts with the State of Tennessee, the City of Atlanta, Metropolitan Nashville Airport Authority, Nashville Electric Service and the State of Georgia.

"John was doing a great job of going out and birddoggn' business," Perdue said.

In his lawsuit against Cohen, Pointer alleges "fraudulent conduct" and claims that someone at Tennessee Equity forged his signature on an April 17, 1990, fuel tax report to the Tennessee Department of Revenue's Petroleum Tax Division.

Cohen was granted an injunction earlier this year preventing more than $388,000 in fuel tax refunds from going to Pointer. Cohen's suit claims that the monies should be going to Tennessee Equity because of guarantees owed by Pointer.

On June 6 this year, Chancellor C. Allen High ordered the money be held—pending the outcome of all litigation—by bankruptcy trustee Samuel K. Crocker because of Pointer Oil's bankruptcy filing

"John Pointer was the first person that had enough guts to stand up to Cohen," Smith said.

[From The Tennessean, July 28, 1991]

PARTNER IN VENTURE SAYS HE WAS PUSHED OUT

(By Don Hinkle)

Grady Ring was a paratrooper in the Army Reserve during the Vietnam War, though he never had to go to Southeast Asia.

As such, the Franklin man was eligible in 1985 for a special $250,000 loan from the Small Business Administration through Nashville businessman Walter Cohen and his Tennessee Equity Capital Corp.

He and his partner, Bill Hutson, formed Tri-Star Cablevision to provide cable services to apartment complexes throughout the Southeast.

The venture blossomed into a going concern during the first two years of operation, but today Ring says Hutson and Cohen have pushed him out of the company.

Ring filed an $8 million lawsuit against Cohen almost a year ago in Davidson County Chancery Court to retain his 50 percent interest in Tri-Star. He is one of three people who have appeared before a federal grand jury here investigating Cohen.

"I thought . . . that because of SBA rules and regulations that they couldn't take any stock away or sell anything," said Ring, who now works as a local marketing consultant.

"I trusted these people and I trusted the government."

Ring also has filed a $20,000 lawsuit against Hutson, alleging that Hutson "began to slow pay and no pay Ring for the purpose of pushing him out of the corporation Tri-Star."

Hutson denies those charges in an answer to the suit, but Cohen had not answered the suit against him last week.

Repeated attempts over the past two weeks to reach Cohen by phone and visits to his Brentwood home and Crieve Hall office were unsuccessful.

Carey Thompson, his attorney, said he was unaware of any investigation and said allegations in the lawsuit were untrue.

The lawsuit is part of a maze of legal documents filed here in Bankruptcy and Chancery courts.

Ring charges in the suit that Cohen tried to take over the business and that he believes that "Cohen, Tennessee Equity and Hutson diverted corporate assets to their own benefit at the expense of Tri-Star and its shareholders.

In a countersuit filed Aug. 14, 1989, against Ring, Hutson denies "pushing" Ring out and contends that Ring "surrendered his stock in Tri-Star Cablevision Inc., and has no further interest in the corporation."

The loan agreement between Tri-Star and Tennessee Equity required that two of the company's directors sign Tri-Star checks.

Even though Ring was 50 percent owner, he was not listed as one of the directors in the loan agreement with Tennessee Equity. The directors were Cohen, Hutson and Cohen associates Brenda Resba and William Renick.

Attempts to contact Resba and Renick for comment were unsuccessful.

Ring's suit says Cohen caused Tri-Star to enter "certain limited partnerships with himself and his associates whereby 99.5 percent of all of the benefits derived from such partnerships are attributable to Cohen."

"These arrangements deprived Tri-Star of material business assets for the personal gain of Cohen," the suit says. Ring said the charges in his lawsuit largely cover what assistant U.S. Attorney Wendy Goggin asked him before the grand jury. Goggin would not comment.

Hutson continues to work at Tri-Star, but filed for Chapter 7 personal bankruptcy last month. Chapter 7 requires liquidation of personal assets.

Among the creditors on Hutson's filing are the IRS, which is owed $324,315 from the year 1983, and the Illinois Department of Revenue, which is owed $15,134 from the same year.

Repeated attempts to reach Hutson to discuss his involvement with Tri-Star also failed.

Tri-Star supplied cable television to about 18–20 apartment complexes in Tennessee, Florida, and Georgia, garnering more than $60,000 in revenue each month. About half of the complexes served are in the Nashville area.

"In less than two years we had more business than we could handle," Ring said. "We had about 2,500 subscribers."

Meanwhile, Glenn Perdue, co-owner of Transouth Systems Group, a computer automation company that subcontracted their services to Cohen-financed businesses, said Cohen and Hutson had become "buddies."

"It appeared to me that Walter was trying to squeeze Grady out," said Perdue, who said he appeared before the grand jury here.

Perdue and Stephen Smith worked for Cohen as automation systems subcontractors from April 1987 to June 1988 and observed some of Tennessee Equity's dealings with Tri-Star and Pointer Oil.

"We witnessed a variety of things we didn't agree with . . . so we chose not to do business with him," Perdue said of Cohen.

Smith said he saw Ring come into Tri-Star Cablevision's offices—which doubled as a headquarters for Tennessee Equity—on Trousdale Drive one day and discovered he no longer had an office.

Ring said he told the grand jury that Cohen maintained an office there in violation of SBA regulations.

"Technically, according to the records, his office is at his house, but he spent a lot of time in the [Tri-Star] office," said Ring.

Ring filed for — and then voluntarily withdrew from—Chapter 13 bankruptcy after Cohen told him his services were no longer needed at Tri-Star.

Ring said he has spent more than $20,000 in legal fees in his battle with Cohen in the past 24 months.

"I think he's realized that I'm not going to walk away," Ring said.

Perdue, Smith, Ring, an Arthur Overall, owner of Music City Telecom which supplies

pay telephones to Nashville International Airport, agree that Cohen exercised control of minority businesses by controlling all check writings.

POINTER OIL CO.,
Nashville, TN, October 19, 1991.

PATRICIA SAIKI,
U.S. Small Business Administration, Washington, DC.

DEAR MS. SAIKI: I am informing you and your staff members in Washington that the local MESBIC (Tennessee Equity Capital Corp.) and the owner, Walter Cohen have filed yet another law suit against the company and myself. This now makes three suits filed against me along with a possibility of another supplier filing a petition, soon. Cohen has also filed a petition to prevent my wife and I to be discharged in our personal bankruptcy case.

For two years, my family and company have been exposed to this man who seemingly is still hiding behind this "MESBIC cloak". If this still is a lengthy ongoing criminal investigation, then we are completely still at great risk by his financial prowess to continually manipulate legal actions against us.

As time still meanders concerning this SBA criminal investigation, it is becoming more apparent that this is definitely a racial matter. My reasons show that a Black businessman who reported a White government lender not only exposed his wrongdoings, but probably exposed the lack of government and policy control of the SBA special lending practice. John Pointer and family have suffered since notifying the government (two years), while Walter Cohen and Tennessee Equity Capital Corp. are still operating as a MESBIC here in Nashville.

I have repeatedly requested a meeting with you in Washington and you have never responded. There are more topics of discussion than just criminal investigation of the SBA's MESBIC. I, again am asking for a meeting with you, as soon as possible.

My family and I yearn to put our life back together so we can live a normal life.

Yours in trust,

JOHN L. POINTER.

NASHVILLE, TN, *November 1, 1991.*

Re: Pointer Oil Company/MESBIC-SBA Investigation

PATRICIA SAIKI,
Administrator, U.S. Small Business Administration, Washington, DC.

DEAR MS. SAIKI: Please find enclosed more evident proof of a Minority company completely owned by an African American now decimated and in financial ruins by the SBA's local MESBIC which still is in full operations.

I yearn for the expedient indictment of this federal investigation of Tennessee Equity Capital Corporation (MESBIC) here in Nashville.

Again, I am requesting a meeting with you, as soon as possible.

Yours in trust.

JOHN L. POINTER.

10 LARGEST MINORITY-OWNED BUSINESSES—RANKED BY DOLLAR VOLUME OF STATE CONTRACTS FOR FISCAL YEAR ENDING JUNE 30, 1991

Name, address, phone	Type of business	State contract totals	Number of employees, year founded	Minority affiliation	Notable projects or largest state contracts
1. Pointer Oil Company Inc., 611 Commerce St., 37208	Gasoline, diesel fuel	$1,750,455	n/a, 1988	Black	NA.
2. Jones & Jones Contractors Inc., 1314 5th Ave. North, 37208, 244-5710.	Contractors	1,644,475	34, 1983	...do	Cumberland Gap. Natchez Trace, Saturn.
3. Lu Inc., 307 Arlington Ave., 37210, 256-6744	Highway construction	785,920	12, 1984	American Indian	Maintenance for energy absorption systems.
4. Smith Office Products, 1108 Bellshire Drive, 37207, 868-8930.	Office products, retail	376,425	34, 1982	Female	NA.
5. Linwood Construction Corp., Old Railroad Bed Road, Mt. Juliet, 754-8081, 37122.	Construction	236,833	6, 1986	Black	Hamilton County, Metropolitan Airport Authority.
6. A-H Mechanical Contractors Inc., 515 Tanksley Ave., 37211, 832-9256.	Plumbing, HVAC	187,450	50, 1964	Female	K.R. Harrington, waste water treatment plant.
7. Ericson Marketing Communications, 1130 8th Ave. South, 37203, 242-1050.	Advertising agency	178,945	102, 1968	...do	United Way, Meharry University, Fisk University.
8. Electronic Cable & Connector, 260 W. Main St., Hendersonville, 37075, 822-3151.	Computer hardware	149,421	10, 1984	...do	Running contract with the State of Tennessee, Willis Caroon.
9. American Resources Inc., 1017 Woodland, 37206, 228-3820.	Hazardous waste contractors	134,243	12, 1985	...do	Old Metropolitan Airport, Redstone Arsenil.
10. Thomas E. Gentry & Associates Inc., 407 48th Ave. North, 37209, 297-6224.	Construction landscaping paving	130,169	5, 1984	African-American	Region 3, Metropolitan Housing Agency: Preston Taylor Homes.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 25, 1991.

Hon. PATRICIA SAIKI,
Administrator, Small Business Administration, Washington, DC.

DEAR MRS. SAIKI: You recently received a request from Mr. John Pointer of Nashville for the opportunity to meet with you. I respectfully request your favorable consideration of this request.

As you know, Mr. Pointer's firm has been embroiled in an ongoing investigation of the Tennessee Equity Capital Corporation, a Nashville MESBIC. I understand that Mr. Pointer is not the subject of this investigation. Nonetheless, his company has suffered and is unable to continue. At minimum, I would ask for the status of this investigation and when it is likely to be completed.

Thank you for your attention to this request for a response and for information. Please feel free to call on me or David Flanders of my Washington staff if I can answer any questions or provide you with any additional information.

Sincerely,

BOB CLEMENT,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 25, 1991.

Mr. JOHN L. POINTER,
Pointer Petroleum Co., Inc., Nashville, TN.

DEAR JOHN: Thank you for the copies of your recent letters to SBA Administrator Patricia Saiki. I appreciate having them.

I have also written to Mrs. Saiki asking her for a quick resolution of this investigation and a response to your request for a meeting. Should I receive a response from the Administrator, I will be happy to share it with you.

Again, thank you. Please do not hesitate to call on me if I can be of further assistance to you.

Sincerely,

BOB CLEMENT,
Member of Congress.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, December 11, 1991.

Hon. BOB CLEMENT,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CLEMENT: This is in response to your November 25, 1991, letter to Ms. Patricia Saiki, Administrator, Small Business Administration (SBA), regarding Mr. John Pointer and an investigation of the Tennessee Equity Capital Corporation. In that letter, you asked for the status of that investigation and a likely completion date. I am responding to those questions because my office, along with the U.S. Attorney's Office, is investigating the matter.

On November 15, 1989, Mr. Pointer telephoned our Investigations Division Regional Office in Atlanta with information that resulted in the initiation of an investigation involving Tennessee Equity. Subsequently, on December 5, 1989, he promised to cooperate fully with SBA, Office of Inspector General, special agents assigned to conduct the investigation. Based on Mr. Pointer's expressed intent to cooperate and information he had furnished to that point, we requested special U.S. Marshall deputation from the Department of Justice (DOJ) on December 6, 1989, for the purpose of executing a search warrant in conjunction with the investigation. This request was made in compliance with DOJ guidelines and with the concurrence of the Assistant United States Attorney familiar with the case.

As of December 31, 1989, our agents were still awaiting approval of the deputation request, and Mr. Pointer, expressing frustration with the delays, withdrew his offer of full cooperation. On February 28, 1990, our agents finally received the deputation approval, but by that time, the investigative opportunities had been lost. The investigation was consequently delayed and other avenues had to be pursued, including the issuance of 31 grand jury subpoenas in addition to numerous additional interviews and record reviews. The subpoenas were primarily for banking and investment records, which were subsequently carefully examined for manipulation of funds. These examinations spawned more investigative leads, both interviews and record reviews, which had to be pursued. As evidence of the investigation's complexity and uniqueness, we currently have 225 open cases, and this case ranks sixth in amount of time spent by our special agents.

While we are in the final stages of this case, we cannot predict exactly when the matter will be closed. I assure you that we are working as expeditiously as possible to complete our investigation. If you have any additional questions on this matter, please do not hesitate to contact Assistant Inspec-

tor General for Investigations Stephen N. Marica at (202) 205-6575.

Sincerely,

JAMES F. HOOBLER,
Inspector General.

ADRIAN H. ALTSHULER,
ATTORNEY AT LAW,
Nashville, TN, January 27, 1992.

GENTLEMEN: Please be advised that I represent Mr. and Mrs. John Pointer. I have represented the Pointers for the last two (2) years and am Counsel of Record in their lawsuit against Tennessee Equity Capital Corp. ("TECC"), and Walter Cohen.

TECC, as you know, is a federally licensed Minority Enterprise Small Business Investment Corporation under Section 301(d) of the Small Business Investment Act of 1958, as amended ("MESBIC") located in Nashville, Tennessee, and its president and sole shareholder is Mr. Walter Cohen.

After being informed by the United States Small Business Administration ("SBA") that TECC was a federally licensed MESBIC, Mr. Pointer was encouraged by the SBA to seek investment capital from TECC for his company, Pointer Oil Company. Mr. Pointer was assured by the SBA that TECC was reputable and fully met all requirements and federal law governing MESBICs.

Mr. Pointer, after meeting with Mr. Cohen and TECC, was requested by Mr. Cohen to solicit a client and contract base before any funding would be supplied by TECC. Deferring his judgment to knowledge obtained from the SBA concerning TECC, Mr. Pointer expended his own financial resources during the first year for his company trying to arrange a customer and contract base. After successfully obtaining contracts, TECC proceeded with arranging the so called financing for Pointer Oil Company. Pointer Oil Company's present condition was obviously a lucrative opportunity for TECC to become involved in a situation where sweat equity and determination on Mr. Pointer's part had secured the hardest element of any business, that being business. TECC had Mr. and Mrs. Pointer execute the so called required paperwork and then proceeded to fund Mr. Pointer's company with $250,000.00.

As is obvious, Mr. Pointer was never allowed access to the funds he and his wife borrowed for their company. The funds were always kept out of Mr. Pointer's reach and invested in security accounts at the discretion of Mr. Cohen and ultimately for his own use and benefit. Mr. Cohen and TECC, from the beginning of the alleged funding of Pointer Oil Company have been guilty of fraud, self-dealing, misrepresentation, conversion, and breach of fiduciary duty.

The result of TECC and Mr. Cohen's actions have resulted in the severe and criminal abuse of government funds as well as the MESBIC program. Mr. Pointer and Mrs. Pointer have suffered severe financial hardships and were ultimately forced into bankruptcy as a result.

Mr. Cohen and TECC as you know, are currently under investigation by the government for their obvious unethical and illegal actions. It is my understanding that approximately 31 witnesses have appeared before the Grand Jury to give testimony. I personally have interviewed a number of the witnesses in my own discovery and am appalled at the numerous illegalities, irregularities and fraudulent actions apparently existing in your Nashville MESBIC. I am at a loss on how such obvious irregularities and illegalities can go undetected for so many years by your office. Mr. Pointer went to TECC for funding of his company; however, he ended up uncovering for the government a MESBIC that was acting extremely illegal and unethical and prostituting he and the other minority companies under its control.

At this time I would request the SBA to address the following issues:

(1) What action is the SBA going to take against TECC: ie. how can TECC be allowed to operate without any government intervention while it continues to be able to freely transact business as it sees fit?

(2) How and when will the SBA make available to Mr. Pointer the funds that he was suppose to receive for capitalization of his company? I trust you will agree he is entitled to receive the funds that the government allowed to be made available to him.

It is my desire the SBA work as expeditiously on this matter as possible. This matter has continued for two (2) years and nothing has been done to help Mr. and Mrs. Pointer in resolving any issues.

Please remember that it was the SBA that recommended TECC to Mr. Pointer and thus they should be willing to provide more assistance to him. He has continued to wage his civil actions against TECC and Mr. Cohen without the help of the group that basically contributed to the situation that he is currently embroiled. All that he ask is for some assistance from the ones that are in the position to help him.

Should you have any questions please contact me at the above number, I look forward to your response.

Very truly yours,

ADRIAN H. ALTSHULER.

[From the Banner, February 14, 1992]

THREE ALLEGEDLY FLEECED SMALL-BUSINESS FUND

(By Leslie McCullough)

A federal grand jury has indicted three Nashville residents on charges they conspired to defraud the Small Business Association of almost $2 million.

Walter S. Cohen, Brenda R. Resha and Washington R. Butler Jr. are charged in an eight-count indictment returned Thursday with fraudulently obtaining $920,000 in financing on behalf of Tennessee Equitable Capital Corporation, a small-business investment company operating in Nashville.

The document also alleges the trio made an attempt to obtain an additional $1 million from the Small Business Administration.

According to federal law, the SBA licenses investment firms eligible to receive funding if they are owned by low-income people.

The indictment states Tennessee Equitable Capital Corporation was licensed in January 1979 by the SBA, and application was made by Cohen for the corporation to receive SBA funds for investments in businesses that would be owned by economically disadvantaged people.

Federal law mandates that to make an investment in a small business with SBA funds, a corporation must not exercise control in the business.

The document claims that Tennessee Equitable Capital Corporation incorporated nine small businesses.

They included Tri-Star Cablevision, Music City Telecom, Freetech Building Corporation, Advanced Innovative Technology, Pointer Oil Co., Starvision Cable, Floridavision, Capital Security Corporation and International Trade Securities.

The document charges Resha, of 1019 Downey Drive, with being the bookeeper for each of the businesses.

"Brenda Resha maintained custody and control of the books and records for each of these small-business concerns," it states. "Resha also was co-signatory on the checking accounts."

The indictment also claims the trio had ownership in the businesses and used them to get SBA loans and funds.

It charges that in the case of Tri-Star, Cohen got loans of more than $680,000 for the company and employed two "consultants" for the business.

[From the Tennessean, Feb. 14, 1992]

3 INDICTED IN ALLEGED SBA SCAM—NETTED NEARLY $1M, 8-COUNT CHARGE SAYS

(By Phil Williams)

Three Nashvillians were indicted yesterday on federal charges that they set up sham minority corporations to obtain $920,000 from the U.S. Small Business Administration and tried to secure another $1 million.

An eight-count indictment returned by a federal grand jury charged Walter S. Cohen, Brenda R. Resha and Washington R. Butler Jr. with conspiring to defraud the SBA through a company, Tennessee Equity Capital Corp.

Cohen was president of Tennessee Equity, while Resha was its bookkeeper. Butler was president of a corporation established through the scheme, according to the indictment.

"Large financial fraud schemes against governmental entities and private corporations which violate federal criminal statutes will be vigorously prosecuted by this office," U.S. Attorney Ernest W. Williams said following the indictment.

Both Cohen and Resha denied the charges in prepared statements. Cohen said he has "made every effort to perform a valuable public service in accordance with all legal and regulatory requirements."

All three defendants face up to five years in prison and a $250,000 fine if convicted on the conspiracy charge.

Cohen also faces 25 years imprisonment and $1.25 million in fines for allegedly making false statements to the SBA. Butler additionally faces 10 years in prison and $500,000 in fines if found guilty of lying to the grand jury.

The investigation apparently was triggered when John Pointer, a Nashville petroleum products distributor, complained to Sen. Jim Sasser and Fifth District Rep. Bob Clement that Cohen was trying to take over his oil company in violation of SBA rules. Pointer is a former Vanderbilt linebacker.

Tennessee Equity received the federal funds under a program to provide money for investing in businesses run by minority or otherwise disadvantaged people.

SBA regulations prevented Tennessee Equity from interfering with the business except temporarily if they become financially troubled.

According to the indictment, Resha incorporated Pointer Oil Co. Inc. In Jan. 29, 1988, listing Pointer as president and herself as director. Four days later, Cohen reported to the SBA that TECC had made a $250,000 investment in Pointer Oil.

Other corporations that the indictment says were established or used by Cohen and Resha are:

Advanced Innovative Technology Inc. Butler, who is black, incorporated AIT on August 1987, listing himself as president and Resha as the registered agent. Cohen caused Tennessee Equity to invest $250,000 in the AIT and then controlled the company.

Music City Telecom. The pay telephone company was incorporated in January 1987 with Arthur Overall, who is black, as presi-

dent. Cohen took control of its bank accounts and told the SBA he had made a $100,000 investment in it. The indictment said he caused some $250,000 to be disbursed to his personal bank account from the company and then transferred $150,000 back to Tennessee Equity.

Tri-Star Cablevision Inc. The company was established in June 1985 by Vietnam vet Bill Hutson. Cohen provided $250,000 in funding, plus guaranteed another $585,000 SBA loan. He hired two consultants through Tri-Star to perform services for all businesses funded by Tennessee Equity.

Freetech Building Corp. The company was set up by Elmer Freeman, who entered into a financing agreement that gave Cohen and Resha control over the company's bank accounts. That agreement was signed the same day that Cohen told the SBA that Tennessee Equity had provided $150,000 funding to Freetech.

Starvision Cable Inc. The company was incorporated in June 1988 with Gerard Schackman, a black employee of Tri-Star, designated as president. The day after the incorporation, Cohen reported to the SBA that Tennessee Equity had invested $250,000 in Starvision. The indictment said he actually disbursed only $150,000 to the company—$75,000 of which Starvision transferred to Tri-Star.

Floridavision Inc. The company was incorporated at Cohen's direction in November 1988 with Theodora Morrison, a black employee of Tri-Star, designated as president. The indictment said Cohen caused Tennessee Equity to disburse $150,000 to Floridavision—$75,000 of which Floridavision transferred to Tri-Star.

All the companies maintained offices at 4711 Trousdale Drive, the same address as Tennessee Equity.

□ 1420

Mr. IRELAND. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered as an original bill for the purpose of amendment, and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5191

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Equity Enhancement Act of 1992".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. LEVERAGE (MATCHING FUNDS) FORMULA.

(a) NEW FORMULA.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) by inserting after the word "debentures" in the first and sixth sentences of subsection (b) the following: "or participating securities";

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 per centum of the private capital of such company: Provided, That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 per centum of its private capital to prepay such excess: and Provided further, That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 per centum of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 per centum of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 per centum of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: Provided, That the total amount of participating securities outstanding shall not exceed 200 per centum of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies which are commonly controlled as determined by the Administration exceed $90,000,000 (or such higher amount as is determined by the Administration as an inflationary adjustment pursuant to section 2(b) of the Equity Enhancement Act of 1992) unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

(b) INFLATION ADJUSTMENT.—Not later than December 15, 1993, and in each subsequent calendar year, the Small Business Administration shall apply an inflationary adjustment to each of the dollar amounts specified in section 303(b) of the Small Business Investment Act of 1958. The adjustment for any calendar year shall be the percentage (if any) by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for calendar year 1992. For purposes of this adjustment, the term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor, and for any calendar year it shall be the average of the index as of the close of the 12-month period ending on August 31 of such calendar year.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 per centum of the original issue price plus the amount of any accrued prioritized payment: Provided, That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payment shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation shall be extinguished: Provided further, That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred and cumulative and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on

such securities, adjusted to the nearest one-eighth of 1 per centum, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 per centum.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt which any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 per centum of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the per centums specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 per centum per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000. For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the per centums specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is 200 per centum, or more, of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 per centum but less than 200 per centum of the amount of private capital, 50 per centum of any amounts distributed shall be made to the Administration and 50 per centum shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 per centum, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: Provided, That if the amount of leverage outstanding is less than 50 per centum of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is less than 100 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows: the amount of participating securities divided by private capital times 9 per centum.

"(ii) If the total amount of participating securities is at least 100 per centum but not greater than 200 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows:

"(I) 9 per centum, plus

"(II) 3 per centum of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total per centum required by this paragraph exceed 12 per centum; and

"(ii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: Provided, That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph.".

SEC. 4. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are

redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 5. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

(3) by adding the following new subsections at the end thereof:

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securities, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 6. SAFETY AND SOUNDNESS.

(a) FINANCIAL VIABILITY DETERMINED.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) VALUATION GUIDELINES AND RESPONSIBILITY.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: Provided, That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 7. EXAMINATIONS.

(a) EXAMINATION BY INVESTMENT DIVISION.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of"; and

(b) TRANSFER OF RESOURCES.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 8. NON-FINANCED SBICS.

(a) INVESTMENT LIMITATION.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 per centum of the private capital of such company, without the approval of the Administration."

(b) CONFORMING AMENDMENT.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: ", if such restriction is applicable".

(c) TEMPORARY INVESTMENT OF FUNDS.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) REGULATORY REVIEW.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration.

(e) REPORT TO CONGRESS.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on

Small Business of the Senate and the House of Representatives, including the rationale for its actions.

SEC. 9. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by striking from subsection (a) "1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 10. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital' means the private paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporated licensee, inclusive of any funds invested in the licensee by a public or private pension fund, and unfunded commitments from institutional investors that meet criteria established by the Administration, but exclusive of any funds (A) borrowed by the licensee from any source or (B) obtained or derived, directly or indirectly, from any Federal source, including the Administration: Provided, That no unfunded commitment from an institutional investor may be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 11. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": Provided, That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 12. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "prior" and all that follows thorugh the period at the end and inserting "to November 21, 1989: Provided, That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 14. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

SEC. 15. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

Mr. LAFALCE. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAFALCE: Page 12, line 3, strike "200 per centum, or more," and insert in lieu thereof "more than 200 per centum".

Page 12, line 9, strike the word "less" and insert in lieu thereof "not more".

Page 14, line 2, strike the word "less" and all that follows through the word "capital" in line 3, and insert in lieu thereof "100 per centum of private capital, or less".

Page 14, line 8, strike "at least" and insert in lieu thereof "more than".

Page 14, strike lines 19 through 21, and insert the following:

"required by this paragraph exceed 12 per centum, unless required pursuant to the provisions of (ii) below,

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 per centum, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same per centum by which the Treasury bond rate is higher or lower than 8 per centum, and

"(iii) this paragraph shall not be construed".

Mr. LAFALCE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAFALCE. Mr. Chairman, I am pleased to offer this amendment on behalf of myself and Mr. IRELAND, the committee's ranking minority member.

Mr. Chairman, the bill, as reported, is designed to provide guarantees of participating securities issued by a small business investment company [SBIC] with a subsidy rate approximating 10 percent, an improvement of about one-third from the current program; and, I want to note, that the Small Business Committee expects that the new program may do even better. This subsidy rate, however, is based upon today's cost of money to the Federal Government of about 8 percent; and it includes amounts which would be advanced by the Government to pay interest to the investors until the SBIC becomes profitable and pays future interest to investors and repays the Government.

The purpose of the amendment is to take into account the impact on the Government of possible future changes in the cost of Federal borrowings by indexing the Government's share of profit participation to changes in interest rates. If Federal rates increase, the Government's profit participation would increase; and if Federal rates decrease, the Government's profit participation would decrease.

For example, if Federal T-bill rates climb to 10 percent, a 25-percent increase above the bill's 8-percent base rate, this amendment would increase the Government's share under profit participation by 25 percent. Thus, if the SBIC has received SBA funding in an amount under which the formula called for a 12-percent share, this indexing amendment would increased the Government's share to 16 percent.

I believe that such flexibility is good for the Government and good for the small business investment companies.

I urge adoption of the amendment.

Mr. IRELAND. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment which provides for some technical revisions to H.R. 5191.

The bill, as reported out of the Small Business Committee, provides for a subsidy rate for the financing of the SBIC Program of 10 percent. This is a definite improvement over the current subsidy rate of roughly 14 percent.

However, the bill as reported keeps that subsidy rate only as long as interest rates remain static.

This amendment would take into account the inevitable fluctuations in the interest rates by indexing the SBA's profit participation to those changes.

This is a prudent amendment that allows us to accurately chart the subsidy

rate and costs for this program from year to year. I ask my colleagues to join me in supporting this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. LAFALCE].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 31, after line 5, insert the following new section:

SEC. 16. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 1661) is amended by adding at the end the following:

"It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, it is a buy American amendment. I have cleared the amendment with the chairman and the minority staff.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, we have had the opportunity to review the amendment, and the amendment is surely acceptable to us in its present form.

Mr. IRELAND. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. IRELAND. Mr. Chairman, the amendment is acceptable to us in its present form as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mr. OBEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, pursuant to House Resolution 531, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. MAZZOLI). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BILBRAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 2, not voting 76, as follows:

[Roll No. 358]

YEAS—356

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bunning
Burton
Bustamante
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Clay
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Murphy
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Crane
Penny

NOT VOTING—76

Ackerman
Alexander
Atkins
Bacchus
Berman
Boxer
Broomfield
Bruce
Byron
Campbell (CO)
Chapman
Clement
Collins (MI)
Conyers
Coughlin
Dickinson
Donnelly
Dooley
Dwyer
Dymally
Early
Eckart
Edwards (OK)
Fields
Fish
Ford (TN)
Gaydos

Geren	Michel	Smith (IA)
Guarini	Morrison	Solarz
Hatcher	Mrazek	Stokes
Hefley	Murtha	Sundquist
Huckaby	Myers	Swett
Hyde	Nagle	Synar
Jenkins	Oakar	Taylor (NC)
Kolter	Olin	Thomas (CA)
Lancaster	Owens (UT)	Thomas (GA)
Lehman (FL)	Pelosi	Towns
Levine (CA)	Peterson (FL)	Traxler
Lloyd	Roukema	Volkmer
Lowery (CA)	Sanders	Washington
Mavroules	Scheuer	Whitten
McCloskey	Schroeder	Yatron
McCrery	Schulze	
McGrath	Smith (FL)	

□ 1448

The Clerk announced the following pair:

On this vote:

Mr. Swett for, with Mr. Synar against.

Mr. AUCOIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, during floor votes I unavoidably missed rollcall vote 358. Had I been present, I would have voted "aye" on rollcall vote 358, in favor of the Small Business Equity Enhancement Act, H.R. 5191.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Mr. Speaker, I was not here for rollcall No. 358, H.R. 5191—the Small Business Equity Enhancement Act. Had I been here, I would have voted "aye."

PERSONAL EXPLANATION

Mr. FIELDS. Mr. Speaker, I was unable to vote on final passage of H.R. 5191 (rollcall No. 358), the Small Business Equity Enhancement Act. Had I been present for the vote, I would have strongly supported this legislation.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, I was absent due to a commitment that was made before legislative business was scheduled. I was unable to vote on the following rollcall votes: rollcall no. 355, 356, 357, and 358.

Had I been present, I would have voted "aye" on rollcall 355, "nay" on rollcall 356, "aye" on rollcall 357, "aye" on rollcall 358.

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, I was necessarily absent, and, as a result, missed two rollcall votes. Had I been present, I would have voted "Aye" on rollcall votes 357 and 358.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5191, the bill just passed.

The SPEAKER pro tempore (Mr. ANDREWS of Texas). Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3030 AND H.R. 1354

Mr. WISE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of two bills, H.R. 3030 and H.R. 1354.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

COMMUNICATION FROM HON. DAN ROSTENKOWSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable DAN ROSTENKOWSKI, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of House Rule L, this is to inform you that certain employees in my Congressional office have received subpoenas issued by the United States District Court for the District of Columbia.

Sincerely yours,

DAN ROSTENKOWSKI.

□ 1450

COMMUNICATION FROM HON. AUSTIN J. MURPHY, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. ANDREWS of Texas) laid before the House the following communication from the Honorable AUSTIN J. MURPHY:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 30, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that pursuant to Rule L (50) of the Rules of the House certain employees in my office have been served with subpoenas issued by the United States District Court for the District of Columbia.

Very truly yours,

AUSTIN J. MURPHY,
Member of Congress.

COMMUNICATION FROM HON. JOE KOLTER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOE KOLTER:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1992.

Speaker THOMAS S. FOLEY,
House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House certain members of my staff have been served with subpoenas issued by the United States District Court for the District of Columbia.

Sincerely,

JOE KOLTER,
Member of Congress.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I have asked for this time for the purpose of receiving the schedule from the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Obviously, we are finished with votes today.

On Monday, August 3, we will have 38 bills under Suspension. I will not bother the Members with trying to read the names of all the bills, but they are available and Members who want to know exactly what is being offered can read that.

The votes will not be held, however, on Monday. They will be held until Tuesday.

Tuesday, August 4, we will meet at noon and take up H.R. 2977, Public Telecommunications Act of 1991, and H.R. 2782, to provide that Employment Retirement Income Security Act [ERISA] of 1974 does not preempt certain State laws.

Votes will start about 1:30 in the afternoon.

There will then be 14 additional bills on Suspension, and again all the votes on Suspensions from Monday and Tuesday will be held until after the two bills that I mentioned are finished.

Then on Wednesday, August 5, and the balance of the week, the House will meet at 10 in the morning and take up H.R. 5334, Housing and Community Development Act; H.R. 3603, Family Preservation Act; H.R. 4996, Jobs Through Exports Act of 1992; House Concurrent Resolution 246, relating trade agreements to health, safety, labor, and environmental laws; H.R. 4394, merchant mariners' documents; H.R. 5231, Na-

tional Competitiveness Act; and H.R. 5466, Airline Competitiveness Enhancement Act.

I am not sure yet whether there will be votes on Friday. We still do not know the answer to that. It depends on the progress we are able to make through the week. Obviously, there are other matters that may come up, such as the Freedom Support Act, which we are communicating with the minority about and will continue to communicate about until it is actually brought up.

Mr. GINGRICH. I wonder if the majority leader might answer a couple questions.

We have some interest on our side of the aisle on questions about whether the National Institutes of Health bill is likely to come up next week or the week after, and I do not know whether the gentleman might be able to tell us about that.

Mr. GEPHARDT. We are waiting, as I understand it, favorable Senate action and it would depend on that.

Mr. GINGRICH. Similarly, there is some concern on our side, both pro and con, about the Freedom of Choice Act. Is that in a similar cycle of waiting for the other body, does the gentleman know?

Mr. GEPHARDT. It has not yet been prepared or ready. We will give communication in advance if there is an intention to do that, but I do not think that will happen.

Mr. GINGRICH. Also, there have been some reports in the press about the possibility of bringing up a bill on the Resolution Trust Corporation, which I think we would have a very hard time passing at the present time. Is there any indication about that on the gentleman's side?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, it is our intention to communicate with the gentleman and the minority leader about that legislation, whether or not it would be practical to bring it up. We are open to that suggestion, but obviously a lot of work has to take place to get us into that position.

Mr. GINGRICH. Mr. Speaker, I would just report to the majority leader that it is my impression on this side of the aisle that it would not get very many votes at the current time.

Finally, I want to ask about the title X conference report, whether or not there is any indication that might come up next week.

Mr. GEPHARDT. The conference is proceeding. If it comes to a successful conclusion, we will be communicating with the gentleman about whether or not to bring that up.

Mr. GINGRICH. Let me just say also, Mr. Speaker, I think when we go to our convention, the platform committee members, including our Members, such as the gentleman from Florida [Mr. McCOLLUM] and the gentleman from New York [Mr. SOLOMON] will be going the week after next. I would hope we could get most of the work done that week, if possible during the week, to accommodate those Members.

Mr. GEPHARDT. That is clearly our intention.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman.

ADJOURNMENT TO MONDAY, AUGUST 3, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING CONDITIONS OF ADJOURNMENT FOR SENATE AND HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 131) providing that the Senate and the House of Representatives shall not adjourn for a period in excess of 3 days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of 3 days) to a day certain, or for adjournment sine die.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislation Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—BIAS OF CERTAIN MEDIA

Mr. COX of California. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The Chair is aware of the gentleman's situation, and the gentleman is recognized for 1 hour on a question of personal privilege.

Mr. COX of California. Mr. Speaker, this morning I witnessed a drive-by shooting on ABC television on "Good Morning America." I witnessed it, and indeed I was in it.

Yesterday, ABC came by my office to film me for 30 minutes, to talk about the Presidential campaign. They were interested because the President, President Bush is visiting my district in California today and yesterday. They were interested because poll numbers show the President faring less well than he has been faring in the past in California, specifically and nationally, and they wanted to get the view of a Member of Congress from California.

For 30 minutes during this interview with ABC I was unstintingly supportive of President Bush, very bullish about his prospects, very critical of the Democratic nominee for President, Bill Clinton.

I told the reporters that this Congress was in fact very much responsible for the economic gridlock that America is now experiencing, that President Bush has sent an economic growth package to this Congress and the Congress has not acted upon it, that President Bush has pushed for the balanced budget amendment in Congress, but Congress has not acted on it, that President Bush has pushed for the line-item veto, and just very recently in this Congress we have been having vote after vote on the line-item veto, and this Congress is standing in the doorway preventing it from happening.

□ 1500

Yes, I said, the economy could be doing better, yes, I said, in California there are some people who, no question, are hurting. They want change, but what we must change is the Democratic leadership of this Congress, where we have not had a Republican Speaker since this Member was 2 years old, since 1954. That is what I told the reporters.

This morning I was interested to watch "Good Morning, America." First they began with a very positive piece about Bill Clinton, criticizing President Bush on the economy. The reporter then said that the President is being criticized by Republican Members asking him to focus more on the

economy. And as the reporter said that, this Member's face was on the screen and my lips were moving, but it was not my voice. I never said any such thing. And when they started playing my voice, what they left, the only audible part was, "Yes, the economy could be doing better and people do want change." Of course, the rest of what I said, that they want change in Congress, this is where the gridlock is occurring and this is where the President has been stymied on his economic growth package, on the balanced-budget amendment, on tax relief, and on the line-item veto, all of that was cut out.

Now, this was not the first time that I have had this experience with media bias. Not too long ago, NBC's "Today Show" followed me around in California for an entire day.

On that same day, Bill Clinton happened to be in my district. Bill Clinton was speaking very near to my office. CNN filmed me standing in front of Bill Clinton's appearance, and I was very critical of Bill Clinton, very critical of the 128 instances in which he raised taxes in Arkansas; very critical of his record.

CNN dutifully reported what I said. And they had me saying just that.

NBC, which was following me around the whole day, filmed me talking to the CNN reporters with a microphone under my chin and a camera on me. But when I appeared on the "Today Show," those were not the words coming out of my mouth, they were words from a different interview at a different location, even though it appeared I was doing a stand-up.

And I was talking about the need for change in the Congress, the same things: Since 1954, one-party control, Americans do want change, I said.

What appeared in the context of a very pro-Clinton piece was Congressman CHRIS COX saying, "Well, the economy isn't doing well and we need change." And the suggestion was that Bill Clinton is that change, and I was somehow supportive of Bill Clinton instead of President George Bush.

Nothing could be further from the truth.

So I was prepared yesterday for this 30-minute interview, during which time after time after time I spoke not only of my support for the President and my optimism about his chances for reelection because much is going to change between now and Labor Day and certainly between Labor Day and the election, and I even took the trouble to speak not in paragraphs and sentences discursively, but in sound bits. And I said, "You mark my words," and ABC has this on tape:

> You mark my words, George Bush is going to be reelected; he is going to be reelected by a healthy margin: we are going to have strong Republican gains in the Congress. Bill Clinton is going to go the way of Jimmy Carter and Hillary Clinton is going to be remembered as the Winnie Mandela of American politics.

Now, that does not sound very critical of George Bush. But what ended up on television was this spot, first very positive about Bill Clinton and then a piece saying, "Republicans are saying George Bush should focus more attention on the economy," and then CHRIS COX saying, "The economy could do better, we need change," followed, I should add, by another fellow who came out and said, "George Bush should get off the ticket." Then the ABC reporter says, "The Bush campaign is shirking these acts of Republican treason."

Now, it is not that hard in America these days to find critics of the President. A reliable news organization can go gather testimony against President Bush and for Bill Clinton. It is not hard to do. They do not have to take words like that and put them in my mouth. Yet that is exactly what happened.

This is a clear case of distortion. I am delighted to have this opportunity to correct the record.

The fact is, my colleagues, democracy only works—democracy only works when there is freely available information and when the facts are before the American people. If we distort those facts or change them 180 degrees as happened here, then, no question, democracy is going to fail.

This morning, ABC stood for all bias for Clinton. I would like to see that corrected. In fact, I have discussed this with executives at ABC News. They have issued to me a letter of apology. I have undertaken to them to keep that letter confidential. I appreciated that they gave it to me. I will share it with the President and with Marlin Fitzwater.

But I want my colleagues to know that I am indeed working very hard for the reelection of this President, that I am urging all of my colleagues to do the same. And of course I will be abroad throughout California making sure those poll numbers that we have seen serve only as a wake-up call to those for us who intend to work very hard for the President's reelection.

Our economy depends upon it. As I said repeatedly during this 30 minutes that they got on tape yesterday, the President's economic growth plan has been blocked here in Congress. The President's plan for tax relief has been blocked here in Congress, the President's plan for a balanced-budget amendment has been blocked in Congress, the President's plan for a line-item veto, which even Bill Clinton supports, has been blocked here in this Congress. This is where the gridlock is occurring. This is where the change is required.

I am very much looking forward to working with my future colleagues after November so that perhaps we will have a better opportunity to bust up the gridlock and move the economy forward and give some relief to the beleaguered American people.

WE MUST DOWNSIZE OUR GOVERNMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, I have strongly supported the efforts to pass a balanced budget amendment. I have voted for almost all the amendments which have been offered to reduce Federal spending. We desperately need to balance our budget and stop these losses of $1 billion a day.

But the main thing holding back our economy is the $4 trillion national debt. It is like a chain around the neck of our economy, and we could be booming today if we were not so far in the hole. But, as the 1990 budget agreement has helped prove once again, we will do more harm than good if we try to correct these problems by raising taxes.

Mr. Speaker, we have got to downsize our Government. Syndicated columnist William Murchison in today's Washington Times puts it this way:

> Balance the budget, yes, but balance it by controlling, not enlarging, government. Government at all levels today absorbs 40 percent of the gross national product. Another 11 percent, and you and I, my friends, become government employees, devoting the majority of our labors to keeping the bureaucracy paid and happy.
>
> This has got it backward. The private sector alone creates productive jobs; government, as any citizen of the ex-Soviet bloc can attest, mangles and mashes the creative capacity. Genuine economic reform starts with the idea that government, though we have to have it for the sake of civic order, is a bad idea, so let's minimize in order to control it.
>
> DUBIOUS DEFICIT DEVICE
>
> (By William Murchison)
>
> What's the problem with our economy—too much government? Or somehow not enough?
>
> Ross Perot, via his economic plan, gives an ambivalent answer. It's a little of both, he appears to say. The plan, laid out in U.S. News & World Report this week, fall between two stools. It has its good aspects and its bad ones. Mainly it misses the point.
>
> Sir Ross, newly dismounted from his white charger but still in splendid voice, aims at eliminating the deficit by 1998, at which juncture, glory be, we'd have an $8 billion surplus. This we would achieve by cutting spending on the one hand, raising taxes on the other.
>
> The analysts are properly calling Perot's plan painful and popularity-pooping. Gasoline taxes would shoot up 10 cents a year for five years, producing a $50 billion savings; Medicare and Medicaid costs would somehow be "contained" for a savings of $52.8 billion; discretionary programs would be cut by $33 billion; some employer-paid health insurance would be taxed; and the evil rich would see their taxes rise.
>
> The ambivalence goes on. Capital gains taxes—some on the evil rich—would be cut, with concomitant gains for the private sector. Yes, then more than $100 billion would be sucked away from the private sector as Washington stepped up investment in education, cities, roads, telecommunications systems and the like.
>
> Above all, the Perot plan is a budget-balancing plan. Competing objectives, like revi-

talization of the job-creating private sector, have been left out of the accounting. Is this what we want? One somehow doubts it.

The deficit, vast as it has become, is more symptom than cause of our economic problems. Our political and opinion leaders want the government to take a firmer lead in running the economy, so they have set up a mighty roar of complaint. Hardly a day passes on national television without lamentation by Bryant Gumbel or some other economic expert over the "greedy, unregulated" '80s—during which the United States, via deregulation and tax cuts, created more jobs than ever before in its history.

Picture government as an innocent baby being deliberately starved by abusive parents and you grasp the lie that Washington and its volunteer propaganda apparatus are force-feeding us. Keep-your-eye-on-the-deficit talk suggests the problem is selfish taxpayers greedy for services they resist paying for. Why don't they just shut up and fork over?

One agrees they should—if they really want all this government for which they're being billed. On the other hand, one isn't sure they understand the alternatives.

We constantly hear, "Let's pay our bills." And, yes, we should pay them. What then? If, in consequence, government winds up bigger than ever, we've gained nothing but a short respite. We've set ourselves up for another deficit "crisis" once the new bills come in, as they certainly will. The government Sir Ross Perot commends to us, its accounts duly balanced, would not be more svelte than now—it would be piggier, gobbling up ever greater shares of national resources.

Mr. Perot, like Bill Clinton, and very much unlike Ronald Reagan, sees government as a permanent partner in our economic endeavors. Neither Mr. Perot nor Mr. Clinton is a New Deal welfare-statist; at the same time, neither exhibits much enthusiasm for free-market economics or much concern about the onward march of government.

Balance the budget, yes—but balance it by controlling, not enlarging, government. Government at all levels today absorbs 40 percent of the Gross National Product. Another 11 percent and you and I, my friends, become government employees, devoting the majority of our labors to keeping the bureaucracy paid and happy.

This has got it backward. The private sector alone creates productive jobs; government, as any citizen of the ex-Soviet bloc can attest, mangles and mashes the creative capacity. Genuine economic reform starts with the idea that government, though we have to have it for the sake of civic order, is a bad idea, so let's minimize in order to control it.

Large and ambitious the Perot plan may be; genuine reform it is not.

THE FEDERAL ROLE IN INSURER SOLVENCY REGULATION

The SPEAKER pro tempore (Mr. MANTON). Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, I am sure that every Member of Congress shares my concern about the effect that recent insolvencies in the insurance industry has had on consumers. The failure of major insurance companies like the Executive Life Insurance Co. of California and the Mutual Benefit Life Insurance Co. in New Jersey last year brought home to many of us the substantial impact that an insurer insolvency can have on thousands of consumers who purchased life and health insurance as well as annuities to protect themselves and their families from financial distress.

I look forward to engaging in the discussions and debate surrounding this important issue and I encourage my colleagues, State regulators, and all others concerned with the regulation of insurance to make their views known to the Commerce Subcommittee as we move through the legislative process.

The business of insurance is national: Few insurers operate entirely within the borders of a single State and the effect of corporate or regulatory decisions and actions in one State directly affect the outcomes in other States and markets. The mobility of capital and consumers of insurance firms and agents, create linkages within the marketplace such that a regulatory weakness in any one State can have repercussions across the country and in all States.

The Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, and the Subcommittee on Oversight and Investigation of the House Energy and Commerce Committee have spent a substantial amount of time over the last 4 years investigating the practices of insurers and insurance regulators, examining the causes of recent insolvencies, and reviewing protection provided to consumers of insurance, both as information provided by insurance rating agencies and as postinsolvency coverage provided by State guaranty funds. These investigations have revealed that the regulation of insurer insolvency and the guaranty protection afforded insurance consumers are in need of revision and restricting if the U.S. insurance industry is to remain financially sound, economically viable, and internationally competitive.

Although State regulation of insurance has served this country well for over 100 years, the industry has become extremely complex during the past 20 years, going far beyond its original role of providing a mechanism for the spreading of risk of financial loss and has substantially increased its role as a major player in the field of financial services. The expansion of the activities of insurers at the State, national, and international level has brought with it a need to increase Federal involvement in the regulation of the insurance industry as it operates in the United States. Certain problems in the industry transcend State borders; as such, they are problems that might be best handled through Federal action based on State input.

Possible areas for Federal Government action have been proposed by a number of individuals. For example, it has been suggested that the Federal Government should establish a uniform system for rehabilitating or liquidating insurers that have been deemed to be financially impaired or insolvent, thereby facilitating the equitable settlement of claims by policyholders and creditors across the Nation. Another suggestion has been to establish a national guaranty fund to cover claims filed by consumers holding policies underwritten by federally regulated insurers that have become financially impaired. A third proposal would have the Federal Government establish minimum standards of coverage for State insurance guaranty funds, thereby assuring consumers a standard level of protection regardless of their State of residence. Some observers of the insurance industry have suggested that the regulation of foreign insurers and reinsurers might be better left to the Federal Government.

With the introduction of H.R. 4900, the Federal Insurance Solvency Act of 1992, by the Energy and Commerce Committee chairman JOHN DINGELL, the discussion of insurance regulation has moved beyond the investigation of the current state of affairs in the industry to include a debate over the roles that the Federal Government can take on to improve the regulation of the insurance industry for the benefit of insurers, State regulators, and consumers. The subcommittee which I chair has sought input from dozens of groups and individuals with expertise and interest in the industry, asking for written responses to a number of questions based on the chairman's bill and we have begun meeting with interested individuals and organizations to discuss the role of the Federal Government in insurance regulation.

□ 1510

ANITA NALL WINS GOLD

The SPEAKER pro tempore (Mr. MORAN). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, yesterday Anita Nall from Towson, MD, won a gold medal on the American women's relay swim team in the Olympics. Sixteen-year-old Anita, a straight-A student from my district, the Second Congressional District in Maryland, previously had won medals for her performances in the 200- meter and 100-meter breast stroke events. My colleagues may recall on the first night a somewhat disappointed young lady when she came in third and received a bronze medal. She had a brighter face the next night as a silver medal winner. However she, as well as her teammates, saved their best for the relay race.

When speaking of athletic prowess, commentators use words such as outstanding, incredible, and great so much that the accomplishments themselves become diminished because of the rhetoric.

Every performance cannot be great. However, there is something special about the Olympics. It is something the world almost always has realized. Every 4 years, the world celebrates the skill and strength of its athletes.

In ancient Greece, and just a week ago in Yugoslavia, battles were stopped to allow athletes to travel to the Games.

There is an Olympic spirit, and we should salute it.

And, we should learn from the efforts of our athletes like Anita. Anita did well, very well on her own, but she saved her best for a team event, when she and three other remarkable Americans pulled together to shatter the world's record. The broad smiles on their faces told the whole story. The other three were Lea Loveless of Crestwood, NY; Chrissy Alimann-Leighton of Tucson, AZ; and Jenny Thompson of Dover, NH.

Mr. Speaker, Americans accomplish wonderful things when they work together.

TRIBUTE TO LEWIS J. DOHERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Lewis J. Doherty, a highly respected and outstanding individual, who died at age 79, Wednesday, July 22, at Alexandria Hospital in Alexandria, VA.

Lew Doherty, the beloved and caring father of Mary Martha Fortney, my long-time staff member and staff director of our House Banking Subcommittee on General Oversight and Investigations, was a special person to all who met and knew him. Born in Buffalo, NY, on September 16, 1912, he moved his family to northern Virginia where he successfully worked in retail sales in Washington, DC, until his retirement in 1979.

A devout Catholic, Lew Doherty worked tirelessly for his church—Blessed Sacrament Catholic Church—raising funds for the convent, rectory, and school addition. He shared a special sense of fellowship with his pastor, the late Msgr. Martin T. Quinn, a fellow Irishman who had the same keen sense of humor as he.

Lew Doherty was liberated long before it was fashionable to be liberated. He never thought he was above working in the home and he willingly shared with his wife Fidelia the role and duties of raising their three daughters, Deborah, Eileen, and Mary Martha, sometimes even doing more than his fair share. Indeed, nothing was too great to ask of him if it was for his wife and daughters, the rest of his family and, later, for his seven grandchildren. He endeavored to teach his loved ones to be fair, unselfish, and hard working members of society. Lew knew the never-ending heartbreak of losing a daughter and when Deborah passed away in 1987, he stepped right in to raise her children in the best way he knew how.

My wife, Carol, and I attended his funeral last Friday, and listened to the eulogy given by his daughter, Eileen Doherty. A very special man, the Blessed Sacrament Church was filled with his family and friends who had come to pay tribute in memory of this wonderful person. Truly during the 79 years of Lew Doherty's life, he contributed much to make his community a better place in which to live.

Surviving are his wife Fidelia D. Doherty of Alexandria, Eileen M. Doherty of Columbia, SC, Mary Martha Fortney of Centreville, VA, a brother, Gerald E. Doherty of Gainesville, FL, seven grandchildren, four nieces, and two nephews.

My wife, Carol, and I extend to the family of Lewis Doherty our sympathy upon his recent death.

FOLEY SQUARE AFRICAN-AMERICAN GRAVEYARD CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SAVAGE] is recognized for 5 minutes.

Mr. SAVAGE. Mr. Speaker, after hearing one of my colleagues criticize coverage by the press not long ago, I decided to add some criticism also, but in doing so I have to explain, it must be explained, what happened, and it was so poorly covered by the press.

In New York there is a courthouse and Federal office building under construction, a huge project, one of the largest of such projects in the history of this Federal Government, and as with all Federal office and courthouse construction, it is being undertaken by the General Services Administration of our Federal Government.

□ 1520

Well, in the course of excavation, they discovered bones. As they probed into what turned out to be a burial ground, it was discovered that this was a colonial burial ground, mainly of the remains of African-American slaves, one that was on record in the New York City Hall, but without indication as to how large a burial ground it was, and a record that had just pretty much been ignored.

They continued to probe, and first pointed out that there were only a few remains. But as it turned out as they continued, you may have as much as 1,000 or more remains there, burials in the Foley Square area where the courthouse and office buildings are under construction.

The community began to complain in New York, particularly the African-American community, people like the great artist-musician Neil Pointer who formed a coalition of African-American artists who began to complain. The Patrice Lumumba coalition and other grassroots African-American groups in New York began to complain.

Then the city began to complain, the City Landmark Commission. The mayor appointed an advisory commission of leading citizens with regard to this burial site, and the complaints continued to rise. But the General Services Administration would not relent, but continued to excavate and desecrate this sacred ground.

Now, the National Historic Preservation Act requires under such circumstances in section 106 that the General Services Administration must then, when such a finding is discovered, consult with the Advisory Committee on Historic Preservation, presently chaired by Dr. Robert Bush. Then they must consult with the residents, the community, representatives of the community, before proceeding.

GSA did not do this adequately. In fact, they did not do it sufficiently to be considered in compliance with the law. Because when they consulted and developed a temporary memorandum of agreement, as required by the National Historic Preservation Act, the State Landmark Commission in New York State would not sign it because they felt it was inadequate. The Federal Advisory Committee on Historic Preservation indicated it was inadequate, it lacked specificity, grossly so.

So the GSA agreed to amend this memorandum of agreement to include greater specificity, and also a research design, as the law required. That is, they had proceeded thus far in desecrating this burial ground with no plan, no design to conduct research on how it would be done, how the excavation would take place, how much disinterment, what about reinterment, all of these questions that are required by law to be answered before proceeding under circumstances such as these. And GSA ignored that law, operating in violation of it, violation of the law, but also morally wrong.

So they agreed to amend the memorandum, to make it more adequate and in compliance with the law. They said in December when they agreed to do this that they would have it done in 30 days.

Well, came January of this year, and still there was no adequate amended memorandum, no adequate consultation with the community, nor with the Advisory Committee on Historic Preservation.

Now into July, 7 months later, there is still no research design, still inad-

tests mounted so that GSA had to respond, they said it would take another 90 days before they would have a research design, even though at this point they had disinterred some 410 remains.

The mayor of New York, in frustration, went to the press finally and protested and demanded that the excavation cease. GSA refused to do so.

It was at that point, last Thursday, that a friend in New York, Alton Maddock, well-known defense attorney, revered community activist and civil rights leader, called me and brought to my attention the article in last week's New York Times with the protests of Mayor Dinkins and asked would I look into it as the chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation of this House.

When I looked into it, it was obvious that every minute counted, because they were constantly disinterring more remains without respect for the archeological or historical significance of the finding or the sensitivities of the African-American community.

So we held a hearing in New York on Monday, organized in just 2 days by our hand-working staff of the subcommittee, an amazing hearing, where we heard testimony from the mayor and from GSA and from archeologists and other historic scholars, scholars of history, as well as institutions of concern such as the Landmark Commission of the City of New York and the Advisory Committee on Historic Preservation.

They all agreed. They said that this was the most important find of its kind in the United States in this century. Yet GSA refused to stop, to cease its excavation, even though it had no plan to guide it. JOHN DUNCAN, the Congressman from Tennessee, a Republican member of the subcommittee who attended the hearing, asked that the Regional Director, William Diamond of GSA, would you just temporarily cease excavation until we can consider the necessity of a research design, until we can receive adequate community involvement and consultation with the Advisory Committee. This fellow Diamond abjectly refused. He refused even to recommend it to GSA.

At that point, as chairman of the subcommittee, I rapped the gavel and concluded the hearing before it was scheduled to end because it was clear that to go on further was useless, and pointed out to the Regional Director Diamond that as chairman of the Public Buildings Subcommittee we had some influence in this matter, and that that influence would be used to stop this excavation as soon as we returned to Washington.

We returned and I phoned and had several conversations the very next day with the National Administrator of the General Services Administration, Richard Austin, whom I have always found to be a reasonable person, with some sensitivity to the communities and the people that that agency serves.

After our conversation and his further consultation with his advisers, we agreed to have a meeting that I convened in my office here in the Rayburn Building on the very next day, which would have been Wednesday of this week.

At that meeting the chairman of our full committee ROBERT ROE of New Jersey, chairman of the Committee on Public Works and Transportation, came in to join with us, along with the ranking members of that committee, JOHN HAMMERSCHMIDT of Arkansas of the full committee and JAMES INHOFE of Oklahoma of the subcommittee.

At that meeting I made a proposal as to how we could resolve this matter, with a proposal to immediately cease excavation, to go to New York and meet with Mayor Dinkins and his advisers and the concerned community activists in this matter, to advise them it had been ceased, and that we would form an advisory committee to their liking that would advise on how to proceed in this matter, and that GSA would discontinue any plans to construct further construction on that site, and that we would call upon the Smithsonian Institution to serve as interim project manager as far as the burial site was concerned.

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After some discussion, it was all agreed, by Mr. Austin of the General Services Administration, the ranking Republicans, all of us there agreed. And then Richard Austin, myself, and Dr. Bush journeyed to New York the next day, which would have been yesterday, met with those with whom we had planned to meet. And there I gave, again, the proposal to which we had agreed. There it was accepted. Everyone was joyous. The problem was solved.

The point I want to make is that the press, however, none of the papers carried this story accurately. They all recognized something had happened because, until the Wednesday meeting that I convened in my office, GSA was adamant that they would not cease excavation. Minutes after that meeting, the excavation was ordered to cease. But none of them attempted to answer the question why.

And when we called a press conference in my office following that meeting on Wednesday so that the question could be answered, not a single member of the press would show.

The press, and this is my whole point, is always so critical of Congress. But when Congress, beyond its legislative mandate, goes to work, as we did in this instance, both sides, Republican and Democrat, to work to resolve a problem that was caused by errors on the executive side, and when we work in such a way as to solve that problem, where the staff worked over the entire week, night and day, to prepare the hearing from which all of this grew and we would take time to fly there then to work out the solution with those who had complained in New York, the press did not give proper credit to Congress.

Whenever you want to criticize a body, if you are honest and if you have any integrity, you have the obligation to also praise that body when praise is due.

They are not even interested in finding out why the body should be praised. I just want to add that to the complaint of my colleague who complained about a drive-by shooting, as he called it. But add this to the list. Someone needs to find out and make the press in this country accountable. Why should a handful of people determine what we hear, what we do not learn and, as a consequence, leave us ill informed to participate fairly and effectively in a democracy?

PERMISSION TO VACATE SPECIAL ORDER AND TO INSERT NEW SPECIAL ORDER

Mr. HOYER. Mr. Speaker, I ask unanimous consent to transpose my name in the special order calendar of Monday, August 3, with the gentleman from Pennsylvania [Mr. MURTHA]. I do so with the full concurrence and knowledge of my colleague, the gentleman from Pennsylvania [Mr. MURTHA].

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON S. 323, FAMILY PLANNING AMENDMENTS ACT OF 1992

Mr. WYDEN submitted the following conference report and statement on the Senate bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-767)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the

text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Planning Amendments Act of 1992".

SEC. 2. PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES.

(a) REQUIRING CERTAIN NONDIRECTIVE COUNSELING AND REFERRAL SERVICES.—Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following subsection:

"(b)(1) The Secretary may not make an award of a grant or contract under this section unless the applicant for the award agrees that the family planning project involved will provide to individuals information regarding pregnancy management options upon request of the individuals.

"(2) With respect to compliance with the agreement made under paragraph (1), the family planning project involved, and any provider of services in the project, may not be required to provide information regarding a pregnancy management option if—

"(A) the project or provider (as the case may be) objects to doing so on grounds of religious beliefs or moral convictions; and

"(B) the project or provider refers the individual seeking services to another provider in the project, or to another project in the geographic area involved, as the case may be, that will provide such information.

"(3) For purposes of this subsection, the term 'information regarding pregnancy management options' means nondirective counseling and referrals regarding—

"(A) prenatal care and delivery;

"(B) infant care, foster care, and adoption; and

"(C) termination of pregnancy.".

(b) COMPLIANCE WITH STATE LAWS ON PARENTAL NOTIFICATION AND CONSENT.—Section 1008 of the Public Health Service Act (42 U.S.C. 300a-6) is amended by inserting "(a)" before "None" and by adding at the end the following:

"(b)(1) No public or nonprofit private entity that performs abortions may receive an award of a grant or contract under section 1001 unless the entity has certified to the Secretary that the entity is in compliance with State law regarding parental notification of or consent for the performance of an abortion on a minor which is enforced in the State in which the entity is located.

"(2) Paragraph (1) shall not be construed to require or prohibit a State's adoption of parental notification or parental consent laws regarding the performance of an abortion on a minor, or to require or prohibit the enforcement by a State of such laws.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(e) of the Public Health Service Act, as redesignated by subsection (a) of this section, is amended to read as follows:

"(e) For the purpose of grants and contracts under this section, there are authorized to be appropriated $180,000,000 for fiscal year 1993, $189,000,000 for fiscal year 1994, $198,500,000 for fiscal year 1995, $208,500,000 for fiscal year 1996, and $219,000,000 for fiscal year 1997.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING GRANTS AND CONTRACTS.

Section 1003(b) of the Public Health Service Act (42 U.S.C. 300a-1(b)) is amended to read as follows:

"(b) For the purpose of grants and contracts under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1993, $5,250,000 for fiscal year 1994, $5,512,500 for fiscal year 1995, $5,788,125 for fiscal year 1996, and $6,077,530 for fiscal year 1997.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR INFORMATIONAL AND EDUCATIONAL MATERIALS.

Section 1005(b) of the Public Health Service Act (42 U.S.C. 300a-3(b)) is amended to read as follows:

"(b) For the purpose of grants and contracts under subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized in title X of the Public Health Service Act to be purchased with an award of a grant or contract under such title, it is the sense of the Congress that entities receiving such an award should in expending the award purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF AWARDS.—In making awards of grants and contracts under title X of the Public Health Service Act, the Secretary of Health and Human Services shall provide to each recipient of such an award a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect upon the date of the enactment of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
BROCK ADAMS,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING, AND REFERRAL SERVICES

Both the Senate bill and the House amendment provide for the provision of information, nondirective counseling, and referral services. The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

EXEMPTION ON GROUNDS OF RELIGIOUS BELIEFS OR MORAL CONVICTIONS

Both the Senate bill and the House amendment provide for an exemption from the requirement of the provision of pregnancy management options if the project or provider objects to doing so on the grounds of religious beliefs or moral convictions. Both also provide for a requirement that a client seeking such information from a provider or project that claims such exemption be referred to another project or individual that will provide such information. The House amendment requires that such a referral be made within the geographic area involved.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

PARENTAL NOTIFICATION OF MINORS SEEKING ABORTION SERVICES WITH PRIVATE FUNDS

Both the Senate bill and the House amendment contain provisions regarding the notification of minors seeking abortion services with private funding from recipients of Title Ten funds. The Senate bill provided for two different Federal standards for such notification. The House amendment provided for a requirement that Title Ten grantees comply with applicable State law which is enforced in the State in which the entity is located.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

REAUTHORIZATION

The House amendment reauthorizes the Title Ten programs through FY 1996. The Senate bill contains no similar provision.

The Senate recedes to the House amendment and the Conferees adopt the explanation of this provision that is included in the House Committee Report.

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
BROCK ADAMS,
NANCY LANDON KASSEBAUM,
Managers on the Part of the Senate.

CONCERNS ABOUT FOREIGN BANK REGULATION, BNL LOANS TO IRAQ, AND BNL LOANS TO IRAQI FRONT COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the case involving the Atlanta branch of the large Italian Government-owned bank, Banca Nazionale del Lavoro

[BNL], is one of the greatest financial and foreign policy scandals of all time in which former employees of the Atlanta branch of BNL approved over $5 billion in supposedly unauthorized loans to Iraq over the latter half of the 1980's. Most of these loans were not reported to American or Italian banking officials. These loans supported Iraq's efforts to buy food and military technology in this country—to the tune of several billion dollars as I have mentioned before.

The BNL scandal is at the very least a case study in bank regulatory failure.

This is where we came in from the very beginning from the Committee on Banking, Finance and Urban Affairs level.

Along with the BCCI scandal, BNL serves as a powerful warning to us that foreign governments, friends and foes alike, are willing to abuse the U.S. financial system in order to participate in nefarious activities. The laundering of drug money, illicit arms transactions, and financial transactions involving terrorists are all too commonplace in our huge, largely unchecked financial system. Notorious crooks and despots that have stolen the very hope from their people have all used foreign central banks to launder money in the United States.

The BNL scandal raises several concerns within the jurisdiction of the Banking Committee. Foremost is the adequacy of the regulation and supervision of U.S. branches and agencies of foreign banks. Branches and agencies of foreign banks like BNL and BCCI command over three-quarters of a trillion dollars in assets in the United States and over $8 billion of their liabilities are guaranteed by the FDIC, over $8 billion guaranteed by taxpayers.

For years I have been concerned that the supervisory sharing arrangement between the State, Federal, and international bank regulators is inadequate to ensure that international banks are properly supervised.

In 1990 and 1991, I sponsored changes in the law that improved supervision of foreign banks operating in the United States, but then, here again, I repeat what I have said on several occasions. I have more than just a passing interest and certainly not one exclusively since I became chairman of this committee, but it goes back to the fact that I am the prime reason why we got the first international banking act in 1978.

After the 1975 hearings that I arranged to have in my hometown of San Antonio, it took 3 years after those hearings. Those hearings ended in the indictment and conviction of two individuals, but it was the forerunner of what we now call the S&L scandal. It took 3 years to get minimal, weak, and inadequate legislation in 1978.

Since then, I have tried in every single Congress to strengthen those laws.

The committee will continue to pursue foreign and domestic banks that engage in nefarious activities—since that is the only way to make sure they are aware that the Congress does not want and will not tolerate dirty money or dirty tricks in the U.S. financial system.

In the near future, I will begin to look at other banks with close links to Iraq. At this time I can only say that the committee is investigating the preinvasion and postinvasion activities of several United States-based banks that were providing financial services to Iraq from the United States. This inquiry is in its early stages and I will report on our findings as soon as possible.

The BNL and BCCI scandals prove that it is time the United States established a national screening board to monitor more closely foreign bank presence in the United States.

This is an effort that dictates back to the 1970's, incidentally. Every other country does, including Canada, but we do not. Banks are critically important to the operation of our economy, of course, and are critically important to the functioning of this economy.

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Equally important, banks are the key to the clandestine operations of people like Saddam Hussein.

Our Government should have the power to review foreign ownership of U.S. banking and to more closely monitor the activities of foreign banks in the United States. We have a responsibility to stop future BNL's and BCCI's from occurring, although I have said, and I will repeat today, there is nobody who can tell us how many more BNL's and BCCI's are over there and here and have been around, and just need the occasion of time and circumstances to erupt to the surface.

A screening board would be indispensable in order to accomplish this.

Today, I want to show how BNL commercial loans helped Iraq. Much has been written about BNL's CCC guaranteed loans to Iraq and whether or not the commodities sold under the CCC program were diverted to pay for weapons. The diversion investigation in Atlanta is still ongoing.

The topic that has received less attention, but is much more important to determining the United States role in arming Iraq is the over $2 billion in BNL commercial, not agricultural, bank loans to Iraq. These loans were used by the Ministry of Industry and Military Industrialization [MIMI] to fuel the engine of Iraq's ambitious postwar military industrialization program. They were also used to fund Iraq's secret military technology procurement network. As I have mentioned, other banks may have been involved.

BNL has U.S. offices in Atlanta, New York, Chicago, Miami, and Los Angeles. Its North American headquarters is in New York. In addition, BNL has a commercial paper subsidiary, called BNL US Corp., incorporated in Delaware and operating out of New York. BNL has offices throughout Europe and branches in Hong Kong, Singapore, and a representative office in Tokyo. BNL also has subsidiaries in Canada and the Netherlands Antilles.

As the world knows, in July 1989, the Federal Reserve Bank of Atlanta was notified by the FBI of a substantial off-book operation at the Atlanta agency of Banca Nazionale del Lavoro. On August 4, 1989, the Federal Reserve, accompanied in Atlanta by the FBI and U.S. attorney in Atlanta, raided the U.S. operations of BNL.

Based on information gathered from that raid, it was apparent that BNL-Atlanta was conducting massive off-book transactions. The Atlanta office was lending and raising billions that it did not report on its financial statements or in its bank regulatory statements.

The off-book lending began in the mid-1980's. These transactions, kept on a set of secret books, were purportedly established to conceal the excessive Iraqi loans from BNL's headquarters in Rome. The off-book transactions were originally used to finance CCC guaranteed commodity exports to Iraq and to cover shipping costs for those exports. BNL also utilized the United States Export-Import Bank guarantee program to support shipments of industrial goods to Iraq.

BNL, EXPORT-IMPORT BANK AND CCC PROGRAMS

Under the Export-Import Bank [Eximbank] letter of credit program with Iraq, BNL was insured for 51 export transactions with a dollar value of $47 million. Of this amount of $43.8 million has been repaid by Iraq. Eximbank currently owes BNL the remaining $3.2 million because Iraq defaulted on several letters of credit that were funded by BNL and insured by Eximbank. But of course there were many other commercial loans, many more that BNL made for Iraqi purchases.

A great deal is known about BNL's relationship with the CCC program. In total, between 1985 and August, 1989, BNL financed the sale of about $1.9 billion in CCC-guaranteed United States agricultural products to Iraq. "Guaranteed" means taxpayer guarantees. What is not generally known is that BNL did little CCC business after the cease-fire with Iran in August 1988. In fiscal year 1985, BNL had a 20-percent share of the CCC business for Iraq, greater than any other country, and the next one was Mexico, so that gives the Members the extent and the huge size of Iraq's share of that CCC program, based on the guarantees.

BNL's share of the CCC program peaked at 92 percent in fiscal year 1987. By fiscal year 1989, which began in October 1988, BNL was out of the program altogether.

$2.155 BILLION IN MEDIUM-TERM LOAN AGREEMENTS

When the war with Iran ended in 1988, BNL Atlanta was asked to take a big role in Iraq's military industrialization program. While these loans were said to be for rebuilding the Iraqi civilian economy, many went to improve the Iraqi war machine, if not the majority.

Lending under these agreements took the form of four medium-term loan agreements [MTL's] signed with the Central Bank of Iraq [CBI]. These loans had 5 to 7 year maturities and 2 to 5 year grace periods. BNL was able to borrow huge amounts of money to fund these loans because it had the backing of the Italian Government which gave it a topnotch credit rating. The loan agreements are summarized in a table I offer for the RECORD at the end of this presentation.

We had what is known as MTL notes, one, two, three, four, dated respectively February 22, 1988; October 6, 1988; December 3, 1988; and April 8, 1989, of sums ranging from $200 million to $1.1555 billion.

By the time regulators raided BNL in August 1989, over $1 billion had already been disbursed.

As I will show in charts that, I ask to include in the RECORD, disbursements from the MTL's took several forms, called option A, option B, and option C. Under option A, BNL confirmed letters of credit issued by the Central Bank of Iraq. This meant that BNL had a major recordkeeping role. Under option A, BNL had to gather ship manifests, bills of lading, ship reliability certificates, ship insurance certifications, and documents showing that the goods arrived in Iraq, all before making direct payment to the exporter. About three-quarters billion dollars was doled out under option A before the recordkeeping function overwhelmed the little BNL office in Atlanta.

Gathering all the documentation needed for A-type transactions was a tremendous burden of the BNL employees. In addition, it was not bright to have mountains of Iraq-related documents piling up in the offices for auditors and bank examiners to see—they were not supposed to be providing that many commercial loans to Iraq.

As I pointed out in the second-to-the-last presentation, I listed the licenses, export licenses, from the Department of Commerce in which only 1 out of 771 or over 800 had any kind of follow-through as to end use. On what? On commercial lending, not the CCC program.

To avoid suspicion and to lessen the paperwork burden, BNL and Iraq devised another and more discreet method to disburse the MTL's called option B.

Option B streamlined the disbursements of money to Iraq and left little evidence for auditors to follow. Under option B, BNL received a telex from CBI, that is, the Central Bank of Iraq, telling them to transfer money into an Iraqi bank account maintained at one of several prominent financial institutions in the United States and Europe. This money was kept in an escrow-type account and used as collateral against disbursements made to the exporter. For example, when Iraq wanted to use BNL loans to buy computers from Hewlett Packard, CBI would send a telex to BNL stating that it wanted to buy Hewlett Packard computers and to send money to a numbered bank account at Bank America in San Francisco.

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After receiving BNL money, Bank of America would pay Hewlett Packard for the computers and the computers would go to Iraq.

Bank of America used the BNL money that had been deposited into the numbered bank account as collateral to make sure it got repaid. When Iraq eventually did repay BNL, Bank of America would get to keep the collateral that had been deposited in the numbered account, and BNL got money directly from Iraq.

In this type of transaction Bank of America would receive a fee for gathering all the documents, and a fee for disbursing the money to Hewlett Packard. BNL would get a small fee from Iraq for advising on the transaction and received a small interest rate for the loan to Iraq.

OPTION C

A third and much simpler method was used to disburse over $100 million to Iraq's MIMI, the armaments ministry. In these countries they are indistinguishable. They can be called the Economic Development and Defense Procurement Agency, and as in this case it is very difficult to say where one begins and the other starts or leaves off. Under option C high ranking MIMI officials simply picked up the phone, called BNL-Atlanta and told them to transfer funds, totaling $107 million, into Iraqi accounts at Bank of New York, Chase Manhattan Bank, or Manufacturers Hanover Bank. This money is not traceable and Iraq is the only one that knows how this money was spent. Needless to say, $107 million could purchase lots of weapons, make lots of bribes, and even purchase other firms that could be used as front companies.

The sad thing that I said at the outset this day is that entities structured that way are still in operation in the United States of America.

As of January 1990, a total of $1.55 billion had been drawn and committed under these various agreements. After the BNL raid, Iraq still insisted that BNL make good on the remaining loans still outstanding under the agreements. After months of intense negotiations, on January 24, 1990, BNL and Iraq negotiated and agreed that the residual $600 million or so would be utilized for new transactions, two-thirds of which would finance projects for which the suppliers had to be Italian firms and one-third could be used for purchases from other countries.

You might wonder why BNL renegotiated the loans. It's simple. Under international law the contracts signed with BNL were valid.

And remember, the banking agency in Atlanta is an agency of an Italian bank doing business in the United States, but which is owned by the Italian Government. So these negotiations then would be done in Rome. So Iraq threatened not to repay the money it already owed to BNL unless BNL made good under the remaining balance of the loans, which under international law, as I say and repeat, were valid claims.

With earnings from its huge oil reserves—second in the world to Saudi Arabia—Iraq entered the decade of the eighties with hefty cash reserves. But its war with Iran 1980–88, and the drop in oil prices during the eighties changed all that. Wartime weapons purchases coupled with domestic infrastructure expansion served to deplete Iraq's foreign exchange reserves. And in the second-to-the-last previous order I placed in the RECORD, the documentation showing that during that period of the Iraq-Iran war we, the United States, together with some of our so-called friends in Europe, and even China, sent 47 billion dollars worth of armaments to Iraq.

Even though Iraq emerged from its war in poor financial condition, there was still some optimism regarding Iraq's industrialization program. Iraq's oil reserves and its educated work force led many experts to believe that if Iraq could manage its economy properly, it could fulfill the promises of the ambitious program. But with oil prices stagnating, and mountains of debt, Iraq was in poor shape to pay for the industrialization program.

In fact, Iraq had accumulated massive debts of some $70 to $80 billion during the 8-year war with Iran. About half of Iraq's external debt, about $35 to $40 billion, was owed to the Western creditors, and this debt had to be repaid in foreign exchange earned from oil exports.

Saddam Hussein reacted to this cash shortage by calling on many foreign countries to reschedule and spread out loans that had been extended to Iraq. Complicating Iraq's debt problems was the unwillingness of most Western banks to lend to Iraq without Government guarantees. However, with the help of the United States, through its CCC and Eximbank programs, and augmented by similar programs administered by several European and Asian countries, Saddam Hussein was able to keep his ambitious industrialization program going full speed.

However, since much of Iraq's oil earnings had to be earmarked for debt servicing, the military industrialization program was in jeopardy of failing. As I have shown in the previous 2 floor statements, priority was given to military-related projects and the CIA, State Department, and White House were well aware that Iraq's top priority was military industrialization. They knew what Iraq wanted to do, and they knew Iraq was using clandestine means to buy military technology.

In November 1989 the CIA noted that the $2.155 billion in MTL's for Iraq was the largest single extension of credit to Iraq. What we are now learning is that much of the technology bought with BNL loans was often used, if not totally used, on Iraqi weapons projects.

Deceit played a large part in building the Iraqi war machine. It is quite probable that many of the companies providing technology and know-how to the Iraqi war machine did not realize they were doing so, though I find that hard to believe. But the record shows that our Government had a good idea of what was transpiring, and decided to tolerate it, up to a point. It is useless to try to explain, it is unclear how much was tolerable, but we know that the administration deliberately allowed Iraq to buy technology needed for Iraq's rearmament program. That we know.

In order to clandestinely obtain the most sophisticated technologies, Iraq established a secret network of front companies charged with the mission of finding and exporting Western technology to Iraq.

□ 1600

No expense was spared including possible bribes and higher-than-normal profits for the producers of the goods exported to Iraq. MIMI funneled the BNL loans to the secret network of front companies, which in turn used the money to purchase United States and European technology for Iraq.

No fewer than 5 Iraqi front companies in the United States, Italy, and the United Kingdom received BNL money. Technology Development Group [TDG], Iraq's primary holding company in the United Kingdom received over 81 million deutsch marks for a hot forging dies project at NASSR which is a military complex near Baghdad, and $2.4 million to ship special materials to Iraq. TDG also got 750,000 British pounds to ship steel to Iraq.

Technology Engineering Group [TEG] received over 1.6 million pounds sterling to send raw materials to Iraq. Matrix-Churchill, Ltd., in London and owning the Cleveland, OH, Matrix-Churchill, received 9 million pounds sterling to ship sophisticated machine tools to Iraq. In another transaction MCL also received 3 million pounds sterling to ship other machine tools.

Matrix-Churchill Corp. [MCC] in Cleveland, OH, was the beneficiary of $14.3 million to ship a glass fiber factory to Iraq. I brought the significance of that out this last Monday.

MCC also received $600,000 in working capital loans from BNL. Finally the Italian front company, European Manufacturing Center [Euromac], received over $50,000 in BNL funds to send small tools to Iraq.

All of these companies were Iraqi-owned fronts with responsibility for obtaining equipment for Iraq's clandestine nuclear, biological, chemical weapons programs and long-range ballistic missile programs. As far back as 1989 the CIA believed the front companies were staffed by Iraqi intelligence agents under the control of Hussein Kamil, the son-in-law of Saddam Hussein, at MIMI—but this was to be tolerated, under the policy of trying to turn Saddam Hussein into a good citizen, as the President has claimed.

Not everything that these front companies shipped to Iraq was for weapons programs, but it does not make much sense that Iraq would set up such an elaborate system of front companies, staff them with intelligence agents, and use scarce financial resources to purchase goods destined for solely civilian purposes, which we know is not a fact. We know that the overwhelming, preponderant use of these funds was for military.

In other words, the network was not responsible for purchasing garden furniture, as we would have been led to believe early in this investigation.

Of course, even some of the civilian goods, such as room air conditioners and air chests, were destined for Iraqi weapons factories. But the key to it all was bank loans. BNL was the linchpin of the Iraqi secret procurement network; it was not the only source of money, but it was absolutely critically important, and indispensible.

Our Government knew a great deal about all this, but decided that as long as the shipments did not explode, or if they fell just short of enabling Iraq to build nuclear weapons, they would be tolerated. The great mystery is why this went on right up until the invasion of Kuwait, in August of 1990. The President has talked about making Iraq into a better world citizen, but that surely does not explain why his administration allowed Saddam Hussein to use this country as a source of materials he needed to build weapons of mass destruction, including materials our Government knew were destined for Saddam's nuclear weapons program.

Trying to explain all this is naturally embarrassing for the administration, of course, it is. And so it is not surprising that the administration has not cooperated fully with our requests for information. They have classified harmless materials, needlessly censored other information, stonewalled information requests, and withheld documents that have clearly fallen within Congressional requests. When that did not work, despite that, as in the case of the prohibitions that the Justice Department demanded of the Federal Reserve Board that they not supply us with our requested subpoena material, well, they simply had the aid and assistance of our friends in the Italian Senate and the Investigating Committee. I met with the chairman of that committee, two of his colleagues here, and we exchanged information, so we got some of the material that way.

Despite that, though, when they did not succeed in stonewalling us completely or intimidating us, they then attacked, accusing me of leaking documents selectively, leaking by placing them in the CONGRESSIONAL RECORD for the people to see, for my colleagues to know of. Is that a leak? Well, I have been doing that ever since I came to the Congress and had the first fight with the FAA Administrator, who was an empire builder and had shifted, despite the need for air passenger safety travel, the Air Route Traffic Center in San Antonio. We soon got the documentation showing it was political empire building. That embarrassed him to the point where he then clamped down on his staff, prohibited any one of them speaking to anybody, and said, "That man can't know that much about our operations unless somebody has leaked it."

Well, that was not true. In many cases, we just added right. We put two and two together and came up with four. This is what we have been doing here in this case. So when this did not work, they then accused me of leaking documents selectively, or to harm national security, but when asked, Secretary Eagleburger could not say how I had damaged national security, when he came before our committee.

And when challenged, the Justice Department responded by saying that harm was not the point—although they had previously claimed my actions were damaging. None of it is true. They have abused classification, because they want to hide the facts and the evidence. The latest harrassment is from the CIA, which claims I have leaked materials that I do not and never have possessed, and have not seen. The CIA has never provided any documentation that would even be more secret, much less top secret, so I feel very complimented when they say, "We have reason to think you must have gotten something top secret." Of course, they know that and we know it.

The embarrassment to the administration is growing. That is to be regretted; but when we started this, it was 3 years ago. When we tried to get our hearings off the ground exactly 2 years ago this month, the then Attorney General Thornburgh demanded that I not have a hearing; so if we had had compliance with our request, this whole thing would have been brought

out. We would have had legislation to have proper at least enhancing of regulatory control, and it would not have happened in this election year. Nobody can say, not truthfully, that I have in any way directly or indirectly played into any kind of a political venture. I do not participate in primaries of any kind; and besides that, knowing full well what was going to happen, I have been scrupulously careful to watch exactly what I say, what I do, and that it has no implications of an out-and-out partisan nature.

Now, the facts are bad. They are embarrassing in retrospect, but if instead of stonewalling and then trying to retaliate by intimidating, just confront the fact and then join hands in defending the continual exposure of our banking system by strengthening our laws, we would all be better off.

Anyway, I offer for the RECORD the exchange of letters that I have had with the CIA in the last 2 days, and my answers, and the release I made pursuant to those letters and such materials that are pertinent.

Meanwhile, both myself and the Foreign Affairs Committee have been asking for and seeking documents from the State Department. This is the State Department. They have asked for delays. They have offered cooperation and then provided partial response, evasive actions, postponed meetings to discuss access to further materials in which we could get together.

We have not asked that we put our hands on and hold the materials. We want to see them because we want to protect the taxpayers.

□ 1610

The BNL has a claim right now against the Government to pay up to about some $300 million for the guarantees that they were out on Iraq because they say that Rome did not know anything about it. We have good reason to know that they did because our own Government agencies were informing them. But they do not want to give us access to those documents showing that, because they feel embarrassed.

Now, how can we help the national interest and save the taxpayers at least $300 million if, because of fear of embarrassment, that fact is not brought out and our legal authorities, trying to defend the Government, do not have the facts with which to defend it? That is just an example of what we face. So here the State Department now has delayed. We have set up a meeting. They canceled it without explanation. And this disappointing performance is only a part of a wider campaign of obstruction, unworthy of a great country and equally unworthy of a department with a great history.

I hope for cooperation, but with or without it, the truth will emerge.

The documents referred to are as follows:

SEVERAL OF THE LARGEST BENEFICIARIES OF BNL–ATLANTA LOANS TO IRAQ

[Option A]

Iraqi beneficiary	Exporter	Amount	Ostensible product description	Likely military use
General Automobile and Machinery Corporation, Baghdad.	General Motors Overseas Distribution Corporation, 3044 W. Grand Blvd., Detroit, Mich. 48202.	$154,000,000	10,000 Oldsmobile Cieras	Used as reward for Republican guard and Baath party loyalists.
Nasser State Enterprises for Mechanical Industries, Baghdad.	Matrix Churchill Limited, Fletchamsted Highway, Coventry CV 4 9DA U.K..	81,000,000 Deutsche Marks	Not forging dies project	Cannon/artillery.
Technical Corps for Special Projects (TECO), Baghdad, Project 102, Petrochemical Complex 2.	Lummus Crest Inc., 1515 Broad Street, Bloomfield, N.J. 07003.	$53,827,776	Services and licenses for Ethylene Plant at Petrochemical Complex. Steam cracking furnaces.	Ethylene is used in fuel-air explosives and as a chemical weapons precursor.
Al Shaheed Factory, Baghdad	Servaas Incorporated, 1000 Waterway Boulevard, Indianapolis, In. 46202.	$40,602,000	Copper scrap refining machines, tools, parts and technical documents.	Double production at artillery shell factory.
State Establishment for Heavy Engineering Equipment, project No. 74.	Techno Export Foreign Trade Co. Ltd., 1 Vachavshe Nam 1, Praha, Czechoslovakia.	$40,257,800	Technological equipment, materials and services and third countries origin for extension of manufacturing facilities of State Establishment.	Big Gun or nuclear weapons program.
Technical Corps for Special Projects (TECO), Project 65/Project 1937, Baghdad.	Biwater Process Plant Chemical & Thermal Engineering Limited, 52 Adderly Road, Wilmslow, Cheshire, SK9 1 NY England.	16,894,383 Pounds Sterling	Nitrogen Generation Plant Parts, Cryogenic Nitrogen Plant, Resin Factory.	To be used with glass fiber factory to make components for missiles, aircraft, etc.
State Machinery Trading Company, Baghdad	Centrifugal Casting, Machine Co., 6935 East 12th Street, Tulsa, Oklahoma 74112.	$26,337,241	Cast ductile iron pipe.	Artillery, barrels, Big Gun.
Nasser State Enterprises for Mechanical Industries.	SMS Hasenclaver GMBH, Witzeltrasse 55–400, Dusseldorf 1/BR, Germany.	33,750,000 Deutsche Marks	Machines and equipment and spare parts for forging lines..	Manufacturers of artillery and gun barrels.
State Machinery Trading Company. Technical Corps for Special Projects (TECO), Project No. 395.	Rotec, 333 West Lake Street, Elmhurst, Ill, 60126.	$18,708,365	Upstream and downstream conveyor system for cement. Vibration equipment.	Infrastructure for Condor II ballistic missile program.
State Machinery Trading Company, Baghdad	XYZ Options Inc., Arcadia Drive, Tuscaloosa, Al. 33404.	$14,072,625	Carbon determinator induction furnace, Isostatic press, Jig grinder, Tungsten carbide powder.	Found at Al Athere nuclear weapons plant.
Technical Corps for Special Projects (TECO), Baghdad, Project 3128.	Matrix-Churchill, 5930 Harper Road, Cleveland, Oh. 44139.	$14,100,000	Fiber Glass Project	With BiWater resin factory has many military uses including bomb casings, aircraft parts, etc.
State Machinery Trading Company, Baghdad	Gatewood Engineers Ltd., 2 Basset Court, Newport Pagnell, Buckingham Shire, MK16 OJN, United Kingdom.	$12,541,000	50 Terex dump trucks	Bought by Condor II ballistic missile program.
State Machinery Trading Company, Baghdad	Associated Instrument, P.O. Box 49591, Atlanta, Ga. 30329.	$12,161,502	Carbide tools	Many military uses including artillery shells and barrels.
State Machinery Trading Company, Baghdad	Caterpillar, 100 N.E. Adams St., Peoria, Ill. 61629.	$9,902,605	Billdozers	Bought by ballistic missile program. Used to erect infrastructure.

[Option B]

Exporter	Amount	Ostensible product description	Like military use
CE (Kintex), Bulgaria	$30,750,000	Transfer of know how, technologies and equipment for manufacturing of personal computers.	Direct arms purchases.
Thyssen Rheinstahl Technik, Germany	63,500,000 Deutsche Marks	Rotary forging plant	Artillery.
Danieli, Italy	126,000,000 Deutsche Marks	Rolling mill for steel plant	Artillery.
Comtech Systems, Inc., United States	$36,000,000	Mobile satellite tracking system	Track hostile intelligence satellites.
Lummus Crest, United States	$53,000,000	Ethylene plant—PC2	Ethylene used as fuel for explosives and precursor to chemical weapons.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Chairman Henry B. Gonzalez of the House Banking, Finance and Urban Affairs Committee charged today that the intelligence community is being enlisted to help the Bush Administration deflect attention from failed policies involving Iraq.

Mr. Gonzalez said he had received two recent letters from the Central Intelligence Agency complaining about public disclosure of the intelligence community's knowledge of Iraq's ambitious military industrialization program. The letters were written to Mr. Gonzalez by Robert M. Gates, Director of Central Intelligence, and Admiral W. O. Studeman, Acting Director of Central Intelligence.

"These letters have all the appearance of warmed over versions of earlier complaints from Attorney General William P. Barr," Mr. Gonzalez said. "Like the Attorney General, Mr. Gates is fully aware that my public statements and revelations have been carefully handled and have not in any manner breached the security of ongoing intelligence efforts."

Mr. Gonzalez said he was "extremely disappointed that the Central Intelligence Agency was allowing itself to be used to build a smokescreen around the President's flawed policies. The CIA should be above involving itself in the political problems of the Administration. The American people deserve a full explanation and exposition of the

pre-war policies and the CIA should not leave the impression it is willing to help cover up the facts."

(Letters attached.)

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Hon. W.O. STUDEMAN,
Admiral, U.S. Navy, Acting Director of Central Intelligence,
Central Intelligence Agency, Washington, DC.

DEAR ADMIRAL STUDEMAN: This letter is in response to your letter dated July 28, 1992 that was received by the Banking Committee on July 30, 1992. First, I want to make it clear that information contained in my statements on the House Floor, traceable to intelligence reports or otherwise, have in no way harmed the national security or revealed sensitive sources and methods.

As you are aware, because the Banking Committee does not have a Sensitive Compartmented Information Facility (SCIF), the Committee has not been permitted to retain any information above the SECRET level, and therefore, the Committee does not have information about the SECRET level. Your insinuation that I have revealed TOP SECRET, compartmentalized information is inflammatory and without merit. In fact, I have taken great pains to ensure that all information that I have placed in the Congressional Record is of the broadest nature and readily available from public sources.

To set the record straight, the CIA has not adequately cooperated with the Banking Committee since Attorney General Barr's letter of May 15, 1992. This letter has been used by the intelligence community, and numerous other government agencies, to forbid Banking Committee investigators from reviewing or discussing classified information. In fact, since May 15, 1992, on several occasions the intelligence community has prohibited Committee investigators from reviewing or even discussing classified information. As I told Director Gates, the CIA's position is to refuse to discuss or provide the Committee with access to classified information, yet, at the same time, I am being criticized for not discussing classified information with the CIA.

No one has shown that I have harmed the national security or compromised sources and methods, which leads me to conclude that the classification issue is being used as a convenient device to avoid substantive discussion of the issues at hand.

Rest assured Admiral Studeman, I stand ready to work with the intelligence community under mutually beneficial circumstances.

Thank you for your time and consideration of this request.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC., July 28, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Director Gates' response to your letter of 7 July indicates, we have been making every effort to cooperate with your requests for access to intelligence information. We have appropriately declassified intelligence reports available for you to use in public statements. We are prepared to work with you to continue reviewing our reports to determine what may be made available to the public.

We fully respect your obligation to discharge the oversight responsibilities assigned to your Committee. I hope that you understand our obligation to protect intelligence sources and methods through careful review of information before it is released to the public.

We have reviewed your statements published in the Congressional Records of 21 and 27 July. We have determined that portions of your statements were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive. I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods.

Very respectfully,

W.O. STUDEMAN,
Admiral, U.S. Navy, Acting Director of Central Intelligence.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 28, 1992.

Hon. ROBERT M. GATES,
Director of Central Intelligence, Central Intelligence Agency, Washington, DC.

DEAR DIRECTOR GATES: This letter is in response to your letter dated July 24, 1992 that was received by the Banking Committee on July, 27, 1992. Frankly, I am perplexed by several statements in your letter and would like to set the record straight about several points contained in your letter.

First, information contained in my statements on the House Floor, whether traceable to intelligence reports or not, has in no way harmed the national security or revealed sensitive sources and methods. As you are aware, because the Banking Committee does not have a SCIF, we were not permitted to retain any information above the SECRET level. Therefore the Committee does not have information above the SECRET level. Your insinuation that I have revealed TOP SECRET compartmentalized information is inflammatory and without merit. In fact, I have taken great pains to ensure that all information that I have placed in the Congressional Record is of the broadest nature and readily available from public sources.

I can understand your discomfort at my revealing that the CIA and other executive branch agencies had early and acute knowledge of Iraq's military industrialization program, Iraq's weapons manufacturing establishments and Iraq's technology procurement network. You must also understand that the Committee could not effectively execute its oversight function without revealing, in the broadest context possible, that the CIA and other executive branch agencies knew of Iraq's military industrializations plans, were aware that U.S. technology was being sent to Iraqi weapons factories and were aware of Iraq's clandestine procurement activities. Many of these facts are available from public sources.

Since May 15, 1992, the Central Intelligence Agency, the National Security Council, National Security Agency, Defense Intelligence Agency, the State Department, the Department of Defense, the Treasury Department, the Commerce Department and the U.S. Customs Service, invoking the Attorney General's letter of May 15, 1992, have all refused to discuss classified information with the Banking Committee or to provide the Committee with classified documents. In effect, the CIA is criticizing me for not discussing classified matters, while at the same time, the CIA refuses to discuss classifed matters with me.

I do appreciate your verifying that the CIA did not begin assisting prosecutors in Atlanta, until "late summer 1990." Of course "late summer 1990" means after Iraq's August 2, 1990 invasion of Kuwait. I stand by my assertion that the intelligence community was not forthcoming with information related to BNL, Matrix-Churchill Corporation and Iraq until after the invasion of Kuwait.

The fact is that six known Iraqi front companies and many other notorious firms assisting Iraq's weapons programs were the beneficiaries of BNL loans. The fact is that 10 government agencies, including offices within the DOD that work closely with the CIA, were all in Atlanta investigating various aspects of the BNL's relationship with Iraq. Numerous press reports linked BNL-Atlanta to Iraq's procurement network, Iraq's military industrialization and weapons programs. While I will certainly accept hard evidence to the contrary, I find it difficult to conclude that CIA information on these topics, which was plentiful well before "late summer 1990," was not purposely withheld from prosecutors in Atlanta.

I am willing to investigate this issue in more detail. In order to facilitate consideration of this question, I respectfully ask that you provide the Committee with a copy of CIA's policy on sharing information with other government agencies, particularly law enforcement agencies and banking regulators. Also, please provide copies of all documentation supporting your assertion as well as any distribution lists associated with germane CIA documents on Iraq, BNL and Matrix-Churchill that were created prior to the Iraqi invasion of Kuwait. The Banking Committee will be happy to report to you on its findings related to this point.

I must also express my disappointment in learning, from a New York Times article, of the existence of a National Intelligence Review on Iraq, dated November, 1989, that contained information on BNL and Iraq's procurement networks. As you are aware, the Committee had asked the CIA for access to any reports containing information on BNL and Iraq's procurement networks. For some reason that report was never brought to the attention of Committee investigators.

Your assistance in furnishing the information requested herein will be greatly appreciated.

Thank you for your time and consideration of this request.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 24, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter of 7 July, we have reviewed the memorandum entitled "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal" to determine whether it can be declassified. We have determined that nearly all of the document can be declassified, although we have had to make some very limited exclusions to protect sensitive intelligence sources and methods. The sanitized document is enclosed. We have done this as part of a continuing effort to cooperate with your committee.

We also have determined that your statement in the Congressional Record on 7 July

1992 included information from a TOP SECRET compartmented and particularly sensitive document dated 4 September 1989 to which we gave your staff access. Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure.

I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy both our need to protect intelligence sources and methods, as well as your need to make public information concerning the development of US policy toward Iraq.

I must also take strong exception to your statement in the Record that, "The lack of CIA cooperation with the prosecutors in Atlanta was a calculated administration effort to conceal the true nature of the BNL scandal and to hide the level of Iraqi Government complicity in the scandal." In fact, the CIA has cooperated completely with the prosecutors in Atlanta. We received and responded to several Department of Justice requests for information beginning in late summer 1990 providing, among other things, Directorate of Intelligence finished intelligence reports; raw intelligence reports; copies of articles from the foreign press; and Foreign Broadcast Information Service reports. We also provided special briefings for senior Department of Justice attorneys and have provided additional, responsive information as it has become available. Although we are unable to determine the value of CIA information to the prosecutor, the facts will show that we have been completely responsive to all requests we have received.

This Agency's consistent policy has been to cooperate, when requested to do so, with all Department of Justice prosecutions. If evidence to the contrary has come to light during the course of your investigation, I ask that you provide me with facts sufficient to permit inquiry into whether a violation of Agency policy has occurred. If no such evidence exists, I urge that the record be promptly corrected.

Sincerely,

ROBERT M. GATES,
Director of Central Intelligence.

Enclosure.

DIRECTORATE OF INTELLIGENCE, NOVEMBER 6, 1989

IRAQ-ITALY: REPERCUSSIONS OF THE BNL-ATLANTA SCANDAL

Summary

The revelation that a US branch of an Italian bank, Banca Nazionale del Lavoro (BNL), granted more than $3 billion in unauthorized letters of credit to Iraq has had wide-ranging repercussions for Iraq and Italy. For Iraq, public disclosure that is used some of the credits to acquire military-related technology has impeded procurement efforts, and the suspension of BNL credits has slowed civilian reconstruction and development projects. For Italy, the BNL scandal has cast at least a temporary shadow on Prime Minister Andreotti's new government, raised questions about public-sector enterprises, and reopened the issue of privatization.

The affair is unlikely to have a major impact on Iraqi military procurement efforts, but cash-short Baghdad probably will have to postpone plans for some civilian projects. The loss of BNL financing and, more important, any reduction in US agricultural credit guarantees because of negative publicity about the scandal probably would damage US-Iraqi commercial ties. For Iraq's part, however, the strain in political relations is likely to be short-lived, particularly if Baghdad believes US credit guarantees will be forthcoming. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR.

BNL-Atlanta Financing for Iraq

The Atlanta, Georgia branch of the state-owned Banca Nazionale del Lavoro (BNL)—Italy's largest bank—extended $3.2 billion in 2,500 unauthorized letters of credit for Iraq between February 1988 and July 1989. U.S. and Italian authorities have been investigating the scandal since July for violations of banking regulations and tax and customs laws.

Fragmentary reporting indicates BNL-Atlanta disbursed $1.85 billion of the $3.2 billion, including at least $800 million in letters of credit guaranteed by the US Commodity Credit Corporation (CCC). BNL headquarters agreed to release another $550 million in early October, ——— after Iraq threatened to suspend payment to Italian firms if the bank failed to honor its commitments.

BNL-Atlanta's unusual activities included:

Exceeding the branch's allowable debt of $500,000 per customer.

Charging Baghdad an average 0.2-percent commission instead of the usual 15 percent for a poor credit risk.

Financing the letters of credit by borrowing from other banks for 90 to 180 days but allowing Iraq up to five years to repay.

BNL's North American headquarters in New York and the bank's directors in Rome publicly denied knowing about the letters of credit, although a BNL official in Chicago claims he notified New York and Rome several times about the unusual activity in Atlanta, according to press reports. Press reports also indicate a BNL branch in Udine, Italy referred customers exporting to Iraq to the Atlanta branch. Iraqi officials have generally denied knowledge of any wrongdoing, arguing that Baghdad is a victim in the scandal.

Iraq used some BNL credits—at least $600 million, according to British press—to buy military and dual-use technology through various front companies and legitimate firms in Western Europe. ———

British press says that BNL-Atlanta also financed Iraqi military purchases from Kintex, the Bulgarian armament company.

Impact on Iraq

The suspension of credits from BNL—by far Baghdad's largest source of credits—and disclosure in the British press that Iraq used the credits to acquire military-related technology has almost certainly complicated Baghdad's procurement efforts. We believe that increased Western scrutiny of these activities has at least temporarily impaired Baghdad's ability to acquire such technology. Press coverage and London's opposition to Iraq's control of a company possessing sensitive technology, for example, led SRC Composites to divest its advanced composites factory, according to press reports. Some other firms in the networks have gone out of business.

The loss of BNL financing has almost certainly slowed civilian reconstruction and development in Iraq. Many US and West European firms supplying goods and services to projects in Iraq were being paid through BNL ——— ——— Many of these firms have probably suspended business with Iraq until alternate methods of payment—cash, other loans, or barter—are arranged. Financially strapped Baghdad, however, is unable to meet demands by some of these firms for payment in cash, especially for expensive purchases. ——— reporting indicates Iraq has nearly exhausted available credit lines and barter opportunities.

Iraqi procurement networks

Baghdad has created complex procurement networks of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear, and ballistic missile development programs. According to British press ——— one such network begins in Baghdad with the Al-Arabi Trading Company, which controls the London-based Technology and Development Group, Ltd. (TDG) and another UK firm, TMG Engineering. TDG and its Brussels-based partner, Space Research Corporation, own the Ulster-registered firm Canira Technical Corporation, Ltd. Canira in March established SRC Composites, which acquired access to advanced composite and carbon fiber technology used in aircraft and missile production. In 1987 TMG gained control of Matrix-Churchill, Ltd., the United Kingdom's leading producer of computer-controlled machine tools that can be used in the production of sophisticated armaments.

We believe Iraqi intelligence is directly involved in the activities of many holding companies funnelling technology to Iraq. ———.

Effect on US-Iraqi relations

For Iraq, any reduction in bilateral commercial ties because of the BNL scandal takes on political significance, which Baghdad—ever paranoid—tends to exaggerate. The fallout from the scandal has strained US-Iraqi relations. Baghdad is seriously concerned that the affair is adversely affecting its economic ties to the United States—the backbone of the bilateral relationship. Iraq is particularly upset that the CCC offered significantly less credit guarantees for FY 1990 than Baghdad requested because of negative publicity about the scandal. Iraq fears that any large reduction in CCC credit guarantees would make it more costly and difficult to import agricultural goods and damage its international credit rating.

Several US firms have already been affected by the scandal. ——— press reporting indicate BNL was financing at least $1 billion in sales to Iraq by US firms, including agricultural goods, an automobile plant, an ethylene plant, industrial machinery, construction materials, and irrigation equipment. Some US suppliers are worried that they will not receive payment on letters of credit that they have not yet submitted to BNL-Atlanta. Many US firms are trying to arrange other means of payment to avoid losing lucrative contracts.

The scandal has contributed to Iraq's perception that the United States is trying to hamstring Baghdad's efforts to promote better political ties. A senior Iraqi official told his US counterpart in early October that Baghdad was unhappy that Washington's decision on CCC credits is linked to the scandal, with which he maintained Iraq had no part. The official indicated this was not a sign that the United States wants to improve relations.

Baghdad is eager to resolve the BNL crisis because harmonious bilateral relations are important to its strategic planning. Iraq believes that the Iranians have not abandoned plans to oust the regime in Baghdad and wants to assure that the superpowers would back Iraq or at least remain neutral during any future hostilities. The Iraqis seek to prevent Washington from favoring Iran so much

that Baghdad's interests are threatened. In Iraq's view, the superpowers regard Iran to be of greater importance in the region, and Baghdad is therefore trying to enhance Iraq's political and economic importance to the United States.

Impact on Italy

The BNL affair—in combination with other scandals—has cast a shadow on Prime Minister Andreotti's three-month-old government. Partly to divert attention from the BNL affair, the Socialists and some Christian Democrats are playing up other scandals, including renewed allegations that the Italian military covered up evidence concerning the 1980 crash of an Italian airliner north of Sicily. None of the governing political parties or their factions, however, appears now to believe it can strengthen its relative positions by exploiting the issue.

The scandal has also spotlighted the cost of Italy's longstanding and entrenched spoils system in the state-owned enterprises. Traditionally, appointments to key positions in public-sector companies have been allocated as a measure of party and even factional influence. Under this system, the president and several directors of BNL are members of the Italian Socialist Party, while the executive director usually comes from the Christian Democratic Party. Several backbenchers in parliament quickly denounced the spoils system for not allowing the most competent people to fill public-sector jobs. The attacks, however, have been discounted as political sour grapes, and the system shows no signs of collapse.

In light of the BNL affair, Treasury Minister Carli has renewed his efforts—against admittedly long odds—to enlist support for privatizing state-owned banks and other public-sector corporations. Carli believes the breakdown in supervision at BNL is all too typical of the quality of Italian public-sector banking. In his opinion, privatization would force Italian banks to narrow the current 6-percentage-point spread between interest paid to depositors and that charged to borrowers—a prerequisite if Italian banks are to do well after the EC dismantles capital controls next year.

The discovery of BNL's exposure in Iraq forced the bank to seek funds to boost its capital, which the Bank of Italy already considered too low. If Iraq defaulted, BNL technically would have been bankrupt because the amount of its loans to Iraq exceeded the bank's capital. In that event, the Bank of Italy and the Treasury Ministry would have been compelled to bail out the bank. Rome was stymied in finding a Socialist-controlled institution to recapitalize the bank by itself, and the government in October finally cobbled together a $1.7 billion package from the Treasury, a state-owned insurance company, and the Social Security Fund, thus maintaining a Socialist majority on the BNL board of directors.

We believe the revelations of BNL's dealings with Iraq—along with other recent scandals—stand in counterpoint to growing Italian self-confidence on the international stage in recent years. After more than three decades of international diffidence, we believe Italian leaders have been pursuing a diplomatic profile more commensurate with their country's international economic role. Italians have felt particular pride because:

Italian troops in the Beirut peacekeeping forces had fulfilled their mission as defined by Rome.

The Italian decision to accept U.S. cruise missiles played a decisive role in swinging West Germany behind deployment.

Their country's GDP had surpassed that of the United Kingdom and possibly France.

In the opinion of almost all Italian press commentators, the BNL affair had a negative impact on Italy's credibility throughout the West. We believe, however, that the setback to Rome's international standing has been substantially less than that portrayed in the Italian press, and we expect the scandal will gradually fade from public view within Italy and will have little lasting impact on the country's perception of its international role.

Outlook

We believe Iraq will work hard to establish new military procurement networks to replace those disclosed by the press and by the U.S. and Italian investigations as part of the fallout from the BNL affair. Baghdad highly values these networks to obtain technology that might otherwise be denied to it if the end user or purpose were revealed. Because of renewed Iraqi efforts and the likely existence of other networks that remain undetected, we do not believe that Iraq's covert procurement efforts will be set back seriously.

The drying up of this major financial source—at least for the next several years—will probably force Iraq to scale back ambitious civilian reconstruction and development plans. Baghdad probably formulated some economic plans under the assumption that BNL-Atlanta would continue to issue letters of credit on its behalf. Iraq will be unable, however, to replace BNL financing any time soon. Most commercial banks and foreign governments are likely to remain unwilling to grant or guarantee significant new credits to Baghdad until it repays more of its $45 billion non-Arab foreign debt—a low priority to Iraq. Furthermore, Iraq has over extended its barter commitments and will probably be reluctant to engage in many more such deals.

The BNL affair will probably have only a minimal impact on Italian-Iraqi relations. The scandal is unlikely to cause more than short-term political friction unless BNL fails to disburse the remaining letters of credit. Even then, Baghdad would probably employ economic—not political—means to punish Rome. Continued Iraqi threats to suspend payment to Italian firms if Rome fails to release the promised BNL credits will almost certainly be effective against the Italians, who have already agreed to release some of the undisbursed credits and have backed down in the past in the face of threats from other countries.

We have detected no sign of flagging Italian interest in Iraq, although we expect that Italian banks will scrutinize export financing and other credits for Baghdad more carefully. The Italians are maintaining existing levels of oil imports from Iraq while still trying to boost exports. Italian-Iraqi relations will continue to be strained, however, by the dispute over the delivery of Italian warships to Iraq, which is unlikely to be resolved any time soon because of Iraqi demands for additional financing for the ships and Iranian threats of retaliation against Italy if the ships are delivered.

Implications for the United States

The BNL scandal is likely to lead to a reduction of US-Iraqi commercial relations, particularly if CCC credit guarantees are decreased. Any loss of CCC credits probably would reduce Iraqi's food imports from the United States because Baghdad prefers to buy on credit. Iraq probably would turn to Australia and EC countries—which lost sales when the United States became Iraq's top Western agricultural supplier in 1983—as well as traditional suppliers Turkey and Brazil. Many of these suppliers are already trying to profit from the BNL scandal by boosting agricultural sales to Iraq at US expense. Furthermore, the banks's continued refusal to disburse remaining credits probably would prevent some US firms from implementing contracts with Iraq.

The strain in US-Iraqi political relations caused by the BNL scandal will probably be short-lived, particularly if Baghdad believes additional US credits will be forthcoming after the dust of the investigation settles. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR that make Baghdad uneasy. Iraq probably also believes that strained political relations would complicate its efforts to acquire US technology and credits in the future. We anticipate that Iraq will work hard to overcome the current frictions by offering commercial opportunities to the United States and lobbying US business and government officials.

Although the BNL affair embarrassed the Italian Government and banking sector, we do not believe it will not have a major impact on Italian relations with the United States. Rome appears satisfied to date with the cooperation of the US investigating agencies and appreciates the low-key manner in which Washington has reacted. BNL will probably close its Atlanta office and may suffer a loss of business in financing exports for US companies.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Chairman Henry B. Gonzalez of the House Banking, Finance and Urban Affairs Committee charged today that the intelligence community is being enlisted to help the Bush Administration deflect attention from failed policies involving Iraq.

Mr. Gonzalez said he had received two recent letters from the Central Intelligence Agency complaining about public disclosure of the intelligence community's knowledge of Iraq's ambitious military industrialization program. The letters were written to Mr. Gonzalez by Robert M. Gates, Director of Central Intelligence, and Admiral W. O. Studeman, Acting Director of Central Intelligence.

"These letters have all the appearance of warmed over versions of earlier complaints from Attorney General William P. Barr," Mr. Gonzalez said. "Like the Attorney General, Mr. Gates is fully aware that my public statements and revelations have been carefully handled and have not in any manner breached the security of ongoing intelligence efforts."

Mr. Gonzalez said he was "extremely disappointed that the Central Intelligence Agency was allowing itself to be used to build a smokescreen around the President's flawed policies. The CIA should be above involving itself in the political problems of the Administration. The American people deserve a full explanation and exposition of the pre-war policies and the CIA should not leave the impression it is willing to help cover up the facts."

(Letter attached.)

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, July 30, 1992.

Mr. ROBERT GATES,
Director, Central Intelligence Agency, Washington, DC.

DEAR MR. GATES: The Committee on Banking, Finance and Urban Affairs has been investigating the Atlanta branch of the Italian government-owned Banca Nazionale del Lavoro (BNL) and its unauthorized loans to the government of Iraq of more than $4 billion. The Committee has in its possession a copy of the following documents:

1. A seven page memorandum entitled "*Iraq: No End in Sight to Debt Burden*" dated April 12, 1990; and

2. A four page letter from Mr. Stanley M. Moskowitz, Director of Congressional Affairs, to me dated November 12, 1991.

The Committee believes that it is important that the American people be informed of the contents of these documents.

The Committee respectfully requests that the Agency furnish the Committee with declassified copies of these documents.

The Committee appreciates your cooperation in ensuring that the classification review is completed and furnished to the Committee by Thursday, August 6, 1992. If you have any questions, please contact Ms. Debra Carr or Mr. Dennis Kane of the Committee staff at 225-4247.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

REDUCING S&L BAILOUT COSTS AND RESTORING CREDIT AVAILABILITY: THE FACTS ABOUT SUPERVISORY GOODWILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, on July 2, the Committee on Small Business began a series of hearings to explore the impact of thrift and bank capital standards on credit availability for small business. I would like to take this opportunity to share with my colleagues my thoughts on some of the major issues on which we are hearing testimony.

Those issues include the treatment afforded the supervisory goodwill held as an asset by many thrift institutions, and the clear impact of that treatment on the level of funding required for the Resolution Trust Corporation [RTC], the closure of thrift institutions around the country, and the overall health of our economy.

This body has recently recognized the credit availability problems that are the clear consequences of a rigid implementation of new thrift capital standards by extending the time period granted thrifts to write off real estate subsidiary capital. That change has merit and should be permanently embraced. But the same arguments justifying new flexibility in this context are equally if not more legitimate in the context of supervisory goodwill.

As a result of the enactment of the Financial Institutions Reform, Recovery amd Enforcement Act [FIRREA] in August 1989, many thrift institutions throughout this country have been required to write off an asset called supervisory goodwill on the sharply accelerated basis demanded by the statute. As a result, thrift institutions that would otherwise be considered solvent or viable are being classified as institutions that need to be "resolved"—in effect, closed—by the RTC.

The damage done by these so-called resolutions is substantial and nationwide. They led to the closure of financial institutions in our communities; a substantial reduction of lending capacity in the midst of a serious credit crunch; and the economic elimination of the equity and debt securities owned by the shareholders and bondholders of those institutions. Small business owners, who must rely disproportionately on banks and thrifts for financing, have been particularly hard hit. Those wanting to start up or expand smaller enterprises simply could not find the necessary capital from the lenders on whom they had traditionally relied.

There have been yet other adverse consequences. Large quantities of real estate and other assets were dumped into the market, thereby depressing the values of properties owned by healthy financial institutions and others, and reducing the State and local tax revenues generated by those properties. Experienced and taxpaying employees were put out of work, creating dislocation in families and communities, and placing stress on local economies.

Finally, U.S. taxpayers in general were seriously disadvantaged. As we moved unnecessarily and abruptly to close institutions whose situation was clearly improving and who could survive unassisted by Government money if only the timetable for compliance with new standards were more reasonable, we dramatically increased the cost of the S&L bailout to the American taxpayer.

These costs will now increase yet again. Just a few days ago, the U.S. Claims Court ruled that the supervisory agreements entered into between the Federal Home Loan Bank Board and Glendale Federal Bank and Statesman Savings Holding Corp. constituted binding contracts which were breached, and that this breach of contract clearly entitles the institutions to damages or restitution. This is an argument that I made from the very beginning. As I emphasized at the time of our consideration of FIRREA, the Government can breach contracts, but not without paying the price.

The bill is now coming due. The refusal of the administration and this body to devise reasonable transition rules that acknowledge and attempt to reasonably address preexisting rights has already led to costly litigation, and is now leading to damage awards that will only increase the taxpayer cost associated with the bailout. More cases of the same nature are pending. If the Congress approves even more money for the RTC without making the necessary adjustments, litigation will continue, and more damage awards will follow.

Hence, the subject of goodwill, while a technical one, is hardly a theoretical one. I would like to elaborate on the history of this issue, explain in more detail the implications of the pending litigation, and focus attention on the decisions we confront at this point.

I. THE HISTORY OF THE SUPERVISORY GOODWILL PROBLEM

The subject of goodwill or supervisory goodwill has arisen repeatedly in the Congress over the last 4 years—in 1989, during consideration of FIRREA; again in 1991 in connection with the Federal Deposit Insurance Corporation Improvement Act [FDICIA]; and now again this year in connection with RTC funding. Fundamental disagreement about the way the issue was handled in FIRREA remains one of the major reasons RTC funding has been delayed.

As many of you are aware, a goodwill buyback bill has been proposed by others that would authorize an expenditure of up to $2 billion for the repurchase of supervisory goodwill from institutions that might reasonably be expected to survive with a capital infusion. Proponents of the buyback approach argue forcefully that the expenditure of $2 billion could save taxpayers between $10 to $20 billion of funds that have already been requested by the RTC to resolve a number of institutions with supervisory goodwill on their books.

Earlier this year, I introduced a bill, the Credit Availability Act of 1992, that would provide goodwill institutions with something just as valuable, time. Prior to FIRREA, thrift institutions had 25 to 40 years to write off the goodwill they had acquired in supervisory acquisitions. It is very instructive to recall that the original administration proposal would have provided 10 years. The Congress and the administration, caught in an ever-escalating bidding war regarding who could be the toughest on the industry, eventually provided 5 years, with an immediate phaseout of goodwill as tangible capital.

Tough new capital standards were necessary and appropriate. But a reasonable transition rule was imperative if our economy was not to suffer and credit was to remain available.

I therefore strongly opposed the precipitous application of the new standards, arguing that the result would be to maximize the number of institutions closed and to dramatically increase the taxpayer cost of this bailout. Subsequently, as I predicted, we have been faced with ever higher funding requests for the RTC.

My current proposal would simply give discretion to the Office of Thrift Supervision [OTS] to grant a modicum of additional time to qualified institutions to phase out their goodwill. The effect of the legislation would be to save the taxpayer the unnecessary cost of resolving those thrifts that meet a number of stringent conditions: are profitable; are increasing their capital ratios; are in compliance with any capital plan otherwise required; pose no risk to the insurance fund; have competent management; meet the credit needs of their communities; are not paying dividends without regulatory approval; and are in compliance with all applicable laws, regulations, orders, and supervisory agreements and directives.

I believe that taxpayer cost savings associated with this change could be as much as $40 to $50 billion.

A. THE ORIGIN OF SUPERVISORY GOODWILL

It is important to recall how this problem arose. Most institutions with supervisory goodwill on their books acquired it through contracts they entered into with the Government. I would like to spend a few minutes on this point, because it has been a source of concern to me ever since we first began consideration of the FIRREA legislation.

It is often said, and apparently commonly accepted, that the goodwill or supervisory

goodwill we are now talking about is the creation of Federal thrift regulators who, in the early 1980's concocted this accounting gimmick as another form of regulatory accounting [RAP]. This is simply untrue.

Goodwill is not a creation of the Federal thrift regulators. Goodwill was and is an established accounting concept recognized under generally accepted accounting principles [GAAP]. Since at least 1946, generally accepted accounting principles have required that when an acquisition meets the criteria for purchase method accounting, as opposed to the pooling method, the surviving institution must record as goodwill the difference between the cost of the acquired company and the fair value of the acquired company's tangible and intangible assets less its liabilities. Accounting Principles Board Opinion No. 16. To this day, when one company acquires another company and the cost of the company acquired exceeds the fair market value of its assets minus liabilities, the difference is booked as goodwill.

This concept is not unique to the financial institutions industry. This concept was not concocted by Federal regulators. This concept applies to all industries and to all combinations—accounted for as a purchase—currently.

Indeed, as many Members are aware, the tax treatment of the goodwill generated with respect to different classes of assets in acquisitions is currently a subject of great debate within the Ways and Means Committee of this House. That tax debate regarding goodwill, like the current issues regarding the supervisory goodwill of thrift institutions, involves billions of dollars and potentially significant changes in industry structure.

If goodwill was not merely a gimmick, how has the concept of supervisory goodwill somehow gotten an unseemly reputation in connection with thrift institutions? To consider this issue, it is necessary to review the history of the early 1980's.

B. THE ORIGIN OF THRIFT INDUSTRY PROBLEMS

In the late 1970's and early 1980's, the country was experiencing rapid inflation. Interest rates were rising and there was mounting public pressure to relax the artificial constraints on deposit rates, Regulation Q of the Federal Reserve Board. Indeed, depositors voted with their feet in this regard by shifting massive quantities of funds from insured savings accounts in thrift institutions and banks to higher yielding investments, such as money market mutual funds and Treasury securities.

As a result of these consumer and economic pressures, deposit rate controls began to be dismantled at a time when interest rates were averaging 12 percent to 14 percent. At the same time, the average interest rate on assets for thrift institutions, invested primarily in 30-year fixed rate mortgages, was 7.5 percent. Obviously, an institution cannot pay 14 percent on its deposits liabilities if its assets are earning 7.5 percent. This mismatch or negative spread resulted in a deduction from the thrifts' capital account.

In 1980, thrifts had net worth or capital ratios of approximately 6 percent, as high as those of the commercial banks. But thrifts, unlike commercial banks, could not adjust their loan portfolios to shorten the maturities of their assets quickly enough and in the volume necessary to earn a return on assets equal to the cost of their liabilities. Thus, the capital base of the thrift industry eroded to a much greater extent than that of the commercial banking industry. By 1982, it was estimated that the thrift industry capital base had eroded to 4 percent, and by 1985 it was down to 3 percent.

Unfortunately, the thrift insurance fund, the FSLIC, was equally unprepared for the situation resulting from high interest rates in the early 1980's. As thrifts' capital base shrank, and their inability to adjust the maturities of their assets to their liabilities changed only gradually, the FSLIC recognized that its potential liabilities for thrift insured deposits far exceeded the size of the FSLIC fund.

Consequently, the members of the Federal Home Loan Bank Board, as directors of the FSLIC, did what any Government official would do, when it was clear that no additional funds would be forthcoming—they used the tools at hand, namely recognized accounting principles, to their advantage. Their judgment can be questioned, but they acted for a good reason. They chose to use the supervisory goodwill concept in order to encourage supervisory mergers, that is, mergers in which a healthy thrift would acquire an insolvent or significantly less healthy thrift. The theory was that the cost of a supervisory merger to the Government was significantly less than the cost of the traditional liquidation. It is a theory still worth considering.

A review of the transcripts of the FHLBB meetings of the day reveals that Government officials entered into transactions to "save money for the people of the United States, through a savings to the FSLIC." To do this, traditional methods of resolution—spending FSLIC funds to make acquirors whole in taking over institutions whose liabilities exceeded their assets—were not used because they could not be used: The FSLIC did not have the money and was not being given the money. Instead the regulators allowed the goodwill generated in a purchase transaction, and booked in accordance with GAAP as an asset on the acquiror's balance sheet, to be included in regulatory capital.

Through this method, the FSLIC saved the Government the cash outlay traditionally associated with an assisted acquisition—cash that FSLIC did not have. The effect of these transactions was to shift onto one taxpayer—the acquiror—the burden of all taxpayers to make good on the Government guarantee of insured deposits. Acquirors took on this burden, without any cash, because they received Government assurances, in the form of the assistance agreements, that they would have between 25 to 40 years to work out the difficulties of the failed institution and because the Government assured them that the goodwill asset would be included when calculating capital under the Government's regulatory capital rules.

I am not arguing that supervisory goodwill is a valuable asset that should legitimately count toward capital on an ongoing basis. Doing that clearly was fraught with difficulty. It was a device the Government used to buy time; a device that enabled acquirors who would otherwise have been unable to do so—because the Government had no money with which to fill the hole in the acquired institution—to participate in legitimate supervisory transactions that inured to the Government's benefit. These contracts deserved to be honored; at the very least, they do not deserve to be precipitously preempted. The courts seem to agree.

Moreover, time is itself a valuable tool. We have only to look at the serious economic recession that has been produced by our recent unwillingness to take a reasonable amount of time to effect the transition to new thrift capital standards to see how invaluable a less extreme approach would have been.

The purpose of supervisory goodwill is well summarized in the following extract from a written statement submitted by Richard T. Pratt, the former Chairman of the Federal Home Loan Bank Board, on October 1, 1990 to the House Committee on Banking, Finance and Urban Affairs:

> The Bank Board was caught between a rock and a hard place. While it did not have sufficient funds to close all insolvent institutions at the same time, it had to consolidate the industry, move weaker institutions into stronger hands, and do everything possible to minimize losses during the transition period. Goodwill was an indispensable tool in performing this task. The GAAP approach to purchase accounting mergers provided a bridge which allowed the Bank Board to encourage the necessary consolidation of the industry, while at the same time husbanding the financial resources which were then available to it.

This quotation also emphasizes another important aspect of this issue—that is, that, in many cases, the Government induced institutions to enter into the arrangements that resulted in supervisory goodwill. These arrangements were entered into at the behest of the Government. In fact, in many cases they were entered into under some pressure from the Government. The Government was confronted with a desperate situation. It is ironic to note that the Government was bailed out by private industry, and not the reverse.

Thus, if there are any negative connotations attached to goodwill, I submit it is because of the Government's conversion of its cash obligations into this recognized accounting concept and the subsequent convenient lapse of memory that the Government—including the administration and, to some extent, the Congress—seems to have with regard to the origins of supervisory goodwill.

II. THE PRESENT SITUATION

Where do things stand now? I would like to provide you with some details regarding the number of institutions with goodwill on their books; their prospects for survival if some action on goodwill is taken by the Congress; and the likely impact on these institutions and the costs of resolution—that is, the authorization of arguably unnecessary levels of funding for the RTC—if no action is taken along the lines I am suggesting.

A. THE NATURE OF THE INSTITUTIONS AT RISK

Based on December 31, 1991 data from "Thrift Financial Reports," there were 247 thrifts reporting $4 billion of supervisory goodwill on their books. This number is down significantly from the March 31, 1990 data, when there were 359 institutions reporting supervisory goodwill of $6.4 billion. Let me emphasize once again that this $6.4 billion represents funds which these institutions spared the Federal Government from spending.

These institutions took on more than $6.4 billion in liabilities which the Government did not have funds in its insurance fund—designed to protect the public—to assume.

These figures are necessarily understated. Publicly available data does not distinguish between so-called qualifying supervisory goodwill and nonqualifying supervisory goodwill. The thrift financial reports capture only qualifying supervisory goodwill. Nonqualifying supervisory goodwill is supervisory goodwill that is in excess of the amounts that FIRREA permits to be counted in calculating core capital.

The result is that the foregoing figures do not include all the goodwill generated in supervisory goodwill transactions because a significant portion of that goodwill became nonqualifying because of reductions in qualifying supervisory goodwill mandated by FIRREA. Further, the figures do not include supervisory goodwill that institutions voluntarily elected to write off ahead of schedule. In short, the publicly reported data systematically understates both the loss to the industry and the benefit to the Government of the goodwill transactions between 1980 and 1989.

Another reason for the reduction in the amount of supervisory goodwill outstanding is the reduction in the number of institutions remaining outside of RTC control. Closing approximately 700 institutions, some of which had qualifying supervisory goodwill on their books, has also eliminated a significant amount of qualifying supervisory goodwill from the publicly available data. Supervisory goodwill has also been reduced as a result of amortization. In sum, the numbers that I am giving you are necessarily quite conservative.

The 247 institutions presently reporting supervisory goodwill had total assets of approximately $420 billion—about half the assets of the total industry—and supervisory goodwill in the amount of $4 billion. These institutions include thrifts of all sizes, ranging from the largest with $24 billion in assets to the smallest with less than $20 million in assets. They are located in 44 States plus the District of Columbia and Puerto Rico. The institutions employ in excess of 100,000 people with a combined payroll of $3.437 billion—excluding benefits. This is not an abstract problem—100,000 working Americans are being directly affected by this technical issue.

A lot of discussion has focused on whether any, some, or all of these institutions can, or should, be saved. Again the data is useful. The 247 institutions can be divided into three groups. One group consists of institutions that have serious problems even without the supervisory goodwill. These are defined as those thrifts that failed their core capital requirement as of December 31, 1991 even if supervisory goodwill were included in the capital computation. There are 29 institutions in this group. Another group consists of institutions that will survive regardless of supervisory goodwill. These are defined as those thrifts that had in excess of 4 percent core capital as of December 31, 1991 even if supervisory goodwill were excluded. There are 135 institutions in this group.

The third group is the critical group for purposes of this analysis. It consists of thrifts for which the continued inclusion of supervisory goodwill in capital could make a difference in their ability to continue to survive. These are defined as those thrifts that met their current core capital requirement as of December 31, 1991 but would have failed a 4 percent core capital percent requirement if supervisory goodwill had been excluded. There are 83 institutions in this group.

Who are these institutions? I have not seen the listing of institutions in groups III and IV, a confidential list of the OTS, but based on their numbers, it is a reasonable assumption that all 83 institutions are somewhere in these bottom two groups of the industry. What do we know about these institutions? Based on the data, we know that they are profitable institutions, reporting positive return on assets [ROA] and that they met their core capital requirement as of December 31, 1991. We also know that, as supervisory goodwill continues to be reduced in accordance with the accelerated FIRREA schedule, these institutions will have greater difficulty in meeting their future capital requirements. Finally, we know that these 83 institutions have total assets of $153 billion and that the supervisory goodwill they are reporting is approximately $1.8 billion.

B. THE ARGUMENT FOR RELIEF FOR THE GOODWILL INSTITUTIONS

Should we let these institutions fail? Should we oppose some reasonable and measured form of relief for these institutions? I think not.

If Congress were merely to provide some modest relief for those institutions that have a reasonable probability of success, the American taxpayer would be saved the resolution expenses associated with closing these institutions. Looking at the 83 institutions that I have been discussing whose total assets equal $153 billion, and using the historical data on resolution costs published by the RTC, which are between 25 to 35 percent of total assets, a rough estimate of the cost of the resolution of these 83 institutions would be between $40 and $53 billion.

While the likely cost would be lower than this amount since these institutions are probably higher quality thrifts than those that have already failed, the resolution costs would clearly still be substantial. Thus, a very sound reason for not letting these institutions fail, and for supporting the kind of approach that I am advocating, would be simply to save massive amounts of money for the American taxpayer.

Various objections can be raised to these savings estimates. Some will argue that it is always cheaper not only to close down troubled institutions but also to do so as soon as possible. Others will emphasize that this calculation does not take into account the ongoing operating losses of the troubled institutions. The administration has been arguing that the Congress' failure to fund the RTC is costing the taxpayer millions of dollars per day.

I find—and I believe many of my colleagues on both sides of the aisle find—objections of this sort highly dubious. It is irresponsible and certainly counterintuitive to assume that it is always cheaper to close down institutions. The institutions that I just described are making money, they have positive returns on assets, and they meet their core capital requirement. Moreover, with the current rate environment—short-term rates on their liabilities at 3 to 4 percent and longer term rates on their assets at 8 to 9 percent—they are building their reserves and generally strengthening their franchise.

A liquidation strategy has clear costs of its own that we cannot continue to disregard. Closure involves sales of assets at depressed, and sometimes fire-sale prices, as well as the attendant costs of government administration of the assets.

In addition, the regulators' calculations of the amounts to be saved if an institution is resolved are derived from computer models whose relation to the real world is the subject of increasing debate. We have only to consider the very different projections we have recently heard from different executive agencies as to the number of financial institutions likely to fail in various future periods. The disparity in the projections is enough to suggest at least some caution, if not a general skepticism, in assessing the predictions of the regulators regarding the losses to be suffered if institutions are not resolved.

Furthermore, we must consider that the figures that we have from the regulators do not, at least as to goodwill, even break down the goodwill into qualifying supervisory goodwill and goodwill generated in nonsupervisory transactions, nor do those figures divide institutions into the types of categories I have discussed. Until now we have not had information that even allows us to think clearly about whether some relief with respect to goodwill might be effective, which institutions it would affect, and in what ways. We have not, in the correct sense of the word, been able to discriminate.

Most of the data that we have had from the regulators, perhaps understandably, has been organized so as to support the case that substantial additional funds must, at the earliest possible date, be appropriated for the RTC. Nothing we have received, either by way of data or analysis, questions the underlying assumptions on which these predictive computer models are based. These models seem to be primarily, if not exclusively, financial models, that do not take into adequate account the externalities—in commonsense terms, the side effects.

What side effects? Allow me to elaborate. These models do not take into account the effects of loss of employment on the community; of loss of tax revenue to the system; of the loss of value in the institution's securities and assets; of the cost of claims against the Government under the goodwill litigation which I will discuss in a moment; and so forth. I doubt seriously that these effects are properly considered and I am not prepared to concede that there are valid objections to the savings calculations that I have given above unless we are adequately informed as to the weight the Government gives to these important side effects.

These enormous side-effects are of a special interest to me as the chairman of the Small Business Committee because of our committee's concern about two important issues. The first is a concern about the availability of all forms of credit to small business owners. The second is a concern about Government actions that reduce the types and levels of economic activities that are particular sources of profitability to small businesses.

The placing of a profitable and viable financial institution into conservatorship or receivership produces a serious downward pressure on local credit availability and on sources of small business income. Typically, an institution in conservatorship experiences a withdrawal of deposits. Putting all other factors aside, this reduces or terminates new lending, thereby restricting local credit availability. In a receivership, employees typically are laid off. At the very least, they reduce their personal budgets, reducing the income of local businesses. At the same time, the trade contracts and other administrative expenditures of the institution are reduced or terminated. Local businesses also suffer a restriction in income because of these cutbacks.

I need not belabor this point or sketch out all the negative effects that flow from the interrelationships in local economies. It is our common experience that when a local employer and lender ceases to be an active player in the market, economic activity contracts for small businesses.

Some financial experts will argue that, notwithstanding all that has been said, in the larger perspective it is in the country's best interest for depository institutions to undergo further consolidation. Since existing law in regard to supervisory goodwill will tend to hasten the greatest level of consolidation, some have argued, we should not change existing law by providing greater flexibility for viable institutions.

I find this argument unduly Darwinian and unjustifiably costly to the American taxpayer. It will cost the American taxpayer as much as $40 to $50 billion more in resolution costs if no change is made to existing law. This is a great deal of money to be spent in order to achieve in very short order some abstract consolidation goal that will almost certainly be reached in any event—and with less disruption and at less expense—as a result of natural market forces. It is highly questionable whether we should spend large sums of taxpayer dollars to hasten or accelerate that natural process, whatever one's views on industry consolidation.

All of the issues I have reviewed argue strongly for some relief for goodwill institutions. But, perhaps most important, is the fact that a refusal to provide some reasonable flexibility in the treatment of goodwill represents a further breach of the public trust. Institutions holding supervisory goodwill are the ones which assumed the Government's expenses when the Government could not pay its obligations to insured depositors.

The transactions which occurred in the early 1980's can be viewed in one of two ways—and either argues strongly for redress. An analogy can be made to private industry granting the Federal Government a loan—which now private industry needs repaid. If the Congress for reasons of fiscal responsibility decides that it cannot now repay the loan, the only just and sensible thing to do is stretch out the time period over which these institutions must attain present day standards of capital compliance.

Alternatively, those earlier transactions can be viewed as the Government's granting the industry a loan, which the Government promised could be repaid over 25 to 40 years—and which no rational business would have accepted unless it could be repaid over such a time period. Yet now the Government not only insists on calling the loan after only 5 years but also insists on putting borrowers into bankruptcy if they cannot pay off the loan according to the new schedule. Looked at in that light, it is certainly reasonable if the Government now chooses to put the borrowers into bankruptcy only if they would go into bankruptcy regardless of whether the loan were called or not; and, clearly sensible to allow some more time to the business that could make it, but for the fact that the loan was—contrary to the Government's written promises—accelerated.

III. THE IMPLICATIONS OF THE CLAIMS COURT DECISION

Given the direction the courts are now taking there is another obvious and compelling reason for providing some relief in this area—simple self-interest. Thrift institutions disadvantaged by the Government's reneging on its contracts have acted predictably—they have sought redress in the courts. It appears that a number of them may achieve the relief that they seek; and, any damages awarded will only increase Government and taxpayer costs. The current writeoff schedule mandated by FIRREA simply runs the risk of continuing to drive up the Government's damages.

There is some serious doubt in my mind whether we have acted within legal and constitutional constraints in the past, and the Government may soon be forced to pay for its casual disregard of these constraints. Many Members may well be familiar with the recent Winstar case in which the Court of Claims held that the actions of the Government in requiring the accelerated writeoff of goodwill constituted a breach of contract entitling the plaintiffs to recover money damages or restitution from the Government. The Claims Court opinion emphasizes that the issues presented here go to the very heart of our system of government. The court's opinion makes a point that I have emphasized for some time—the Government can certainly break a contract, but it must pay a price:

> In this case, the government's power to regulate must operate within the context of the plaintiff's contract rights. While Congress clearly may alter the regulatory treatment of supervisory goodwill, it must also honor the plaintiff's rights. The government may breach the contract, but it must pay for the damages the plaintiffs suffer. Any alteration of this principle would undercut our democratic system. It would allow government policies to be paid for with a minority's rights." *Winstar Corp and United Federal Savings Bank* v. *U.S.* (slip op. at p. 10) (Cl. Ct. April 21, 1992).

The courts continue to call into question the view of the administration—and, in effect, of this body—that the government can blithely disregard its obligations without paying a price. Just last week, the Court of Claims ruled that the supervisory agreement entered into between the Government and Glendale Savings was a binding contract, the breach of which entitles Glendale to damages or restitution.

The court emphasized that "Glendale and FSLIC entered into a Supervisory Action Agreement, which manifested the Government's approval of the terms of the merger as set forth in the Merger Agreement." In the view of the court, "an express contract existed between the Government and Glendale * * * the Government and Glendale entered into an express agreement (the Supervisory Action Agreement) regarding the Government's approval and role in Glendale's acquisition of a failing savings and loan." Glendale did not embark on a gamble—it had a contract with the Government.

The court emphasized that the exercise of agency power "can * * * and continuously does, create rights on the part of private individuals that are held against and restrict government action." According to the court, to suggest, as the Government has suggested in these cases, "that an agency action cannot confer rights which the Government must honor is to suggest a notion that is as novel as it is anathema to our constitutional system."

The treatment of supervisory goodwill was, in the court's view, a clear element of that contract. As part of that agreement, "the Government manifested its intention to forbear from exercising its authority to bring enforcement proceedings against Glendale for failing to satisfy regulatory capital requirements 'following the merger.'" Moreover, the supervisory action agreement specifically "called for the use of the purchase method of accounting and the amortization of an intangible supervisory goodwill asset over periods of 12 and 40 years."

The Government did not choose to honor that contractual commitment—but that is not the end of the matter. The court made clear that "if an agreement of the government to forbear from the exercise of one of its sovereign powers is unmistakably found to be a term of a contract with a private individual, then the government cannot breach the contract without liability." The consequences of such a breach of contract rights are clear: "the government, therefore, is liable to Glendale for damages or restitution."

The level of damages ultimately depends on the degree of harm sustained, and the court views that as substantial:

> After the enactment of FIRREA in 1989, Glendale remained in compliance with all three new regulatory capital standards set forth in the Act * * * As of March 31, 1992, however, Glendale has fallen out of compliance with the "risk-based" capital standards. In addition, in calculating these three capital amounts, Glendale has been required by FIRREA to exclude considerable amounts of supervisory goodwill. In calculating its "tangible" capital, Glendale has been required to exclude from the original $734.6 million of supervisory goodwill agreed to by the parties all goodwill not amortized prior to the enactment of FIRREA * * * In calculating its "core" and "risk-based" capital, Glendale has been required * * * to deduct all but approximately $185 million of the $734.6 million of goodwill originally contemplated by the parties. Because of FIRREA, Glendale also cannot amortize over forty years the amount of goodwill that is allowable under the Act * * * FIRREA has also caused Glendale to suffer monetary loss. The exclusion of supervisory goodwill has: required Glendale to implement costly measures to compensate for the loss of goodwill from its regulatory capital amounts; constrained capital resources and thereby re-

stricted business opportunities; and adversely affected the confidence of Glendale's investors.

But these issues involve more than legalistic interpretations of contract rights—the integrity of our system is at stake. The court noted that:

The Claims Court and its predecessor, the Court of Claims, was formed with the purpose of instilling confidence in dealing with the federal government that the government would honor its obligations to its citizens. The court was thus conceived pursuant to the idea, eloquently expressed by President Abraham Lincoln, that '[i]t is as much the duty of government to render prompt justice against itself, in favor of citizens, as it is to administer the same, between private individuals' * * * To conclude that all dealings with the government constitute nothing more than 'a very elaborate and expensive form of gambling,' is thus at variance with the very ideal upon which this court * * * and ultimately the rule of law is based.

The Government is free to choose the policy it will espouse vis-a-vis the savings and loan industry; but it must be mindful of the consequences of its choice if that choice intrudes on legal rights. The court in this case again sought to make clear a point it had made previously: "policy considerations have no part in evaluating whether the acquiring thrifts possessed contractual rights which must be honored." Quoting its decision in Winstar II, the court stated:

The duty of this court, like any other court, is solely limited to determining the respective rights of the particular parties before it and granting relief to the parties where appropriate. It would be highly improper for this court to consider, as the government seems to suggest it do, the effect of this decision on the government's savings and loan policy. Courts are not established to make policy. Our Constitution, and the people who established that great document, gave the policy-making powers to the executive and legislative branches.

The Government must pay the legal price of the policy choices it makes, and that price could be high.

If we were to authorize a goodwill stretch out, during which a number of the goodwill institutions generate sufficient earnings to achieve capital compliance, the damages that these institutions suffered as a result of elimination of goodwill from capital would be more difficult to establish, and indeed might involve only negligible amounts. Thus, by legislating carefully now, we could still save the Government considerable expense. Alternatively, if we appropriate additional funds for the RTC and it closes these institutions and thereby incurs the cost of its resolutions, and if the Government is subsequently found by the courts to owe the institutions for damages caused by the Government's breach of contract, the taxpayer will have paid twice. This makes no sense—but it is the direction in which we are headed.

It is no answer that the Federal Government may ultimately win the case 5 or 10 years from now. In the meantime, scores of weak, but profitable and improving, financial institutions may be irreparably damaged, with consequent losses to the public they serve. And the Government may well lose the cases—in which event the cost to the taxpayer may be many times greater.

As a practical matter, the level of damages awarded in response to action the Government has already taken may well be very substantial. Continuing to operate under the same standards that the courts are calling into serious question will only exacerbate the additional costs the Government may ultimately bear.

But, whether the Government ultimately wins or loses these cases, the public loss is clear. As a matter of principle, we are seriously undercutting the faith of the private sector in the promises its Government makes. Predictably, it is now proving very difficult for the Government to interest private acquirors in negotiating with it for the purchase of weakened institutions, unless the Government provides all forms of assistance, financial and otherwise, immediately.

IV. RECENT OTS ACTIONS AND ACCESS TO THE RTC

It is imperative that we make some adjustment in the FIRREA legislation soon, since the current structure of the bailout legislation is creating pressure in precisely the wrong direction. At this point, there is a perverse incentive in the regulatory stucture that inclines the regulators to emphasize liquidation rather than rehabilitation of even viable thrifts.

Regulators are now enforcing the effects of the writeoff of supervisory goodwill with a vengeance. As we speak, the OTS is taking control of additional institutions and operating them under an RTC conservatorship. Over the last several weeks the OTS has placed dozens of additional institutions in conservatorship. As you know, while Congress has not appropriated additional funds to the RTC to resolve these institutions—that is, to merge or liquidate them—the lack of funds does not prevent conservatorships.

Why is this happening? Is there really such a dramatic need at this point to get dangerously insolvent institutions out of the system? I think not. The bad operators and the hopelessly insolvent institutions have, for the most part, long since been taken out of the system. Many of the institutions now being taken by the RTC are weak but viable, trying desperately to operate in a recessionary economy that the draconian approach we have taken in the FIRREA legislation has helped to create. Why then the continuing rush toward conservatorship?

Two reasons come to mind. First, the OTS, RTC, and the administration are frustrated that the Congress isn't providing the kind of blank check that they have requested. Second—and perhaps far more importantly—as of September 1993, the OTS will no longer have the authority to turn institutions over to the RTC.

At that point, the regulators will no longer have the ability to eliminate problem institutions from the universe of institutions regulated by the OTS by spending Treasury funds—in effect, taxpayer funds—to resolve them. After September 1993, access to the RTC and its taxpayer funding will be closed down by law and the OTS will need to turn institutions over to the savings association insurance fund or SAIF—a fund that, not surprisingly, will be very marginally funded. The Congressional Budget Office and the FDIC have recently estimated that the funding for the SAIF will be pitifully inadequate relative to the resolution costs potentially chargeable against the fund, assuming we go forward with the current resolution process and timetables.

Therefore, the pressure on regulators to get any risk—however marginal—out of the system is great. The result is that the regulators are placing enormous pressure on institutions to raise sufficient funds in the capital markets to bring them into full capital compliance in the very limited amount of time before the gate to the RTC closes. Given the state of our financial industry and the condition of our economy, such demands for a quick fix are totally unrealistic. Yet given a reasonable amount of time, many of these institutions could come into compliance.

The current effect of the pending transfer of the cost of resolutions from the RTC to the SAIF is to place unnatural pressures on both managements of affected thrift institutions and on the regulators: unnatural pressures to raise capital within time periods when the earnings of the institutions do not yet support those levels of capital; unnatural pressures to sell off assets to improve capital ratios during a period when market values for those assets are depressed, and the sales will themselves further depress those market values to the detriment of the general community; unnatural pressure to let employees go to save general and administrative expenses when one of the possible consequences is that the institution will not have sufficient experienced personnel to service its assets properly so as to maintain the value of the institution's assets, or at least to minimize losses; unnatural pressure to produce capital-raising devices that eliminate the market value of existing equity and debt securities of those institutions.

We must take the time to seriously question what we have wrought here. Is this reasonable, or even rational?

First, the Government breaches its contracts and takes a private institution's property. This destroys the institution's financial standing and renders it incapable of raising funds in the capital markets, much less achieving competitive levels of profitability. The Government then orders the institution, under penalty of the law, to nevertheless try to raise funds in the capital markets to replace the funds that the Government originally took away—diluting existing stockholders in the process. Then the Government declares the institution unsafe and unsound if it is unable to comply, issuing orders that threaten the careers and the property of the employees, officers, and directors of the institution. All this in order to avoid the risk, however slight, of possibly having to turn the institution over in the longer term to yet another unfunded Government entity—the SAIF. This appears to be little more than a complex version of the Government's robbing a man and then throwing him into jail because he is a vagrant. Is it any wonder that the RTC funding legislation is running into massive bipartisan resistance?

We must, however, acknowledge that the regulators have a real and serious problem. It clearly is not responsible for the regulators to turn an institution over to a governmental entity that is insufficiently funded when funds may be necessary from that entity for the protection of depositors. But we must recognize that the closure of the gate to the RTC is an artificial creation. It reflects a statutory dead-

line that we established in FIRREA and, in a subsequent statute, have already once extended. It can be extended again and there are those who argue it should be.

But, in the final analysis, the critical question is not whether RTC or SAIF funds the resolution on thrift institutions. The critical question is whether Congress will protect the taxpayer by placing on the regulators the kinds of discriminating controls that will ensure that taxpayer money is not wasted by reliance on a liquidation strategy that forces viable thrifts out of business at taxpayer expense. Until such discriminating controls are put in place, it is impossible to justify placing yet more taxpayer money at risk, whatever bureaucracy takes title to the funds.

V. CONCLUSION

My proposed approach does not provide any money to qualified goodwill institutions; it only provides time. I believe a good many of these institutions, which were the strongest and most profitable institutions when they were tapped by the Government for assisted transactions, to be able to earn their way out of their present difficulties, even under a much shortened time frame. I think we should give them, and their employees, and their communities, and the small businesses to which they lend, that chance. They will not be given an inordinate amount of time, and they will be under supervision—the closest possible supervision—while they are attempting to meet new standards on their own. Only those that can prove to the OTS' satisfaction their likelihood of success will be given any time at all beyond the FIRREA-scheduled timeframes.

I think that this is the right thing to do and that now is the time to do it before another large and, in my view, potentially unnecessary expenditure for RTC funding. We owe the American people a responsible expenditure of public funds and a thoughtful decision. The thoughtful decision is to exercise judgment, to select institutions that can survive, to give them some time, and to resist the political expediency of just generally throwing more money at the RTC.

Mr. Speaker, we have the opportunity to save the American taxpayer billions of dollars, and to restore the flow of credit to our communities. We cannot let that opportunity pass.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today after 1:15 p.m., on account of official business.

Mr. STOKES (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. PETERSON of Florida (at the request of Mr. GEPHARDT) for today after 2 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes each day, on today and August 4, 5, 6, 7, 11, 12, and 13.

Mr. RIGGS, for 60 minutes each day, on August 4, 5, 6, 7, 11, and 12.

Mrs. BENTLEY, for 5 minutes today, in lieu of 60 minutes previously approved.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. HUBBARD, for 5 minutes, today.

Mr. SWIFT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HOYER, for 60 minutes today, and 60 minutes on August 3.

Ms. NORTON, for 60 minutes, on August 3.

Mr. SAVAGE, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes on August 3, 5, 6, 7, 10, and 11.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. KOLBE.

Mr. RHODES.

Mr. SANTORUM.

Mrs. JOHNSON of Connecticut.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. VENTO.

Mr. FASCELL, in three instances.

Ms. DELAURO.

Mr. ASPIN.

Mr. ROSTENKOWSKI.

Mr. ANDREWS of New Jersey, in two instances.

Mr. FALEOMAVAEGA.

Mr. LONG.

Mr. EDWARDS of California.

Mrs. SCHROEDER.

Mr. ERDREICH.

Mr. LEVINE of California.

Mr. GUARINI.

Mr. JACOBS.

Mr. LAFALCE, in two instances.

Mr. DE LUGO.

Mr. VISCLOSKY.

Mr. SWETT.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2725. An act to authorize extension of time limitations for a FERC-issued license; to the Committee on Energy and Commerce.

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes; to the Committee on Energy and Commerce.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; (accordingly, at 4 o'clock and 13 minutes p.m.), under its previous order, the House adjourned until Monday, August 3, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4049. A letter from the Assistant Secretary of Defense, transmitting the Department's report on the domestic textile and apparel industry's ability to support defense mobilization requirements, pursuant to 10 U.S.C. 2510; to the Committee on Armed Services.

4050. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting a draft of proposed legislation to provide the Thrift Savings Plan for Federal employees with an extended deadline for implementing relevant sections of Public Law 102-318, as is provided to public retirement plans that operate under section 403(b) of the Internal Revenue Code; to the Committee on Ways and Means.

4051. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on the nondisclosure of safeguards information for the quarter ending June 30, 1992, pursuant to section 147 of the Atomic Energy Act of 1954, as amended; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 246. Concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States (Rept. 102-635, Pt. 2).

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 3603. A bill to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services; with amendments (Rept. 102-684, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5419. A bill to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets de-

ployed on or to encircle dolphins or other marine mammals, and for other purposes; with amendments (Rept. 102-746, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5013. A bill to promote the conservation of exotic wild birds; with amendments (Rept. 102-749, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 536. Resolution providing for the consideration of the bill (H.R. 2782) to amend the Employees Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws (Rept. 102-761). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 535. Resolution providing for the disposition of the Senate amendment to the bill (H.R. 2977) to authorize appropriations for public broadcasting, and for other purposes (Rept. 102-762). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5630. A bill to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes; with amendments (Rept. 102-763). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Joint Resolution 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania (Rept. 102-764). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3418. A bill to regulate fishing and other maritime activities in certain waters of Alaska, and for other purposes; with an amendment (Rept. 102-765, Pt. 1). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 179. Concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan (Rept. 102-766, Pt. 1). Ordered to be printed.

Mr. WYDEN: Committee of Conference. Conference report on S. 323 (Rept. 102-767). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5397. A bill to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; with an amendment (Rept. 102-768). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN:

H.R. 5729. A bill to limit amounts expended by certain Government entities for overhead expenses; jointly, to the Committees on Government Operations, House Administration, and the Judiciary.

By Mr. SWIFT (for himself and Mr. WAXMAN):

H.R. 5730. A bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUARINI (for himself, Mr. ROE, Mr. HUGHES, Mr. RANGEL, Mr. ANDREWS of New Jersey, Mr. DWYER of New Jersey, Mr. RINALDO, Mrs. KENNELLY, and Mrs. JOHNSON of Connecticut):

H.R. 5731. A bill to establish an Interstate Taxation Commission; to the Committee on the Judiciary.

By Mr. LAFALCE (for himself and Mr. IRELAND):

H.R. 5732. A bill to amend the Small Business Act to permit extended participation by disadvantaged small business concerns in business development programs; to the Committee on Small Business.

By Mr. LEWIS of Florida (for himself, Mr. MCCOLLUM, Mr. LAGOMARSINO, Mr. GOSS, Mr. BILIRAKIS, Mr. LEHMAN of California, Mr. STUMP, Mr. JOHNSTON of Florida, Mr. PETERSON of Florida, Mr. JOHNSON of Texas, Mr. RHODES, Mr. WALSH, Mr. MCMILLAN of North Carolina, Mr. SMITH of Florida, Mr. STEARNS, Mr. SHAW, Mr. OXLEY, Mr. IRELAND, Mr. ROHRABACHER, Mr. LIVINGSTON, and Mr. HUTTO):

H.R. 5733. A bill to amend the Immigration and Nationality Act to expedite the deportation and exclusion of criminal aliens; to the Committee on the Judiciary.

By Mr. MCCANDLESS:

H.R. 5734. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for amounts contributed to a health care savings account and to amend title XVIII of the Social Security Act to provide for a high deductible and protection against catastrophic medical care expenses for individuals who have established such accounts; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PASTOR (for himself, Mr. KOLBE, Mr. RHODES, Mr. STUMP, and Mr. KYL):

H.R. 5735. A bill to amend the Southern Arizona Water Rights Settlement Act of 1982; to the Committee on Interior and Insular Affairs.

By Mr. RAHALL (for himself, Mr. WISE, Mr. MOLLOHAN, and Mr. STAGGERS):

H.R. 5736. A bill to designate the Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, as the "Robert C. Byrd Locks and Dam"; to the Committee on Public Works and Transportation.

By Mr. TANNER (for himself, Mrs. LOWEY of New York, and Mr. STUDDS):

H.R. 5737. A bill to provide that certain service in the American Field Service ambulance corps shall be considered active duty for the purposes of all laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. VENTO:

H.R. 5738. A bill to strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR:

H.R. 5739. A bill to reauthorize the Export-Import Bank of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BAKER (for himself, Mr. NEAL of North Carolina, Mr. BARNARD, Mr. BEREUTER, Mr. MCCOLLUM, Mr. THOMAS of Wyoming, Mr. HUBBARD, Mr. NEAL of Massachusetts, and Mr. STEARNS):

H.R. 5740. A bill to modernize and improve the Federal home loan bank system, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DE LA GARZA (for himself, Mr. COLEMAN of Missouri, Mr. TALLON, and Mr. LEWIS of Florida):

H.R. 5741. A bill entitled "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture.

By Mr. ESPY (for himself, Mr. GLICKMAN, Mr. JOHNSON of South Dakota, and Mr. DOOLEY):

H.R. 5742. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. BENTLEY):

H.R. 5743. A bill to amend title XIX of the Social Security Act to provide for improved delivery of and access to home care and to increase the utilization of such care as an alternative to institutionalization; jointly to the Committees on Energy and Commerce and Ways and Means.

By Mr. JOHNSON of South Dakota (for himself, Mr. ENGLISH, and Mr. PETERSON of Minnesota):

H.R. 5744. A bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. MEYERS of Kansas (for herself, Mr. MILLER of Washington, Mr. EWING, Mr. EDWARDS of Oklahoma, Mr. LEACH, Mr. SMITH of Texas, Mr. BOEHNER, Mr. GALLO, Mr. ARMEY, Mrs. ROUKEMA, Mr. FAWELL, Mr. SCHAEFER, Mr. MCEWEN, Mr. RIDGE, Mr. COLEMAN of Missouri, Mr. LENT, Mr. CHANDLER, Mrs. VUCANOVICH, and Mr. HORTON):

H.R. 5745. A bill to repeal the provisions of the Unemployment Compensation Amendments of 1992 which provide for optional trustee-to-trustee transfers of eligible rollover distributions and impose a withholding tax on distributions not so transferred; to the Committee on Ways and Means.

By Mr. RICHARDSON (for himself, Mr. PANETTA, and Mr. ORTON):

H.R. 5746. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements; to the Committee on Energy and Commerce.

By Ms. WATERS (for herself, Mr. KENNEDY, Mr. OWENS of New York, Mr. WHEAT, Mr. HAYES of Illinois, Ms. KAPTUR, Mr. CHAPMAN, Mr. SAWYER, Mr. STOKES, Mr. FEIGHAN, Mr. MILLER of California, Mr. ANTHONY, Ms. PELOSI, Mr. ABERCROMBIE, Mr. DELLUMS, Mrs. UNSOELD, Mr. DEFAZIO, Mr. LEHMAN of California, Mr. ANDREWS of New Jersey, Mr. LEWIS of Georgia, Mr. JEFFERSON, Mr. FLAKE, Mr. SLATTERY, Mr. RICHARDSON, Mr. JONES of Georgia, Mr. ROYBAL, Mr.

ANNUNZIO, Mr. ESPY, Mr. BROWN, Mr. MARTINEZ, Mr. RANGEL, Mr. DYMALLY, Mr. SAVAGE, Mr. MFUME, Mr. CLAY, and Mr. SANDERS):

H.R. 5747. A bill to authorize additional loan guarantee assistance under section 108 of the Housing and Community Development Act of 1974 for fiscal years 1993 through 1997; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WAXMAN (for himself, Mr. WYDEN, Mr. TOWNS, and Mr. RITTER):

H.R. 5748. A bill to amend title XVIII of the Social Security Act to make miscellaneous amendments to the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ROHRABACHER (for himself, Mr. ARMEY, Mr. CUNNINGHAM, Mr. SUNDQUIST, Mr. GILMAN, Mr. DUNCAN, Mr. HANCOCK, Mr. RITTER, Mr. CRANE, Mr. GALLEGLY, Mr. HUNTER, Mr. HERGER, Mr. MOORHEAD, and Mr. SOLOMON):

H.J. Res. 534. Joint resolution authorizing the National Captive Nations Committee, Inc., to establish a memorial in the District of Columbia or its environs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. BORSKI introduced a bill (H.R. 5749) for the relief of Krishanthi Sava Kopp; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 252: Mr. RAVENEL.

H.R. 755: Mr. RIGGS.

H.R. 858: Mr. ROHRABACHER and Mr. ATKINS.

H.R. 1025: Mr. PASTOR.

H.R. 1582: Mr. FORD of Tennessee.

H.R. 2164: Mr. NEAL of North Carolina, Mr. RAY, Mr. CLEMENT, Mr. HUBBARD, Mr. COSTELLO, Mr. MONTGOMERY, Mr. DOOLEY, Mr. ROBERTS, Mr. TAYLOR of Mississippi, Mr. SISISKY, Mr. BUSTAMANTE, Mr. JACOBS, Mr. GOSS, Mr. BILBRAY, Mr. STEARNS, Mr. TANNER, Mr. SKAGGS, Mr. HOPKINS, Mr. CALLAHAN, and Mr. WELDON.

H.R. 2361: ers):

H.R. 5747. A bill to authorize additional loan guarantee assistance under section 108 of the Housing and Community Development Act of 1974 for fiscal years 1993 4Norton, and Mr. GLICKMAN.

H.R. 2806: Mr. NUSSLE, Mr. PACKARD, and Ms. HORN.

H.R. 2862: Ms. MOLINARI.

H.R. 3092: Mr. SKEEN.

H.R. 3253: Mr. WEISS, Mr. LANTOS, and Mr. PANETTA.

H.R. 3526: Mr. SMITH of New Jersey.

H.R. 3710: Mr. ATKINS and Mr. FROST.

H.R. 3918: Mr. PORTER, Mr. BLACKWELL, Mr. RICHARDSON, Mr. ATKINS, and Mr. BEILENSON.

H.R. 4157: Mr. ALEXANDER.

H.R. 4207: Mr. GOSS.

H.R. 4211: Mr. JAMES.

H.R. 4288: Mr. DORNAN of California.

H.R. 4343: Mr. LEHMAN of Florida.

H.R. 4399: Mr. FORD of Michigan.

H.R. 4542: Mr. COLORADO, Mr. DOWNEY, Ms. KAPTUR, Mr. HERTEL, and Mr. BLACKWELL.

H.R. 4611: Mr. SHAYS, Mr. OXLEY, Mr. RAMSTAD, and Mr. PORTER.

H.R. 4690: Mr. JAMES.

H.R. 4784: Mr. PENNY.

H.R. 5011: Mr. LANCASTER.

H.R. 5052: Ms. PELOSI, Mr. MFUME, Mr. ACKERMAN, Mr. MCDERMOTT, Mr. HOCHBRUECKNER, Mr. BERMAN, Mr. LAFALCE, Mr. DYMALLY, Mr. RANGEL, Ms. NORTON, Mr. OWENS of New York, Mr. MANTON, Mr. MATSUI, Mr. EVANS, Mr. ATKINS, Mr. MARKEY, Mr. DIXON, Mr. LEWIS of Florida, and Mr. FOGLIETTA.

H.R. 5237: Mr. ALLARD.

H.R. 5257: Mr. LANCASTER, Mr. EVANS, and Mr. DEFAZIO.

H.R. 5282: Mr. KOSTMAYER.

H.R. 5376: Mr. BRUCE.

H.R. 5404: Mr. MAZZOLI.

H.R. 5419: Mr. GINGRICH, Mr. RAHALL, Ms. NORTON, Mr. ROYBAL, Mr. PAYNE of New Jersey, Mr. OWENS of New York, and Mr. REED.

H.R. 5437: Mr. CRANE.

H.R. 5499: Mr. FRANK of Massachusetts, Mr. ATKINS, Mr. HANSEN, Mr. OBERSTAR, Mr. SYNAR, Mr. WAXMAN, Mr. EVANS, Mr. DEFAZIO, Mr. LEVINE of California, Mr. BERMAN, Ms. NORTON, Ms. HORN, Mr. JOHNSON of South Dakota, Mr. LAFALCE, Mrs. ROUKEMA, Mr. LIPINSKI, Mr. DURBIN, Ms. KAPTUR, Mr. VISCLOSKY, Mr. CONYERS, Mr. SANDERS, Mrs. BOXER, and Mrs. COLLINS of Illinois.

H.R. 5530: Mr. ZELIFF and Mr. THOMAS of Wyoming.

H.R. 5545: Mr. GOODLING, Mr. RHODES, Mr. DORGAN of North Dakota, Mr. WILLIAMS, Mr. BEREUTER, and Mr. ROSE.

H.R. 5555: Mr. BACCHUS, Mr. FROST, Mr. BLAZ, Mr. JEFFERSON, and Mrs. MINK.

H.R. 5567: Mr. IRELAND, Mr. HOLLOWAY, Mr. MCCRERY, Mr. KYL, Mr. ROYBAL, Mr. PACKARD, Mr. JOHNSON of Texas, Mr. RIGGS, Mr. HUCKABY, Mr. MCMILLAN of North Carolina, Mr. BEVILL, Mr. WALKER, Mr. DORNAN of California, Mr. WALSH, Mr. GEREN of Texas, Mr. BATEMAN, Mr. MCCANDLESS, Mr. HASTERT, Mr. BLILEY, and Mr. SOLOMON.

H.R. 5591: Mr. WOLF, Mr. WALSH, Mr. BOEHNER, and Mr. SPENCE.

H.R. 5634: Mr. SMITH of Florida.

H.R. 5681: Mr. ANDREWS of New Jersey and Mr. BUSTAMANTE.

H.R. 5682: Mr. GOSS.

H.J. Res. 152: Mr. ANDERSON, Mr. CONYERS, Mr. GUNDERSON, Mr. GREEN of New York, Mr. HANSEN, Mr. ESPY, Mr. JACOBS, Mr. ROYBAL, Mr. RIGGS, Mr. RAVENEL, Mr. HOCHBRUECKNER, and Mr. OWENS of Utah.

H.J. Res. 353: Mr. FAZIO, Mr. GILMAN, Mr. HALL of Ohio, Mr. HANSEN, Mr. LEVIN of Michigan, Mr. MCEWEN, Mr. MAVROULES, Mr. MINETA, Mr. MOODY, Mr. MURTHA, Mr. PACKARD, Mr. SABO, Mr. SCHUMER, Mr. TAUZIN, and Mrs. VUCANOVICH.

H.J. Res. 380: Ms. SNOWE, Mr. ROE, Mr. STUDDS, Mr. CHANDLER, Mr. SANDERS, Mr. ASPIN, Mr. BERMAN, Mrs. MINK, Mr. RANGEL, Mr. RINALDO, Mr. PICKETT, Mr. WYDEN, and Mr. CLAY.

H.J. Res. 413: Mr. BENNETT, Mr. BROOMFIELD, Mr. DONNELLY, Mr. FROST, Mr. GALLO, Mr. GREEN of New York, Mr. HUNTER, Mrs. LOWEY of New York, Mr. MCCOLLUM, Mr. MILLER of Washington, Mrs. MINK, Mr. MOORHEAD, Mr. NICHOLS, Ms. NORTON, Mr. PETRI, Mr. RAVENEL, Mr. SAXTON, Mr. SHAYS, Mr. SOLARZ, Mr. SPENCE, Mr. YATRON, and Mr. ZIMMER.

H.J. Res. 474: Mr. REED, Mr. FIELDS, Mr. CHANDLER, Mr. DOOLITTLE, Mr. EWING, and Mr. BILBRAY.

H.J. Res. 524: Mr. ENGLISH, Mr. BOUCHER, Mr. FRANK of Massachusetts, Mr. MAZZOLI, Mr. JACOBS, Mr. STARK, Mr. KOSTMAYER, Mr. COLEMAN of Texas, and Mr. MURTHA.

H. Res. 372: Mr. PALLONE.

H. Res. 422: Mr. PENNY and Mr. YATRON.

H. Res. 428: Mr. SYNAR.

H. Res. 490: Mr. KENNEDY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1354: Mr. WISE.

H.R. 3030: Mr. WISE.

SENATE—*Friday, July 31, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

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

Let us pray:

Beloved, let us love one another: for love is of God; and every one that loveth is born of God, and knoweth God. He that loveth not knoweth not God; for God is love.—I John 4:7,8.

Eternal God, perfect in truth, justice, righteousness, and love, in times like these love will accomplish what nothing else can. Love is the most powerful force in the world, for God is love. Love has won infinitely more victories than violence, manipulation, coercion, anger—or indifference, the most destructive force in life. Love conquers fear—hate feeds it. Love motivates—anger discourages. Love reconciles, heals, embraces, cares, and supports—indifference alienates.

Quicken our minds, God of love, to realize that not to love is Godless, whatever one's religious profession. Open our eyes to see those who are starved for love—spouses, children, parents, neighbors, peers, and political opponents.

Gracious God, help us to love one another. In the name of the Lord, God of love. 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, July 31, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

QUORUM CALL

Mr. MITCHELL. Mr. President, 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. JOHNSTON. 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.

RESERVATION OF LEADER TIME

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 5373, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are in brackets, and the parts of the bill intended to be inserted are in italics.)

H.R. 5373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993 for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, [$177,831,000] *$156,450,000*, to remain available until expended: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1993 in the amounts specified:

[Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

[Los Angeles River Watercourse Improvement, California, $300,000;

[Rancho Palos Verdes, California, $400,000;

[Miami River Sediments, Florida, $50,000;

[Monroe County (Smathers Beach), Florida, $500,000;

[Casino Beach, Illinois, $110,000;

[Chicago Shoreline, Illinois, $800,000;

[McCook and Thornton Reservoirs, Illinois, $3,500,000;

[Lake George, Hobart, Indiana, $260,000;

[Little Calumet River Basin (Cady Marsh Ditch), Indiana, $400,000;

[Mississippi River, Vicinity of St. Louis, Missouri, $500,000;

[Ste. Genevieve, Missouri, $750,000;

[Passaic River Mainstem, New Jersey, $10,000,000; and

[Red River Waterway, Shreveport, Louisiana, to

[Daingerfield, Texas, $2,800,000:

[*Provided further*, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further*, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to

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

undertake a study of a greenway corridor along the Ohio River in New Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101-101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101-514, and $250,000 of the funds appropriated under this heading in Public Law 102-104: *Provided further*, That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further*, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further*, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100-202: *Provided further*, That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further*, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further*, That using $950,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters including preparation of the environmental assessment and design work associated with demolition of the building.]

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $400,000;

McCook and Thornton Reservoirs, Illinois, $2,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

Mississippi River, Vicinity of St. Louis, Missouri, $250,000;

Ste. Genevieve, Missouri, $300,000;

Passaic River Mainstem, New Jersey, $3,000,000; and

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,000,000:

Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: Provided further, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: Provided further, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: Provided further, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: Provided further, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: Provided further, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100-202: Provided further, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: Provided further, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: Provided further, That using $950,000 of the funds appropriated under this heading in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: Provided further, That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing the research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the feasibility phase of the study of the Devil's Lake Basin, North Dakota and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hickory Lake, Tennessee: Provided further, That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), [$1,235,502,000] *$1,233,937,000*, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust [Fund] *Fund, for one half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the following projects: Mississippi River, Lock and Dam 13, Illinois and Iowa; Mississippi River, Lock and Dam 15, Illinois and Iowa; Illinois Waterway, Brandon Road, Dresden Island, Marseilles, and Lockport Locks and Dams, Illinois: Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1993 in the amounts specified:

[Kissimmee River, Florida, $8,000,000;

[O'Hare Reservoir, Illinois, $3,000,000;

[Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;

[Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

[Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further, That using funds appropriated prior to fiscal year 1992, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the design memorandum and the environmental impact study on the Ouachita-Black Rivers navigation project in Arkansas and Louisiana: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further*, That, using $660,000 in funds previously appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101-640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further*, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05-86-C-0101 for the Walnut Creek, California, flood control project: *Provided further*, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99-662, as amended: *Provided further*, That using $3,000,000 of the funds appropriated under this heading in Public Law 101-514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99-190: *Provided further*, That using $22,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further*, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts for construction of parallel protection along the Orleans and London Avenue outfall canals as part of the Lake Pontchartrain and Vicinity, Louisiana, hurricane protection project in accordance with the cost-sharing principles outlined in Public Law 89-298 and Public Law 102-104: *Provided further*, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99-662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further*, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989 with cost sharing as prescribed in the referenced report for this design deficiency: *Provided further*, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: *Provided further*, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects;]

O'Hare Reservoir, Illinois, $3,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $1,000,000;

Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: Provided further, That, using $660,000 in funds previously appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101-640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: Provided further, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safe-

ty and integrity of the work performed under Contract Number DACW05-86-C-0101 for the Walnut Creek, California, flood control project: Provided further, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99-662, as amended: Provided further, That using $3,000,000 of the funds appropriated under this heading in Public Law 101-514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99-190: Provided further, That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public law 96-367: Provided further, That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367: Provided further, That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: Provided further, That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction using continuing contracts construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Pubic Law 96-367: Provided further, That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost shared as part of the overall project, not separately, in accordance with the cost sharing provisions outlined in Public Law 89-298 and Public Law 102-104. Therefore, agreements executed prior to 1 June 1992 between the Federal Government and the local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost sharing agreements or supplements: Provided further, That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: Provided further, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99-662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: Provided further, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: Provided further, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: Provided further, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: Provided further, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: Provided further, That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): Provided further, That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: Provided further, That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: Provided further, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: Provided further, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: Provided further, That using funds made available in this Act or any previous appropriation Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000 and an estimated first non-Federal cost of $150,000: Provided further, That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers is authorized and directed to excavate the St. George Harbor entrance to 20 MLLW in accordance with the cost sharing provisions in Public Law 99-662; and, in addition, [$90,000,000] $130,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; to continue construction of the Curtis and Eagle Bend, Phase I, Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1992; to complete construction of the Carroll and Cupples Capouts, McDade, Moss, Sunny Point, and Eagle Bend, Phase II, Revetments in Pools 4 and 5 which were previously directed to be initiated; to award continuing contracts in fiscal year 1993 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Howard Capout, Westdale Capout, Piermont Capout, Coushatta flood damage repairs, and Twelvemile Bayou Bend Revetment adjacent to Wells Island Road.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), [$365,432,000] *$351,182,000*, to remain available until expended: *Provided*, That not

less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: [*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,000,000 of the funds appropriated herein to continue work on the Eastern Arkansas Region, Arkansas, project including the development and implementation of plans for one area to serve as a demonstration project.]

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [$1,551,905,000] *$1,522,961,000*, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $16,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided*, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: [*Provided further*, That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: *Provided further*, That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: *Provided further*, That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project:] *Provided, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreation improvements at the Skiatook Lake, Oklahoma project: Provided further, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: Provided further, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: Provided further, That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5-14, Kentucky prior to transfer of such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5-14: Provided further, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5.*

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps or EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps of 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, [$15,000,000] *$10,000,000*, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, $142,000,000, to remain available until expended.

Funds are provided for the management and direction of the United States Army Corps of Engineers Civil Works Program, except that such funds shall not be used to close any district office of the Corps of Engineers. To further a more efficient headquarters and division office structure, the Secretary may transfer not to exceed $7,000,000 from other appropriations under this title to be merged with, and remain available for the same time period as, this appropriation: Provided, That this appropriation shall not be increased by more than 5 per centum by any such transfers, and the Committees on Appropriations of the House and Senate shall be promptly advised of such proposed transfers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title or appropriations made in this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress. Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

SEC. 101. Public Law 101-302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under the General Expenses appropriation title of Corps of Engineers—Civil.

SEC. 102. Any funds heretofore appropriated and made available in Public Law 99-88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100-71 for initiation of land acquisition activities as described in section 1114 of Public Law 99-662; and in Public Law 101-101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers is directed to

maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a nonfederal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negotiations. The settlement shall include provisons for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the nonfederal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.

SEC. 104. Notwithstanding the requirements of section 103 of Public Law 99-662, the projects for flood control, Moorefield, West Virginia, and Petersburg, West Virginia, authorized by section 101 of the Water Resources Development Act of 1990, are modified to provide that the local sponsors may satisfy the cost-sharing requirements of section 103 of said law by contributing after January 1, 1990, land or other assets unrelated to the project site, at its appraised value.

SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 106. Notwithstanding the provisions of Public Law 95-269, the Secretary of the Army is directed to place the Federal hopper dredge fleet, excluding the Essayons and the Yaquina which shall be stationed and operated within the jurisdiction of the North Pacific Division, in a standby status for a period of one year from the date of enactment of this Act and to make all the material scheduled to be dredged by the vessels placed in standby, available for competitive bidding by the private dredging industry. Notwithstanding the preceding sentence, the Secretary shall mobilize any standby vessels or any part of the Federal dredge fleet to respond to emergency or national defense needs, or if the Secretary determines that the private dredging industry cannot perform the scheduled dredging at a reasonable price and in a timely manner. No later than 24 months after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the capability of the private dredging industry to perform the work of the Federal hopper dredges placed in standby status. The study shall include an analysis of the cost-effectiveness of having the private dredging industry perform such work; the incremental cost to the Federal Government of maintaining these vessels in a standby status; and the cost of retiring each vessel placed in standby status in this Act.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, **[$13,700,000]** *$12,390,000*: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, **[$470,568,000]** *$467,634,000* of which $69,333,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $156,168,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.) **[***Provided further*, That the amount authorized by section 4(a)(1) of Public Law 98-541 for the Trinity River Basin, California, Fish and Wildlife Management Program, is hereby increased by $15,000,000 to $48,000,000:**]** *Provided further, That pursuant to Section 406(c)(2) of Public Law 101-628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona for funding advanced by Prescott, Arizona to the Bureau of Reclamation for hydrological studies required by Section 406(c)(1) of Public Law 101-628.*

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, **[$284,010,000]** *$269,760,000*: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601-6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: **[***Provided further*, That of the funds appropriated herein, $3,250,000 shall be available for environmental studies associated with the renewal of Central Valley Project, California, water contracts and environmental compliance, provided that such funds shall be treated as capital expenses in accordance with Federal reclamation law.**]**

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans and/or grants, $2,202,000, to remain available until expended, as authorized by

the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed [$5,060,000] *$6,000,000*.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $1,177,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses: [*Provided further*, That none of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.]

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only.

Appropriations for the Bureau of Reclamation in this Act or in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000 per year; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That hereafter no part of any appropriation made in this Act or in subsequent Energy and Water Development Appropriations Acts shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated in this Act or in subsequent Energy and Water Development Appropriations Acts which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act, in any prior Act, or in subsequent Energy and Water Development Appropriations Acts which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance in this Act or in subsequent Energy and Water Development Appropriations Acts, except those derived from advances by water users, shall hereafter be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act or by any subsequent Act shall hereafter be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

None of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. Hereafter, the Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Hereafter, the Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in contract negotiation and source selection proceedings without invoking provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix (1988)): *Provided*, That such non-Federal participants shall be subject to the provisions of the Federal Procurement Integrity Act (41 U.S.C. 423 (1988)) and to the conflict of interest provisions appearing at 18 U.S.C. 201 et seq. (1988).

SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 4601–18) is amended by deleting the Proviso from the first sentence and by changing the semicolon after the word "purposes" to a period.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42

U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 15, of which 14 are for replacement only), [$2,947,633,000, to remain available until expended, of which, $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund: *Provided*, That $6,000,000 of the amount appropriated in this paragraph is provided for hydrogen research] *$2,971,583,000, to remain available until expended, of which $300,000 shall be available only for planning funds for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; and the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, and of which, $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund.*

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 57, of which 54 are for replacement only), [$1,335,320,000] *$1,321,320,000*, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,462,000,000 in fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only)[, $998,884,000] *$1,460,784,000*, to remain available until expended. [In addition, such sums as are transferred from the Superconducting Super Collider Trust Fund shall be available, until expended, for the specific purpose of offsetting costs incurred by the Department in the design and development of the Superconducting Super Collider. None of the funds made available by this Act shall be obligated for the Superconducting Super Collider after June 1, 1993, unless the President has certified to the Congress that commitments for contributions from international sources meet or exceed a total of $650,000,000 for fiscal years 1993, 1994, and 1995.

[SUPERCONDUCTING SUPER COLLIDER TRUST FUND

[(INCLUDING TRANSFER OF FUNDS)

[There is established in the Treasury a fund to be known as the Department of Energy Superconducting Super Collider (SSC) Trust Fund, which shall consist of moneys provided by non-Federal participants in Department of Energy SSC activities: *Provided*, That amounts deposited in the Fund are available, without fiscal year limitation, for transfer by the Secretary of Energy to the "General Science and Research Activities" account, to be used for costs incurred in the design and construction of the SSC: *Provided further*, That amounts deposited in the fund shall earn interest at a rate and under such terms and conditions as may be prescribed by the Secretary of the Treasury.

[NUCLEAR WASTE DISPOSAL FUND

[For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,750,000 may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $6,250,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to $1,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

[In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.]

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: Provided, That of the amount herein appropriated, within available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: Provided further, That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: Provided further, That none of the funds herein appropriated may be used for litigation expenses: Provided further, That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That no funds herein appropriated shall be used by the State of Nevada for public relations, media, advertising or similar activities that are not related to scientific oversight of activities of the Department of Energy in furtherance of characterization studies: Provided further, That of the amount appropriated herein, up to $1,700,000 shall be available for infrastructure studies, mobile sampling platform and monitoring work and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services

shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 93 for replacement only, the purchase of two fixed-wing and two rotary-wing aircraft, for replacement only), [$4,548,749,000, to remain available until expended, of which $40,000,000 shall be available for nuclear nonproliferation detection technology and other projects and activities of the Department of Energy and, in addition, of which $4,300,000 shall be available for the Reduced Enrichment Research Test Reactor program for fuel development and technical assistance: *Provided, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:*

[(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

[(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

[(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

[Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration] *$4,498,249,000, to remain available until expended: Provided, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:*

(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, [$171,800,000] *$170,028,000* to remain available until expended: *Provided*, That $100,000,000 for design of new production reactor capacity made available under the Energy and Water Development Appropriations Act, 1992, shall be available without regard to the issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 148 for replacement only), [$4,603,009,000] *$4,802,047,000*, to remain available until expended: *Provided*, That notwithstanding any other law, funds appropriated under this heading may be made available to pay $100,000 to the United States Environmental Protection Agency for a stipulated penalty assessed under the Comprehensive Environmental Response, Compensation and Liability Act against the Fernald Environmental Management Project.

MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production, and other defense programs activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 45 for replacement only), [$2,550,901,000] *$2,548,301,000*, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $100,000,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $405,656,000 to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $318,381,000 in fiscal year 1993 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $87,275,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,362,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,577,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the Springfield Hatchery Production Facility, Dryden Dam Fish Screens, Bonneville Fish Sampling Facility, and Hungry Horse Resident Fish Hatchery, and, the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1993, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $32,411,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy,

and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,907,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,412,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, [$326,634,000] *$336,634,000*, to remain available until expended, of which $305,390,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $6,563,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); [$142,801,000] *$158,639,000* to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed [$142,801,000] *$158,639,000* of revenues from fees and annual charges, and other services and collections in fiscal year 1993, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

(TRANSFER OF FUNDS)

SEC. 301. Appropriations for the Department of Energy under this title in this and subsequent Energy and Water Development Appropriations Acts, hereafter shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may hereafter be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized hereafter to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

SEC. 305. Notwithstanding section 1341 of title 31, United States Code, the Department of Energy hereafter may obligate funds in advance of their receipt from a non-Federal source to the extent of amounts actually held in trust or escrow to carry out Superconducting Super Collider activities: Provided, That these funds shall be available without fiscal year limitation or further appropriation: Provided further, That trust funds heretofore obligated from such trust or escrow shall, likewise, not be subject to section 1341 of title 31, United States Code.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, [$185,000,000] *$190,000,000*.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $13,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $325,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $485,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $535,415,000, to remain available until expended, of which $21,100,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated

with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $514,315,000 in fiscal year 1993 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1993 appropriation estimated at not more than $21,100,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $4,585,000 to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $2,060,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $301,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act or subsequent Energy and Water Development Appropriations Acts shall remain available for obligation beyond the fiscal year specified in such Acts therein unless expressly so provided therein.

SEC. 502. None of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in such Acts.

SEC. 503. None of the programs, projects or activities as defined in the reports accompanying this Act or subsequent Energy and Water Development Appropriations Acts, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such reports expressly provide otherwise.

SEC. 504. The expenditure of any appropriation under this Act or subsequent Energy and Water Development Appropriations Acts for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, hereafter shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 505. Notwithstanding any other provision of this Act, subsequent Energy and Water Development Appropriations Acts or any other provision of law hereafter, none of the funds made available under this Act, subsequent Energy and Water Development Appropriations Acts or any other law hereafter shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 506. Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.

[SEC. 507. During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 or any other fiscal year may be available to conduct any explosive nuclear weapons test unless the President certifies to Congress that any of the independent states of the former Soviet Union has conducted an explosive nuclear weapons test during that period.]

SEC. 507. During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 or any other fiscal year may be available to conduct any explosive nuclear weapons test unless the President certifies to Congress that it is in the national interest to conduct an explosive nuclear weapons test or tests for purposes of safety of nuclear weapons. Such certification shall be provided in advance of each test and contain an explanation of the purpose(s) and reason(s) for the test. For classified matters, the certification may be transmitted in a classified annex.

SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in Title I or Title II shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1993".

Mr. JOHNSTON. Mr. President, I am pleased to present to the Senate, the Energy and Water appropriations bill for the fiscal year 1993.

This bill, H.R. 5373, passed the House of Representatives on June 17, 1992. The Subcommittee on Energy and Water Development marked up this bill on July 21 and the full Committee on Appropriations marked up and reported this bill on July 23, 1992. We marked up this bill as quickly as we could after receiving the bill from the House and receiving our 602(b) allocation. I want to assure the Members of the Senate that we have done the best we could to present a fair and balanced recommendation to the Senate in light of tough budgetary constraints.

Before summarizing the principal aspects of this year's appropriation bill, I want to take a moment to especially thank the senior Senator from West Virginia [Mr. BYRD], chairman of our full Committee on Appropriations and our distinguished President pro tempore of the Senate. He is and has been an outstanding leader and I thank him for his help and leadership on this appropriations bill and on all the other appropriation bills. I think we are very lucky to have Senator BYRD as chairman of our full committee.

I also want to thank my friend and my partner from Oregon, the ranking minority member of the Committee on Appropriations and of our Subcommittee on Energy and Water, Mr. HATFIELD. He and I have exchanged chairs here on this bill for many, many years. It really has been a partnership, a very pleasant one, and, I hope, a very productive one.

PURPOSE OF THE BILL

The purpose of this bill is to provide appropriations for the fiscal year 1993 beginning October 1, 1992, and ending September 30, 1993, for energy and water development, and for other related purposes. It supplies funds for water

resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions—including environmental restoration and waste management, and atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian regional development programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF ESTIMATES AND RECOMMENDATIONS

The fiscal year 1993 budget estimates for the bill total $22,419,288,000 in new budget—obligational—authority. The recommendation of the committee totals $22,005,446,000. This is $413,842,000 below the budget estimates and $681,382,000 over the House bill.

SUBCOMMITTEE BUDGET ALLOCATION

The Energy and Water Development Subcommittee allocation under section 602(b)(1) of the Budget Act totals $22,080,000,000 in budget authority and $21,479,000,000 in outlays for fiscal year 1993. These amounts are significantly below the baseline estimate of $22,837,000,000 in budget authority and $22,270,000,000 in outlays. The shortfall between the subcommittee allocation and the 1993 baseline is $757,000,000 in budget authority and $791,000,000 in outlays.

In effect, Mr. President, in round numbers, our 602(b) allocation for the full committee was about three-quarters of a billion dollars below the baseline. That is, if you take last year's allocation of this committee and put it in real dollars, that is in dollars to reflect this year's inflation, we are actually three-quarters of a billion dollars below last year. We are half a billion dollars below in domestic discretionary alone.

For domestic discretionary programs, the subcommittee allocation totals $9,948,000,000 in budget authority and $9,578,000,000 in outlays. The baseline for domestic activities for the fiscal year totals $10,464,000,000 in budget authority and $10,039,000,000 in outlays, resulting in a shortfall of $516,000,000 in budget authority and $461,000,000 in outlays.

BILL HIGHLIGHTS

ATOMIC ENERGY DEFENSE ACTIVITIES

The amount recommended in the bill includes $12,118,625,000 for atomic energy defense activities. Major programs and activities include:

Testing	$383,860,000
Research and development	1,521,050,000
Production and surveillance	2,323,630,000
Nuclear materials production	1,609,043,000
Defense waste management and environmental restoration	4,802,047,000
New production reactor	170,028,000

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT

The bill recommended by the committee provides a total of $2,969,583,000 for energy supply, research, development and demonstration programs including:

Solar energy	$186,425,000
Environmental restoration and waste management nondefense	709,694,000
Nuclear fission R&D	296,454,000
Magnetic fusion	335,000,000
Basic energy sciences	774,900,000
Biological and environmental R&D	363,700,000

GENERAL SCIENCE AND RESEARCH

The committee recommendation also provides a net appropriation of $1,460,784,000 for general science and research activities in life sciences, high energy physics, and nuclear physics. Major programs are:

High energy physics research	$623,384,000
Nuclear physics	309,100,000
Superconducting super collider	550,000,000

REGULATORY AND OTHER INDEPENDENT AGENCIES

Also recommended in the bill is $194,945,000 for various regulatory and independent agencies of the Federal Government. Major programs include:

Appalachian Regional Commission	$190,000,000
Federal Energy Regulatory Commission	158,639,000
Nuclear Regulatory Commission	518,900,000
Tennessee Valley Authority	135,000,000

WATER RESOURCES DEVELOPMENT

General investigations	$172,490,000
Construction	2,068,373,000
Operations and maintenance	1,939,143,000
Corps of Engineers, regulatory activities	86,000,000

Mr. President, this bill and the report accompanying the bill have been available most of this week, since Tuesday I believe, for examination and study by the membership so I will not undertake to elaborate on the details of our committee recommendations. They are covered in the report and I believe are self-explanatory. I will summarize briefly the major recommendations.

First, on the superconducting super collider, we provide $550 million, which is $100 million less than the budget request. This amount will keep the SSC Program going at an adequate rate. It is not the optimal rate but this amount avoids serious delays in time and with the significant cost increases that would occur if we funded it at a lesser rate. The project is on budget and on schedule. The total project cost to construct the SSC in as spent dollars is $8.25 billion. Over $1.25 billion has been spent on the project. We will, of course, have a debate on the SSC and will go into the details of what I and many others believe is the most important science project in the world.

Another major issue that we have before us in this bill is the question of a moratorium on nuclear weapons testing. The House-passed bill provides for a complete moratorium that had only one exception, and that is if the States of the former Soviet Union conduct nuclear weapons test, then we could test. The committee recommendation strikes the House provision, section 507, general provisions of the bill on page 82 of the bill and proposes new language in lieu of the stricken language. We provide that there shall be a moratorium with only one exception, and that is for safety. In other words, if the President proposes to test a nuclear explosive for safety, he must say so in advance and describe the purpose(s) and reason(s) for the safety test. And for classified matters, he can present that to the Congress in a classified annex. We will also debate this matter on an amendment that will be offered, I understand. I will go into the reasons why we must have an exception for safety at that time. I think most Members will understand the need to test for safety—understands about safety, that is—and that is why our language provides for this exception. Let me emphasize that the exception is limited to safety with the President having to declare this in advance and state the reasons therefor in a certificate.

The committee also recommends an additional $50 million for technology development in connection with the Environmental Restoration and Waste Management Program of the Department of Energy. This is one of the fastest growing programs in all of Government and we have to invest more in trying to develop new technologies to deal with this problem which is over the next 30 years. New technologies will help to reduce the current costs.

We also recommend additional funding for technology partnerships with the national labs for a total of $116 million for fiscal year 1993. This is an important, continuing initiative which we began year before last. It has now become a very important part of our economic competitiveness effort. We are now beginning to see the fruits of our earlier work on this matter.

Another area of interest is that we recommend a modest number of new construction starts in the water resources development programs of the U.S. Army Corps of Engineers. We approved the 11 new projects in the budget and provided an additional 5 new, high priority, flood control projects. The total estimated Federal cost of these new projects is approximately $360 million of which about $22 million is included here to get them started.

Mr. President, the committee also recommends $375 million to proceed with characterization of the proposed nuclear waste repository of Yucca Mountain in Nevada. Of this amount $100 million comes from the atomic energy defense section of the bill to carry out the Government's obligation and responsibility and to meet its share for the disposition of defense high-level waste which will go into the repository. Mr. President, we simply must face up to our responsibility as the law provides in getting on with this work.

Most of the remaining major recommendations and provisions cover continuing and ongoing, well established functions of Government with which the Senate is very familiar.

Mr. President, this is a brief summary of the major issues and items. I hope that we can handle this measure in an expeditious manner so we can get to conference with the House of Representatives as soon as possible. I will be glad to respond to any questions concerning this bill or provide an explanation of our action to any Member now or at any time.

Mr. President, suffice it to say that we do not have room, really, to amend this bill. I mean Senators who have amendments who wish to add money or projects must of course displace something else in order to do it because we have used all of the money, and the money, as I say, is very short considering that last year we were three-quarters of a billion dollars more in real purchasing power than we are this year.

Mr. President, in closing I want to express my deepest sympathy to a dear, loyal, and most valuable member of our Senate staff, Mrs. Gloria Butland, on the death of her husband, Sam. Mr. Butland was killed in an automobile accident on Tuesday of this week while on a visit to his boyhood home in New Brunswick, Canada. The funeral is being held this morning as we speak. On behalf of the members of the committee and the staff, and on behalf of a host of friends here in the Senate family, we extend our greatest sympathies. Our thoughts and prayers are with Gloria in this hour of her great loss.

Mr. President, before we proceed further on the bill, I yield the floor to my distinguished friend from Oregon.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I first wish to thank our chairman, Senator JOHNSTON, for his exceptional work in bringing this bill before the Senate today. I think few, perhaps, appreciate the difficulties the Appropriations Committee is having this year in funding many important domestic discretionary programs. Chairman JOHNSTON's ability to present this body with such a fine, balanced product is highly commendable and certainly is a testament to his leadership. Senator JOHNSTON has, once again, made this a bipartisan process, and I know that he and his staff have worked hard to accommodate Members from both sides of the aisle.

I, too, wish to add my word of thanks to Chairman BYRD for his work on this bill as well, because Senator BYRD has the daunting task of seeing to it that all 13 appropriations bills are passed and on the President's desk by the end of the fiscal year. That, indeed, is a monumental task. And the primary reason we are here this morning is due to Chairman BYRD's determination to get our business completed in an expeditious manner and in due time.

I might take note that we have, now, 25 working days left between now and the end of the fiscal year. If you take the date that we have tentatively scheduled for adjournment, October 9, that means we have 32 days. But the fiscal year ends on October 1. And I cannot but focus on that for this moment because I think the body is most anxious to adjourn having completed the Nation's business in an orderly fashion and in a responsible way and get home for the political cycle we find ourselves in.

So I emphasize that to, hopefully, bring about a sense of time conservation, maximizing the working days we have left before the end of the fiscal year. I, too, wish to mention the fine staff work that has certainly undergirded our committee and had such a very important part in bringing this bill to the floor today: Proctor Jones, David Gwaltney, Gloria Butland, Mark Walker, and Dorothy Pastis. I am proud to say the Energy and Water Development Subcommittee is blessed with a staff of true professionals who work for all the members of the committee. I must say that those of us who are members of this subcommittee call equally upon the expertise and we get the very professional response from all the members of our staff. There is no great delineation between majority and minority staff.

While on the subject of our staff, I, too, want to join Senator JOHNSTON to express my sadness to learn of the death of Gloria Butland's husband. She has been not only a great staff person but she is a dear friend to us all. Our hearts go out to her and her family as they cope with this tragedy and the loss of her loved one.

Senator JOHNSTON has already given an excellent summary of the contents of the committee's fiscal year 1993 bill, and I want to emphasize an additional few points.

First, while I strongly support most of the provisions in this bill there is one provision with which I am at odds with the committee position. Section 507 of this bill deals with the question of moratorium on nuclear weapons tests. However, unlike the House bill, the provision in the House bill clearly bans nuclear tests for 1 year unless any of the States of the former Soviet Union conducts the test. Our position on the Senate side as the print is before us today is much less restrictive and would allow the President to continue testing if he certifies that it is in the national security interest to conduct tests for safety purposes.

Mr. President, I cannot support this provision. While it reflects a desire to shift the testing away from programs that are not safety-related, the language unfortunately does not offer any real change in the testing program currently in place. Instead, it allows the administration to continue its plans to conduct 30 tests over the next 5 years. In light of the most recent developments in the global situation, a business as usual approach on the testing question is unacceptable to me, and I believe a majority of the Members of this body. As Chairman JOHNSTON knows, we will be debating this issue at greater length later, so I will not belabor the point now.

On the positive side, I also want to point out that this bill does begin to reflect the changing priorities in the atomic weapons defense activities areas. With the exception of the Environmental Restoration and Waste Management account, all the major Defense Programs areas of our bill are significantly reduced from the fiscal year 1992 level. For example, for weapons activities, the committee's recommendation is funded at $4.4 billion, almost $4.5 billion, about $125 million less than last year—not, in one sense, a significant reduction in relation to the total, but it is in the opposite direction to which we had been moving through the 1980's, and that to me is not only halting the rushing freight train but we have stopped it and we have now started a slow reverse.

The New Production Reactor Program is greatly reduced from last year. It is down from $515.5 million to only $170 million. The materials production account is down approximately $600 million from last year to $2.548 billion. Of course, some of us would have liked to have seen greater reductions, but I believe here again we have reversed the trend and we are now moving in the correct direction.

The beneficiary of the reductions in these accounts, as I mentioned previously, is the environmental restoration and waste management account. This account, which funds waste management, technology development, and environmental cleanup activities at the former nuclear weapons production sites, is fully funded at $4.8 billion. I am pleased to report to my colleagues that the administration and the committee are providing the resources necessary to finally clean up the mess that was made in nearly 45 years of often

careless, haphazard production of nuclear weapons.

With that said, Mr. President, I would like to remind my colleagues that this bill is right up against our 602(b) allocation, and that any amendments offered today will need to have offsets.

I once again express my deep gratitude for the excellent leadership of our chairman and the staff's devotion to the production of this bill.

Mr. President, 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. JOHNSTON. 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.

Mr. JOHNSTON. Mr. President, we have a number of committee amendments and I know of no objections to those committee amendments, save two: one relating to the superconducting super collider and one relating to nuclear testing.

Mr. President, what I will ask for, and I do not make the request at this time, is the request which, when put, will state as follows:

I ask unanimous consent the committee amendments be agreed to en bloc, except the committee amendments on the SSC appropriations, page 55, line 6 and 7; and the nuclear testing amendment, page 82, line 11 to line 5, page 83; and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by agreement to this request.

I do not put that request at this time. The effect of this will simply be to approve the other amendments, excepting these two.

Mr. President, I might add that we are putting out a hot line at this time—it may have already gone out—asking what further amendments will be required to this bill; that at some time later today, and after the approval of this unanimous-consent request, if it is approved, which we hope to get very shortly, then we will propound a unanimous-consent request that will say, in effect, that after all other amendments have been disposed of that all amendments be foreclosed save these two, that is SSC and nuclear testing, and that we will then come in with a unanimous-consent request to set those up for a Monday debate, SSC first with a 5-hour time limit on an amendment to be offered by Senator BUMPERS, with only germane second-degree amendments in order, and on nuclear testing with an amendment by Senator HATFIELD, et al., with a 2-hour time limit with only germane amendments to be in order.

I see the distinguished Senator from Maine in the Chamber. I think he has an interest in second-degree amendments on the nuclear testing issue. I wonder how much time he would want on second-degree amendments. There will be a 2-hour time limit on the Hatfield amendment. We expect there will be a tabling motion at the end of that 2 hours and then second-degree amendments would be made in order by the unanimous-consent request, when propounded, if propounded and approved, later in the day.

What would the Senator like in terms of time? Would an hour on second-degree amendments be suitable?

Mr. COHEN. I think perhaps an hour on my side. So probably at least a 2-hour time agreement will be satisfactory, equally divided.

Mr. JOHNSTON. Does the Senator foresee more than one second-degree amendment?

Mr. COHEN. I do not foresee it. It is really very difficult to engage in an intelligent discussion of this issue since we are anticipating an amendment by the Senator from Oregon and a motion to table, and then we are basing second-degree amendments on the contingency he will not be tabled, in which case it could be open to amendments. It is hard to say at this point. I would, for my purpose, only consider offering one second-degree amendment which I would think would take about 2 hours, equally divided.

Mr. JOHNSTON. If the amendment of the Senator from Oregon is tabled, the underlying amendment will be further amendable.

Mr. COHEN. In either event, I would still only anticipate an hour on my side.

Mr. JOHNSTON. That is helpful.

I mention to Senators that if they do have amendments to this bill that they should come over because later in the day when we have disposed of all the amendments that come out of the woodwork, then we will propound a unanimous-consent request that will make the only remaining business the nuclear testing and the SSC amendments.

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

Mr. JOHNSTON. Yes, certainly.

Mr. COHEN. I am not at liberty at this point to say whether there are other amendments on this side from members of the Armed Services Committee that might want to be offered. I have not discussed this with any other Members at this point.

Mr. JOHNSTON. When we propound the unanimous-consent request, it will not limit the number of second-degree amendments, so there will be, in effect, an unlimited amount of second-degree amendments with 2 hours each.

The President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc except the committee amendments on the superconducting super collider appropriation—that is on page 55, lines 6 and 7—and the amendment on nuclear testing—that is on page 82, line 11 through line 5 on page 83—and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

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

MAYBE THE PRESIDENT DID NOT KNOW

Mr. MOYNIHAN. Mr. President, I rise for the agreeable purpose of reporting that, in a short while now, President Bush will be visiting the welfare programs in Riverside, CA. Specifically the GAIN Program, which has been in place for some while there. And which has been the subject of a very encouraging report from the Manpower Demonstration Research Corp., in its continuing evaluation of the effectiveness of the Family Support Act, which was adopted and enacted in 1988, and which is just now beginning to grow roots and to show results.

It happens, sir—and it is important to note—that the 1988 legislation was the first serious reform in our welfare system, as we have come to know as the Aid to Families with Dependent Children's Program, established in the 1935 Social Security Act. The first time to say then that welfare involves a covenant rather than a one-way entitlement. That the covenant involved is that the larger society has a responsibility to help young women and children who find themselves dependent on public charities, as it is, and they in turn, the adults, have a responsibility to help themselves get out of that situation, to get work, get employment, and be independent citizens as everyone wants to be, and most are.

Let me be clear. We are not just talking about a small group on the side here. Almost one-third of the American children born in 1980 will have been on welfare before they are age 18. In our central cities, this number reaches 80 to 90 percent. This can be the average experience, and it could be the normal experience for children, and the universal experience, in some communities. And by no means is it a rare experience, in most.

The thing about this covenant, this mutual obligation, is that the idea

came out of the States. It was a true example of federalism at work. I want to speak as the sponsor of the legislation here in the Senate.

Where do we get our idea? Where do we get our support? We got them from the State governments. During the Reagan years, to be clear, the Federal Government just dropped out of a social policy. And in a way that the founders might have predicted, States took over, and began innovating.

These innovations began to show. You had almost the same set of solutions developing in Massachusetts, under Governor Dukakis, a liberal Democratic administration; and across the country in California, under Governor Deukmejian, a conservative Republican administration. They all found themselves thinking of the same mix of incentives and sanctions.

You have to go into these programs. You have to take training. You have to find work. And if you do not, you lose benefits.

This combination was showing promise, a very satisfactory way in which the same sort of solution popped up on the Atlantic coast and the Pacific coast. And, sir, there was a chairman of the Governors Association, namely Bill Clinton of Arkansas. He got in touch with me as chairman of the Subcommittee on Social Security and Family Policy, and proposed that the Governors could be of real support in providing hands-on specific experience with the problem of welfare dependency.

I could not have been more open, as were all Members of the Senate who were working on this matter. Then, sir, a very important detail: Governor Clinton is down in Little Rock, in the Ozarks; Governor Deukmejian is in Sacramento; and Governor Dukakis is in Boston, far away. But near at hand was Gov. Mike Castle of Delaware. Gov. Mike Castle is a Republican. Democratic Governor Clinton, as chairman of the Governors Association, asked Governor Castle, to be the point man, the person on the spot here in Washington, to help us put this legislation together. And, indeed, we did.

It was one of the great moments, I know, for this Senator, when this body passed the Family Support Act. If I recall, the vote was 97 to 1—bipartisan. That was the real basis. That we all got together to deal with a problem that involves all of our children.

I have here, Mr. President—I have not seen this for quite a while—a photograph of the White House Rose Garden bill-signing ceremony, when President Reagan very generously had us down there, gave us opinions, and told us what a fine job we had done. And we had done it. And it was with his administration.

Well, there is DANNY ROSTENKOWSKI, chairman of the Ways and Means Committee of the House, smiling his great Chicago smile. There is this Senator, here. Behind the two of us is Gov. Mike Castle of Delaware, a Republican from Delaware. Right here on the edge is Bill Clinton, a Democrat from Arkansas, and chairman of the National Governors Association.

We did not just past that bill. We put up $1 billion, the regular Social Security funds, the entitlement moneys, to work the JOBS Program, job opportunities and basic skills, an acronym. We get into that sort of thing. That is the program Mr. Bush is visiting this morning.

It has been found by the MDRC to be quite the most successful JOBS Program they have yet encountered. It is run by Larry Townsend, who is an experienced 30-year veteran of these social welfare programs. He is head of the Department of Public Social Services in Riverside County, and he really feels he has something here.

In the first year of evaluated programs, single parents participating in the program in Riverside increased their earnings by almost $1,000—$996 precisely.

Since year one, we have always made clear that a program of this kind takes time to work out problems, gain understanding, and to change the bureaucratic behavior of people who, for 50 years, have been coming into the welfare office, signing up and getting their checks and going away. Or signing up and going away to get their checks. Instead, in Riverside, they say: "All right, here you are, we are glad to see you. We are going to do something about this situation. Let us get right down to it here. What is your plan?"

There is one specific in Riverside that Judith Gueron, the most able head of the Manpower Demonstration Research Corp., spotted right away: In Riverside, there is enough money to put every welfare recipient into a JOBS Program. Mothers with children under 3 do not have to go in. At State option, it can be under 1. But the rest, they are required. Simply, in most parts of the country there is not enough funding available to say everybody has to do it. As a result, you get that kind of creaming process. The people who want to, go in; the people who do not want to, do not. It is an ambiguous, uncertain outcome.

In Riverside everybody does, and no exceptions, no sort of, well, you know, you are going to be a difficult case, we will leave you over here, and we will spot somebody who really wants to. We will get good results by picking people who are going to do all right in the first place.

The point about the JOBS Program is, take the most difficult cases. A fair number of people who come on to welfare leave in a year and a half's time. Basically, it is income insurance. For a much larger number, it is a personal disaster for them and the children and the community. And getting them out is hard work.

Sir, now to a specific. Earlier this year, we found out that the State governments across the country were having trouble putting up their matching share of the cost of the JOBS Program. It is no news that State governments are in fiscal trouble everywhere. Such that last year, of the $1 billion available, only about $600 million was actually used, because the States could not match it. That is why Riverside is important. They take care of everybody.

We put in a bill after President Bush in his State of the Union Message raised the issue of welfare, and has continued to do so. During the primary season, he put out television spots that said he has an agenda to change welfare and make the ablebodied work. As if we had not enacted the Family Support Act.

Maybe he did not know. It is possible he did not know. I do not recall that he was at the Rose Garden signing ceremony, but he said he would do in legislation what we have already done. When we asked his representative, the Assistant Secretary of Health and Human Services, at the hearing in the Finance Committee: "Do you have welfare legislation you would like to propose," the answer was, "No, why do you ask." We said we asked because the President says he has an agenda, to change welfare and make the able-bodied work.

If you have an agenda, you usually have a bill. "Do you have a bill, Madam Secretary?" "No, I guess not. No." We put in a bill called the Work for Welfare Act of 1992, S. 2303. It was put in on March 3 after the State of the Union Message. It said: We will, the Federal Government will put up $4.5 billion in this emergency situation, which the President says is an emergency, and we will see that every person who is called up to enter the JOBS Program does so because the money is there. A JOBS Program that changes welfare and makes the able-bodied work.

Now, sir, this is S. 2303. This is the bill. It says that everybody is required under the Family Support Act to take training, job training, job search, find jobs, get off of welfare, that money will be there to see that that is done.

What was the administration's response in testimony before the Finance Committee? "No. No way. We will not spend a penny extra. We will not even deal with the fact that we are not using the money that is already appropriated."

You cannot have it both ways. You cannot go around talking about having an agenda and saying "no" to elemental proposals to put an existing statute that is working in a situation where it works even better.

Well, Mr. President, I can say that in the bill reported by the Finance Committee, on Wednesday evening, we have

put up an additional $350 million for the JOBS Program, and $350 million for community work programs. We are coming along. The statute is in place. The President is out there to visit a program, which is taking place under a statute that Bill Clinton helped get enacted. I welcome the President to Riverside, CA.

I would like to think that somewhere in his briefing papers they tell him this is a JOBS Program, J-O-B-S, which is appropriate. It is working well here, because the match of resources and recipients is such that every eligible, every obliged welfare recipient is in a JOBS Program. There is a good bill in the Senate right now that would make this true across the country.

All you have to do is say, Mr. President, we will support the bill, instead of what you have done, which is to say we will not, and there will be "Riversides" across the country. That is what we hoped for. That is what we had in mind when we began this work in 1986, a bill signed in 1988. I would like to say, Mr. President, this was a very nice photograph of Governor Clinton in the Rose Garden on October 13, 1988. I look forward to seeing many more such photographs in the years ahead.

Thank you, Mr. President. I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I have a number of amendments which I will be offering, to be considered en bloc. I will describe these amendments and then send them to the desk. All of these are amendments that fit within our allocation. I mentioned earlier that our allocation has been fully used up. They are within available funds, if they involve money.

The first is an amendment, No. 2803, on behalf of Senator DECONCINI, which provides $1.3 million for Fort McDowell alone, which is a critical element in the water rights settlement between the Government and the Mohave-Apache Indians. Senator DECONCINI had raised this in subcommittee.

I asked him to hold up on it until we could have it analyzed. We have now analyzed it and, indeed, it is an emergency matter that must be dealt with now. That is the first amendment.

The second amendment, No. 2804, is on behalf of Senator DECONCINI, that allows the Corps of Engineers to utilize up to $500,000 within available funds for a reconnaissance level study on flooding problems on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, AZ.

The next amendment, No. 2805, is on behalf of Senator SASSER, which provides $500,000 for the Corps of Engineers to continue preconstruction, engineering, and design for the Kentucky Lock addition in accordance with the "Report of the Chief of Engineers," dated June 1, 1992.

The next amendment, No. 2806, is on behalf of Senator HEFLIN, which makes $2 million available to close out activities related to the Alabama Elk River Economic Development Program in Alabama. Again that is within available funds.

The next amendment, No. 2807, is on behalf of Senator SIMON, to provide the Corps of Engineers shall complete preconstruction engineering and design on the McCook and Thornton Reservoirs projects in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994.

The next amendment, No. 2808, is on behalf of Senator REID, to provide $3,700,000 for infrastructure studies on the mobile sampling platform and monitoring work and other R&D activities carried out at the universities in Nevada, Reno, and Las Vegas. This is in connection with the nuclear waste development in Yucca Mountain and the university there. This comes out of the nuclear waste fund and is ongoing. The universities have done good research in the past and this is a continuation of that.

Next is amendment No. 2809, for $250,000 through the Corps of Engineers to demolish and remove the India Point railroad bridge in the Seekonk River, Providence, RI. It is on behalf of Senator CHAFEE.

Next is amendment No. 2810, a sense-of-the-Senate resolution on behalf of Senators KERREY, DASCHLE, EXON, LIEBERMAN, DODD, LEVIN, RIEGLE, and MOYNIHAN, which is a sense-of-the-Senate that Congress should reexamine the Low-Level Radioactivity Waste Policy Amendments of 1958 and work with the Secretary of Energy and the National Governors Association to develop solutions to problems relating to capacity within the United States for disposal of low-level radioactive waste, including the decline in the volume of generation of such waste and projected surplus of such capacity that have arisen since 1980.

Finally, on behalf of Senators BYRD, MITCHELL, REID, BOREN, DECONCINI, D'AMATO, FOWLER, MURKOWSKI, BIDEN, PRESSLER, DODD, KERREY, and MOYNIHAN, amendment No. 2811, a sense-of-the-Senate resolution that states that the national elections for the President and Parliament of Romania scheduled to be conducted on September 27, 1992, will be an important measure for Romania's progress toward democracy. Those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates; and the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor scheduled elections, and any runoff elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and consideration by the Congress of any legislation to grant nondiscriminatory most-favored trade to Romania should not be held until the Secretary of State certified to the election in Romania scheduled for September 27, 1992, and any consequent runoff elections that may be held are conducted in a free and fair manner.

AMENDMENTS NUMBERED 2803 THROUGH 2811

Mr. JOHNSTON. Mr. President, I send these amendments to the desk and I now ask unanimous consent that the amendments be considered and approved en bloc, and that any statements by Senators in support thereof be placed in the RECORD in the appropriate place next to the respective amendments.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for other Senators, proposes amendments numbered 2803 through 2811, inclusive.

Mr. JOHNSTON. Mr. President, just to be sure, I think the pending amendments are the committee amendments, and I think it is implicit in my unanimous consent that the committee amendments be temporarily laid aside for this consideration.

The PRESIDING OFFICER. That was the Chair's understanding.

Mr. JOHNSTON. Mr. President, I have stated the amendments and am now ready for the question.

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

The amendments (No. 2803 through 2811) were agreed to, en bloc, as follows:

AMENDMENT NO. 2803

On page 40, line 19 strike "$467,634,000" and insert "$466,334,000".

On page 40, line 22 strike "$156,168,000" and insert "$154,868,000".

On page 45, line 6 strike "$2,202,000" and insert "$3,502,000".

On page 45, line 14 insert the following before the period: ": *Provided further*, That $1,300,000 of the funds contained herein shall be for the Fort McDowell Indian Community Small Reclamation Project Act loan authorized by Section 8(e) of Public Law 101-628".

PROVIDE FUNDING FOR FORT MC DOWELL MOHAVE-APACHE INDIAN COMMUNITY

Mr. DECONCINI. Mr. President, the amendment I am offering directs the Bureau of Reclamation to provide $1.3 million to fund a small reclamation project loan for the Fort McDowell Mohave-Apache Indian Community of Arizona. This loan fulfills the Federal Government's obligations under the Fort McDowell Indian Community

water settlement legislation and will allow this tribe to finally proceed to settle its long-standing water rights litigation.

Mr. President, there are over 50 lawsuits currently pending before State and Federal courts to resolve disputes over tribal rights to water flowing on, or past, Indian reservations. Litigation is costly, time consuming, uncertain in outcome, and once decided, can displace existing water uses and provide only paper rights, not wet water. Prolonged uncertainty clouds the validity of water rights for Indians and non-Indians alike, forestalling investment based on the availability of water. This uncertainty hurts tribes, businesses, States and the Nation.

The Fort McDowell Water Settlement Act of 1990 provides for the settlement of the Fort McDowell Indian Community's water rights claims against a number of non-Indian parties, including the Federal Government. This legislation prescribes steps which must take place within a defined time period in order for the water rights litigation to be resolved. Failure to meet the deadlines imperils the settlement negotiations and could result in the litigation continuing at immense financial and personal costs.

The Fort McDowell water rights settlement is the product of the hard work of many parties to resolve this highly contentious issue. If funding for the small reclamation project loan is not provided within the deadlines set out in the legislation, all of these efforts will be wasted. The Fort McDowell Indian Community has participated in good faith in negotiating settlement of its extremely valuable water rights claims. The Federal Government participated in the settlement negotiations and has agree to it. There is, therefore, a moral obligation to provide the necessary funding to implement all the settlement conditions. To do otherwise is irresponsible and a breach of faith, if not of trust.

As called for by the settlement legislation, the Fort McDowell Indian Community, is to receive a $23 million development fund. With the exception of a small reclamation projects loan, all of the money for the development fund has been provided. The tribe has agreed to wait for full funding of the total agreed $13 million loan if $1.3 million in loan funding is provided for the fiscal year.

Last year I requested funding for this small reclamation project loan be included in the fiscal year 1992 appropriations bill. However, I was informed by the committee that it was not possible to fund the loan at that time because the loan application had not yet been finalized by the Department of the Interior. Therefore, I agreed to defer my request pending the final approval of the Indian Community's application for the small projects loan. Mr. President, I am aware that the Secretary of the Interior has advised that his Department has now approved the loan application. We must now fulfill our obligation to provide funding for this loan. If we do not do so, the tribe has every right to withdraw from this settlement and without the settlement, the process of resolving the water rights of all the parties will be placed in jeopardy.

I ask unanimous consent that a letter I have received from the Fort McDowell Indian Community, and the letter from the Secretary of the Interior to the President of the Senate indicating the Department's approval of the ban, be printed in the RECORD.

Mr. President, I ask that my amendment be adopted.

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

FT. MCDOWELL MOHAVE-APACHE INDIAN COMMUNITY,
Fountain Hills, AZ, July 27, 1992.

Hon. DENNIS DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Fort McDowell Indian Community, I'd like to express our appreciation for your continuing efforts on the implementation of the Fort McDowell water settlement act of 1990, P.L. 101-628. As you know, that act prescribes a number of steps that must take place within a certain time frame or the entire settlement is off. The statute requires state court approval of the settlement by December 31, 1993, and the state court has advised the Community that the approval process will take one full year to complete. As a result, the parties must submit the entire settlement to the court for approval by January 01, 1993, to meet the statutory deadline.

With the strong support and encouragement of the Arizona congressional delegation, the parties to the settlement have worked diligently over the last year and one half to fully implement the Fort McDowell settlement. We are nearing completion on all components of the settlement, save one—appropriation of funding for a Small Projects Act loan in the amount of $13 million. This component is a vital part of the overall settlement. This loan is one of the items that by the terms of the settlement act must be in place by the statutory deadline; it is also the vehicle for funding irrigation construction on the reservation so that the Community can put the settlement water to beneficial use.

Because of the statutory deadline for finalizing the settlement, Congress must appropriate the Fort McDowell Small Projects Act loan in the Fiscal Year 1993 budget or our water settlement is a dead letter. The Community was extremely disappointed that the Administration, after negotiating the settlement with the Community and supporting in particular the loan as part of the settlement, chose not to include this item in its Fiscal Year 1993 budget request. And the Community is distraught that, thus far, the Congress has not added this item to the FY'93 budget. Nothing less than the entire settlement is on the line at this point. All other elements of the settlement are coming together, but this one failure would doom the entire settlement.

In the past few days, the Community consulted with its engineers to determine the absolute minimum level of funding necessary to at least commence the irrigation project to be funded by the small loan authorized in the water settlement. We are advised that if one million dollars of the total loan authorized by the settlement act were available, the project could at least commence so that all components of the settlement are in place by the statutory deadline. Obviously, the Community greatly prefers full funding of the loan; otherwise, the Community must sign waivers and releases before it obtains the full value of the settlement, i.e., the $13 million loan agreed to by the United States. But the Community is prepared to rely on Congress' stated commitment in the settlement act to provide the full loan amount so that we can avoid losing the entire settlement.

We earnestly hope that you can convince your colleagues that this appropriation in FY'93 is imperative. This is not the usual case where only one worthwhile project is at stake. The entire Fort McDowell water settlement is at stake. And the honor of the Administration and Congress is at stake. Both the Administration and the Congress supported and approved the loan as part of the Fort McDowell water settlement—the Administration and Congress gave the Community their word. The Community entered into the water settlement in the belief that the Administration and the Congress would honor their word. We hope we are not proven wrong.

Sincerely,

GILBERT JONES, Sr.,
Vice-President,
Mohave-Apache Community Council.

THE SECRETARY OF THE INTERIOR,
Washington, DC, July 10, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: The Fort McDowell Indian Community (Community) has applied for a loan under the Small Reclamation Projects Act (SRPA) of 1956 (70 Stat. 1044), as amended, and the Fort McDowell Indian Community Water Rights Settlement Act (the Act) of 1990. Their application is being processed in accordance with Section 4(c) of the SRPA and with procedures approved by the Office of Management and Budget.

Specific provisions of the Act waive certain application requirements and direct the Secretary of the Interior to provide a SRPA loan to the Community in the amount of $13 million to be repaid over a period of 50 years without interest. The Act also requires the Community to establish a separate repayment fund account which will essentially guarantee loan repayment. Penalties will accrue if the provisions of the Act are not implemented by the end of 1993.

The loan will be used to develop 1,584 acres for trickle irrigation of an orchard and vineyard enterprise on unallotted Community lands held in trust by the United States. The proposed project will assist in fulfilling the United States' trust responsibilities to Native Americans and contribute to the Administration's Rural America Initiative by providing long-term economic stability and improved social well being of the Community members and by helping maintain the rural reservation setting.

We have examined the proposal and find that it is technically and financially feasible and meets all requirements and provisions of the Act. The enclosed statement briefly describes the specifics of the proposal. In accordance with the Act of July 31, 1953, I certify that an adequate soil survey and land

classification study, including a check for potentially hazardous trace elements, has been accomplished. The lands classified as irrigable are susceptible to the production of agricultural crops by means of irrigation and without adverse environmental impacts from hazardous trace elements.

A similar letter has been sent to the Speaker of the House.

Sincerely,

MANUEL LUJAN, Jr.,
Secretary.

AMENDMENT No. 2804

On page 12, line 4 insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated the sanitary landfill on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, Arizona".

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Mr. DECONCINI. Mr. President, the amendment I am offering directs the Corps of Engineers to provide $500,000 for a reconnaissance study to assist the Salt River Pima-Maricopa Indian Community of Arizona in dealing with an emergency situation that threatens not only the Indian community, but also the environment of those living downstream. I cannot stress enough the urgent need of this project which will provide for bank stabilization at landfills located on the lands of the Salt River Pima-Maricopa Indian Community.

The Salt River Pima-Maricopa Indian Community reservation borders the Salt River immediately north and upstream of the Phoenix metropolitan area. This spring's heavy rainfall, combined with concern by Federal officials for the safety of upstream dam construction projects resulted in unusually large discharges into the Salt River upstream of the Salt River Pima-Maricopa Indian Community. These flood flows caused extensive erosion of both banks and the stream bed of the Salt River, threatening two landfill sites which serve both the Indian community and surrounding non-Indian communities. Emergency action by the tribe, the Corps of Engineers, the State of Arizona and the cities of Mesa, Scottsdale, and Phoenix prevented serious harm at the time, but these measures alleviated problems at the landfills only temporarily. Permanent correction is necessary to protect the property and health of the Indian community and the communities downstream of these landfill sites.

What is needed to address this critical situation in the long-term is a project to provide 100-year level flood protection to the two landfill sites. Such a project would avert any potential damage to the landfill embankments, downstream areas and underground aquifers. Total costs for design and construction of a permanent project are estimated to be in excess of $4 million.

I have been informed by the Corps of Engineers that this is an emergency situation. The corps, the Environmental Protection Agency, and the Indian community are working together in response to the declared emergency in a cooperative attempt to resolve existing erosion problems. Again, only permanent bank stabilization will completely correct this dangerous situation. To meet the emergency needs of channelization and bank stabilization, additional funding must be provided.

Mr. President, I am fully cognizant of the need for fiscal restraint in these times of recession. However, I strongly feel that the threat to public health and safety involved in this issue warrants Congress' immediate attention. Therefore, I ask that my colleagues support my amendment.

AMENDMENT No. 2805

On page 12, line 4 insert the following before the period: "*Provided further*, That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, date June 1, 1992".

AMENDMENT No. 2806

On page 80, line 13, before the period: insert the following: ": *Provided further*, That no amount may be transferred from the Alabama Elk River Development Agency trust fund if the transfer would result in a balance in such trust fund that is less than $2,000,000".

ELKMONT RURAL VILLAGE

Mr. HEFLIN. Mr. President, I rise today to express my strong indignation over an injustice that may occur if the Senate does not take immediate action to stop it. I am referring to an attempt by some to gut the funding for TVA's Elkmont Rural Village located in Elkmont, AL. This is an ongoing project which has been in existence since 1977 in a partnership between TVA and Elkmont Rural Village homeowners. The Alabama Elk River Development Agency trust fund now totals $4.1 million and it has become a target for those looking for money in these tight budgetary times. It has been proposed by some that the bulk of this money be transferred for other purposes within the TVA budget.

I can understand the reasons for wanting to fund other programs with this money, but I cannot stand by and let this occur at the expense of the Elkmont Rural Village homeowners. The people of the Elkmont Rural Village, all 276 of them, have invested a total of over $8,000,000 of their own money and life savings in their homes. They have lived up to their end of the deal; now TVA wants to back out of its responsibility and abandon the homeowners.

Mr. President, I ask unanimous consent to insert in the RECORD at this point this list of the 276 residents of Elkmont Rural Village that are being abandoned by the Federal Government.

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

RURAL VILLAGE FAMILY DIRECTORY—ALPHABETIC LISTING BY FAMILY NAME

Format: Family Name, Address & Telephone Number, Male Spouse Name & Occupation, Female Spouse Name & Occupation, Child's Name & Age, Child's Name & Age, etc. (Age as of nearest birthday. May have adult live-in listed.)

Mr & Mrs Mike Adams, 18 Sulphur Creek Lane, none, Mike Carpenter, Jan March of Dimes—Huntsville, Joshua, Justin, Eli, Eric.

Mr & Mrs Danny Adcock, 1 Sulphur Creek Lane, 732-3040, Danny Pipe Fitter/Stone & Webster Engineering, Kay Homemaker, Manion 15, Flax 5.

Mr & Mrs Gary Arnold, 5 Sulphur Creek Drive M/F, 732-3260, Gary Program Manager/Tec Master, Brenda, Program Analyst/MICOM, Redstone Arsenal.

Mr Michael J Bailey, 17 Buckeye Lane, 732-4054, Mike, US Army Missile Command, Redstone Arsenal, Michele 20, Ross 17.

Elkmont Baptist Church, Sulphur Creek Drive, 732-4629, Pastor David Jones, 723-4833.

Mr & Mrs Don Baugher, 19 Sulphur Creek Lane, Unlisted, Don, Joyce, Dunlop/Madison, Dennis Ferguson 26, Collin Baugher 15.

Mr & Mrs Timothy A Belmore, 25 Sulphur Creek Lane, 732-3244, Tim, Stone and Webster Engineering, Nora Homemaker, Bryan 9.

Mr & Mrs AJ Bing, 11 Sulphur Creek Drive, 732-4798, Bud Retired, Bernice Homemaker.

Mr & Mrs Don Black, 2 Walnut Drive, 732-4796, Don, Estimator/Harold Construction Co, Margaret, Secretary/Athens City Schools, Mike 26, Chris 22, Daniel 12.

Mr & Mrs Hughie Black, 6 Walnut Drive, 732-3014, Tom Retired, Cathy Homemaker.

Mr. Garner Bouse, 13 Sulphur Creek Lane 732-4512, Gar Sales Engineer/AMP Inc.

Mr. Arthur L. Bowen, 30 Poplar Drive 732-4678, Bud Warranty Correspondent/Acuster.

Mr. & Mrs. Jeffrey S. Brackeen, 16 Locust Lane 732-3029, Jeff Engineer/Rockwell International, Angle Administrative Assistant, Teladyne Brown.

Mr. & Mrs. Roy T. Brazeal, 9 Hickory Drive 732-3231 Roy Ross Poultry, Michele Unemployed Educator, Brad 5 Oylan Roy O.

Mr. & Mrs. David Brown, 10 Sulphur Creek Drive 732-4759, David Engineer/NASA Karia Homemaker, Matthew 4.

Mr. & Mrs. Robert Brown, 9 Walnut Drive 739-4800, Bob Browns Ferry, Glenda, Teacher/Elemant.

Mr. & Mrs. David Campbell, 10 Sulphur Creek Lane 732-4903, Dave Project Controls Engineer/TVA Browns Ferry Susle Homemaker, Brandl 6, Ashley 3.

Mr. & Mrs. John Carter, 24 Suphur Creek Drive * * *, John Management/Deldco Industrial Park, Lisa Teacher, Jonathan.

Mr. & Mrs. Kenneth Carter, 1 Cedar Lane 732-4521, Kenny Carter's Barbeque (Old Gin), Peggy Carter's Barbeque—Athens, Jane 19.

Mr. & Mrs. Wayne Case, 15 Buckeye Lane, Wayne Instructor/Limestone County Area Vocational Center, Prissy Executive Secretary to Dr. Hofaore/Ross Poultry.

Mr. & Mrs. Frank Cachon, 11 Sulphur Creek Drive M/F 732-4637, Frank Manufacturing Services Manager/Eaton Corp., Pat Retired/Registered Nurse, Lort 20 Lynn 16.

Mr. & Mrs. Jean-Pierre Chavanne, 7 Locust Lane 732-3189, John Lexington Fabrics, Trisha Athens State College, Christopher.

Mr. & Mrs. Richard Cialo, 24 Poplar Drive 732-4074, Rich Professional Engineer/Rockwell International, Alice Marketing Coordinator/Ross Breeders, * * *.

Mrs. Susan Clem, 7 Sulphur Creek Drive M/F 732-4791, Susan Assembly Line/Saginaw, * * * 15 Fred 11.

Mr. & Mrs. Wayne Clem, 5 Sulphur Creek Lane 732-4435, Wayne Dunlop, Gal Classic Arabian Farm, Daniel 13, David 10.

Mr. & Mrs. Van Coats, 10 Oak Drive 732-3132, Van Project Controls Manager/Unit 3 Browns Ferry. Ann Unemployed Educator, Nat 6.

Mr. & Mrs. Ted Colwel, 23 Sulphur Creek Lane None, Ted Wachtel Ford Motors, Ramona Homemaker.

Mr. & Mrs. John Conlon, 8 Sulphur Creek Drive, 732-4059, Mike Coca Cola, Inc., Cindy Avax Inc., Mallory 4 Zachary 9 Expecting -0.

Mr. & Mrs. Brad Coulter, 4 Poplar Drive, 732-4672, Brad Owner Bi-State Auto Parts-Ardmore, Debbie Teacher/West Limestone .

Mr. & Mrs. Charles Crosby, 24 Hickory Drive, 732-4640, Charles Computer Graphics Technican/TVA, Pam Homemaker, Jennifer 16, Jill 13, Jessica 12, Jonathan 9.

Mr. & Mrs. Gary Crurk, 27 Poplar Drive, 732-4845, Dan Configuration Management/Tentastar, Charlotte Records Analyst/Acustar.

Mr. & Mrs. Kenneth Culberson, 22 Sulphur Creek Drive, 732-4145, Kenny Senior Operator Instructor/Browns Ferry, Evelyn Homemaker, Deby 26.

Mr. & Mrs. Kenneth David, 15 Sulphur Creek Drive, 732-3167, Ken Retired/US Army, Veteran's Service Officer/Limestone County, Connie US Army Missile Command-Redstone Arsenal, Carrle 18.

Mr. & Mrs. Richard Dawes, 12 Sulphur Creek Lane, 732-4040, Rick Sterling Plumbing—Madison, Debbie Secretary/Intergraph.

Mr. & Mrs. David Dowd II, 8 Valley Lane Unlimited, David Mechanic/US Postal Service, Vield Street Department, City of Athens, Joseph 2.

Mr. & Mrs. Odla R. Draper, 17 Locust Lane, 732-4625, Chuck Computer Graphics Tech/TVA Browns Ferry, Sandl Homemaker, Rachel 5, Chelsea 2.

Mr. & Mrs. Robert W. Elda, 9 Poplar Drive, 732-4900, Bob Retired Engineer, Loretta Newspaper Reporter/"Your Community Shopper".

Mr. & Mrs. Robert Elgan, 15 Locust Lane, 732-4212, Rob McDonnell Douglas, Lora McDonnell Douglas.

Mr. & Mrs. Clayton Evans, 6 Plumtree Drive, 732-4625, Buzz Auto Worker/Saginaw, Debbie Accountant/State of Alabama, Max 4, Bonnie 2.

Mr. & Mrs. Craig Goodrich, 13 Hickory Drive, 732-3053, Craig Software Development/Bechtel, Annie Homemaker, Alexandra 1.

Mr. & Mrs. David Hagood, 2 Dogwood Drive, 732-4692, David Customer Engineer/Intergraph, Dawn Domestic Engineer, Sean 11, Allaha 9, Christopher 5, Spensor 3.

Mr. & Mrs. Charles Harbin, 8 Sulphur Creek Dr MF, 732-4163, Charles Space Program Designer/Teledyne Brown, Debbie Homemaker, Arln 13, Emily 10 JR 5.

Mr. & Mrs. Jeff Hill, 8 Hickory Drive, 732-4667, Jeff Saginaw, Mona Teacher/Elimont, Savannah 5.

Mr. & Mrs. Terry Hobbs, 9 Cedar Lane, 732-4779, Terry Manager/Jiffy Food Store, June Computer Programmer/Amoco Chemical, Leigh Ellen 8, Ethen 2.

Mr. & Mrs. Charles Hofacre, 7 Walnut Drive, 732-4883, Charles Ross Breeders, Christa Social Worker/State of Alabama Human Resources, Beth 8, Christopher 5.

Ms. Margarete Hogan, 24 Buckeye Lane, 732-4370, Margarete Athens Post Office, Heather 21.

Mr. & Mrs. Curt Hollingsworth, 11 Locust Lane 732-3213, Curt Gradwell Corporation, Whitney GrayBar Electric.

Mr. & Mrs. Jim Johnson, 30 Sulphur Creek Drive 732-4216, Jim Postmaster-Elkmont, Linda Teacher, Librarian/Reid Elementary, Allasa 9 Phillip 6.

Mr. & Mrs. Robert Johnson, 4 Sulphur Creek Lane, Robert Radio Personality/WZYP, Tammy Homemaker, Kull 2 Tara 1.

Mr. & Mrs. Steven Johnson, 4 Valley Lane 732-3195, Steve Manager/Darryl's Restaurant, Suzanne Ruby Tuesday's Restaurant, Zachary 9 Cody 8 Spensor 7.

Mr. & Mrs. David Jones, 22 Buckeye Lane 732-4833, David Sheet Metal Worker—R5A, Pastor—Elkmont BC, Preda Homemaker, Anna Sue 4 Elizabeth 2 Rachel 0.

Mrs. Betty Kirchhuber, 31 Sulphur Creek Drive 732-4575, Betty Artist.

Mr. & Mrs. Michael L. Lambert, 18 Poplar Drive, Mike Retired/US Army, Security/Tentastar, Shirley Contract Specialist/Acquisition Center—RSA, Ryan 16.

Mr. & Mrs. Bill C Latham Jr, 17 Sulphur Creek Drive 732-4709, Bill Steelcase Pam Intergraph.

Mr. & Mrs. Felix L. Liveoak Jr, 28 Sulphur Creek Drive 732-4430, Lee Retired/US Army, Retired/General Dynamics, Amy Homemaker.

Mr. & Mrs. Dennis Lowery, 20 Hickory Drive Unlisted, Dennis DOD-Huntville, Joanne Homemaker.

Mr. Duncan Rand Mackie, 2 Poplar Drive 732-3075, Randy Bechtel.

Mrs. John Marlin, 4 Locust Lane 732-4794, Nells Retired

Mr. & Mrs. Miles Martin, 10 Dogwood Drive Unlisted, Miles Project Manager/Pace & Walte, Brenda President/Lighthouse Network Inc, Alms 19 Lynn 19.

Mr. & Mrs. Perry A McNatt, 25 Buckeye Lane 732-4529, Perry Farmer/Partner in North Limestone Gin, Debbie Ellemont Post Office, Jennifer 7.

Mr. & Mrs. Robert L Melvin, 2 Sulphur Creek Lane 732-4367, Bob Letter Carrier/Athens Post Office, Mort M&M's Domestics/Pat-baby-house sitter, Louise Franz—Mort's Mother.

Mrs. Joyce Mitchell, 33 Sulphur Creek Drive 732-4710, Joyce Retired/Teacher.

Mr. & Mrs. Thomas G. Moran, 32 Sulphur Creek Drive, Thom Engineer/Stone & Webster Engineering, Taresa Homemaker.

Mr. & Mrs. Keith Nichols, 16 Sulphur Creek Lane 732-4654, Keith Unit Operator/Browns Ferry, Sheila Homemaker, Josh 6 Mitch 4 Kelsey 0.

Mr. & Mrs. Clem Noblitt, 22 Poplar Drive 732-4584, Bud Medical Technician-Redstone Arsenal, Anne Homemaker.

Mr. & Mrs. Frank Noblitt, 14 Sulphur Creek Drive 732-4510, Frank TVA, Ava Homemaker/Student, Leslie 11 Kimberly 9.

Mr. James O'Mara, 25 Hickory Drive 732-3143, Jim Bachtel.

Mr. & Mrs. Jerry Patterson, 13 Sulphur Creek Dr. 732-4515, Jerry Maintenance/Monsanto, Carole Teacher/Athens High School.

Mr. & Mrs. Robert B. Paysinger, 7 Sulphur Creek Lane 732-4522, Bobby Malone and Hyde Drug Distributors, Jane Contract Specialist/MICOM Redstone Arsenal, Chris 18 Jaffe 16.

Mr. & Mrs. Jimmy Powers, 20 Buckeye Lane 732-4513, Jimmy Jimmy's Furniture—Athens, Barbara Receptionist/Athens Welcome Center, Benje 25 Beth 26.

Mr. & Mrs. Timothy J. Stone, 28 Sulphur Creek Lane 732-4609, Tim Electrical Engineer/Bechtel, Cheryl Homemaker, Amy 10 Chelsea 8 Katie Jo 3.

Mr. & Mrs. Greg Sutton, 22 Sulphur Creek Lane 732-4755, Greg Universal Data Systems, Pam US Army Missile Command—Redstone Arsenal, Emily Nicole 3.

Mr. & Mrs. Mike Taylor, 5 Locust Lane Unlisted, Mike Saginaw, Cathy Teacher/Ardmore, Elizabeth Catherine.

Mr. & Mrs. Joey Thompson, 19 Locust Lane 732-4558, Joey Teacher/Elkmont, Youth Dir/Ekton Rd. Baptist Ch, Vickie Teacher/Elkmont, Tabitha 19 Joey 11.

Mr. & Mrs. Scott Webb, 6 Sulphur Creek Lane 732-3062, Scott Cost Engineer/Bechtel, Kelly Homemaker, Christopher 3 Ryan James 0.

Mr & Mrs Eric Pugh, 13 Poplar Drive 732-3011, Eric Browns Ferry/TVA, Susan Homemaker, Erin 10 Christopher 9 Lauren 5 Mary Kate 3 Jordan 1.

Mr & Mrs Greg Rich, 13 Locust Lane 732-4742, Greg Steelcase-Athena, Donna Homemaker/Part-time Ross Vet Lab, Anna 7.

Mr & Mrs Edward P Samanek, 7 Sulphur Creek Drive 732-4708, Edward Madison Post Office, Geneva College Student, Catharine 3.

Mr & Mrs Sammy Shackelford, 26 Hickory Drive 732-4308, Sammy Unitog Corporation, Joan Jason 14.

Mr & Mrs Gerald Stafford, 3 Cedar Lane 732-8160, Gerald Oall Plus, Blanche Homemaker.

Mr & Mrs Tim Stanford, 10 Cedar Lane 732-4689, Tim Steel Case, Kathy Part Time/Bells & Bows, Teal 7.

Mr & Mrs Dean E Steele Sr, 13 Dogwood Drive 732-4526, Dean Retired Engineer/Bechtel, Mary Homemaker.

Mr & Mrs Jon Welch, 33 Poplar Drive 732-3188, Jon Bechtel, Diane Homemaker, Zachary 4 Brocklyn 1.

Mr & Mrs Randy Whitt, 1 Hickory Drive 732-4528, Randy Bricklayer, Madolyn Teacher/Piney Chapel & Ardmore, Jamie 28 Jeremy 16 Mary Lynn 12.

Mr & Mrs Robert S Wilson, 6 Sulphur Creek Drive 732-4561, Bob Rose Breeders, Virginia Legal Secretary/Patton, Latham, Legge & Cole, Bert 28 Stuart 16.

Mr & Mrs Dale Wisener, 1 Sulphur Creek Drive 732-4062, Dale Athena Post Office, Gail Office Assistant/Dr J W Smith-Athena.

Mr & Mrs Wayne L Wood, 5 Walnut Drive 732-4696, Wayne President/Kare Packaging Inc, Karen Owner/Kare Packaging Inc.

Mr & Mrs Bill Worthy, 1 Valley Lane 732-4489, Bill Saginaw, Baptist Minister, Jewel Homemaker.

Mr & Mrs Larry Wright, 11 Cedar Lane Unlisted, Larry Sales/Limestone Farmers Co-Op, Sandra Juvenile Probation Officer/Limestone County, Rebecca Kay 5.

Mr & Mrs Herbert Zoller, 6 Hickory Drive 732-3199, Herb NASA, Mary Anne Homemaker/Music Teacher, Andrew 2.

RESIDENCES NOT LISTED ABOVE

8 Dogwood Drive vacant.

1 Locust Lane.

Mr. HEFLIN. The citizens of Elkmont Rural Village are concerned that the future of their community is in jeopardy. They are very concerned that the promises made to them by the U.S. Congress and the Tennessee Valley Authority are being broken.

The Elkmont Rural villagers purchased or built their homes with the understanding, backed by contract, that the village would be fully developed. They more than matched the commitment of funds by the U.S. Congress with their life savings and mortgages totaling an investment of over $8 million. The amount of money in the trust fund is $4 million. Some want to take $3 million out of this fund, leaving only $1 million in the trust fund, an amount inadequate for the continued survival and future self-sufficiency of the village.

Never did the homeowners, after buying their homes, expect TVA and the Federal Government to back out of the project by failing to fulfill their end of the deal—the completion of the project. To add insult to injury, in addition to walking away from the project, they want to take most of the trust fund away as well, which would preclude the possibility of the homeowners finishing the project themselves.

The actions taken by TVA, and supported by some in Congress, have already had a chilling effect on the value of the homeowners investments, and on the future sales of developed property in the village. TVA and the Federal Government in this regard resemble a fly-by-night developer leaving town before the creditors and homeowners can catch up with him.

To quote from one of the many letters I have received from Elkmont, this one from Dennis D. Lowery:

We have invested our futures on the promise of a developed village. Now, TVA auditor has told TVA to return the money to Congress and we, the villagers, are told "sorry, but from now on its your problem." We cannot maintain the systems built specifically for the village without a sufficient base for revenue development. If I had been told maintenance funds would not be there, I would not have bought my home in Limestone County.

This was a letter from A.J. Bing:

As a former employee of TVA and a retired Navy World War II veteran, the very thought of such action puts a damper on my enthusiasm for my time of service to my country. It makes one feel like he is being deserted.

And this from Loretta M. Ekis:

Those of us who invested our life savings in this rural village concept are not prepared to pay for the mistakes of TVA, AERDA, or Congress. If the funds are not used to develop the remaining acreage of the village, then we will be left with a huge debt that we cannot possibly pay.

While it may be unrealistic to expect TVA to build the other eight villages originally conceived in the Elk River development plan, legally and morally TVA and the Federal Government have an obligation to complete the first village in the project, the Elkmont Rural Village. Neither the AERDA Board nor village residents should be left with the burden of the operation and maintenance of the village with no money for developing and marketing the remaining acreage.

In my judgment, a reasonable solution to this problem would be for TVA to drop plans to build the other eight rural villages, but to complete the one that it has already started, Elkmont Rural Village. This should be done in such a way so as to protect the integrity of the homeowners investments while developing the village to fulfill its ultimate goal of being a self-sufficient and self-governing community.

The pledge that Congress made to the homeowners of the Elkmont Rural Village should not be broken. The Elkmont homeowners had faith in TVA and the Federal Government that the money contained in the trust fund would be spent for the development of the Elkmont Rural Village. These are the terms under which the trust fund was set up, and it would be a violation of that trust to use the funds for other purposes. The appropriated funds should therefore remain in the lower Elk region of the Elk River watershed. The present contract between the Alabama Elk River Development Agency and Tennessee Valley Authority extends to April 21, 1996, and it should be honored.

It is for these reasons that I offer an amendment to the Energy and Water Appropriations bill to mitigate the proposed usage of the trust funds for purposes other than what Congress originally intended. The purpose of the bill is to preserve the integrity of the Alabama Elk River Development Agency trust fund and thus preserve the integrity of the TVA and Congress in its contractual commitment to the Elkmont Rural Village. It simply states that not less than $2 million be left in the trust fund for the future development of the village.

AMENDMENT NO. 2807

On page 12, line 4 insert the following before the period: ": *Provided further*, That of the appropriated funds herein, the Secretary of the Army acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the McCook and Thornton Reservoirs project in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994".

AMENDMENT NO. 2808

On page 60, line 6, strike "$1,700,000" and insert in lieu thereof "$3,700,000".

AMENDMENT NO. 2809

On page 28, line 7, insert the following after "662": ": *Provided further*, That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island, as authorized by section 1166(c) of Public Law 99-662".

AMENDMENT NO. 2810

At the appropriate place insert the following:

Findings:

The United States Congress enacted the Low-Level Radioactive Waste Policy Act of 1980 (Public Law 99-924; 42 U.S.C. 2021b et seq.) upon the urging of the National Governors Association and prompted by a concern that failure to open new low-level radioactive waste disposal sites in the United States would result in a severe shortage of disposal capacity for such waste in the United States;

Congress enacted the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) to modify such 1980 Act by establishing incentives and procedures to permit disposal of low-level radioactive waste at existing commercial disposal facilities through the end of 1992;

A 1989 study conducted by the Office of Technology Assessment indicates that the volume of low-level radioactive waste generated in the United States declined approximately by half between 1980 and 1989;

The study predicts that such volume may decline approximately by half again between 1989 and 1993;

The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of such waste;

The disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed;

Given the likelihood that the number of low-level radioactive waste disposal sites in the United States will increase soon from 3 to more than 10, it is likely that the cost per unit volume of disposing of such waste at such sites will rise dramatically; and

On June 19, 1992, the Supreme Court of the United States held that the provisions of the Low-Level Radioactive Waste Policy Act Amendments of 1985 known as the "take-title" provisions were unconstitutional: Therefore, it is the sense of the Senate that the Congress should reexamine the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) and work with the Secretary of Energy and the National Governors Association to develop a solution to problems relating to capacity in the United States for disposal of low-level radioactive waste (including a decline in the volume of the generation of such waste and a projected surplus of such capacity) that have arisen since 1980.

AMENDMENT NO. 2811

On page 83, between lines 11 and 12, insert the following:

SEC. 509. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian Government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of Human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent runoff elections that may be held, are conducted in a free and fair manner.

DEMOCRACY IN ROMANIA

Mr. BYRD. Mr. President, I am offering an amendment expressing the sense of the Senate, on behalf of myself and the distinguished majority leader, Mr. MITCHELL, Mr. BOREN, the Chairman and other Members of the Helsinki Commission, Mr. DECONCINI, Mr. D'AMATO, and Mr. FOWLER, as well as other Senators concerned about developments in Romania, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. REID, Mr. KERREY, and Mr. MOYNIHAN, pertaining to the upcoming Presidential and Parliamentary elections in Romania. While I would have preferred to offer this in the form of a free-standing resolution as it was originally drafted, rather than as an amendment to this measure, we have been unable to get unanimous consent to bring the measure up on the floor. Because of the time-sensitive nature of this issue, for the resolution to have the desired effect on developments in Romania, it should be considered expeditiously. Consequently, I feel I must bring it to the attention of my colleagues at this time.

The manifestation of democracy in Romania is an important part of the historic and dramatic shift away from communism and dictatorship in the countries of the defunct Soviet Empire and Warsaw Pact in Eastern Europe. These nations are shaking off decades of crud and crust piled upon them by Soviet occupation and corrupt Communist dictatorships. After decades of life under the Soviet imposed dictatorial boot, in some of the nations of Eastern Europe progress has been swift, such as in Czechoslovakia and Poland, yet in others, important work remains left to be accomplished to put into place stable democratic institutions and practices. Romania falls into this second category and is facing an extremely important test of its progress this fall when Presidential and Parliamentary elections are scheduled to be held. It would be fair to say that Romania faces a watershed in its progress toward real working democracy.

There have been some encouraging recent signs that these elections will be held freely and fairly, and with reasonable access to the audiovisual media for the competing candidates. Local elections were held in February 1992 and have generally been given good marks for procedural fairness and peacefulness, free of intimidation or harassment from holdovers of the previous Communist regime of the irrational dictator, Mr. Ceausescu and his family.

Nevertheless, there have been indications pointing in the wrong direction as well. Romania has seen its share of violence during the last 5 years. Unlike the so-called velvet revolution in Czechoslovakia, the Ceausescu regime was overcome in the midst of violent street battles in December 1989, and he and his wife were preemptorily killed execution-style without a trial. Since the elections of 1990, peaceful street demonstrations have been marred by the regime's use of miners to brutally suppress such demonstrations. In addition, and of real concern for the elections this fall, the current Parliament, dominated by the regime in power, enacted legislation which restricts the role of domestic observers at the polling places, putting the question of the conduct of the elections under some cloud. While an atmosphere of fear and intimidation no longer pervades Romania, concern has been expressed over restrictions that have been imposed on domestic observers, as well as the overwhelming control that the current regime has over access to TV broadcasting.

Romania's economy has been struggling to overcome the command practices of the former Communist States, and is committed to free market principles. Nevertheless, the transition has proven difficult and the GNP declines over 10 percent last year and may decline even more this year. One item that Romania badly needs to help stabilize its economy and as a signal to international investors, is the passage by this body of most-favored-nation trade status with the United States. Such an agreement has been signed by the administration and submitted to the Senate for its approval. However, Mr. President, I believe that the Senate must make clear its concern over the future of democratic institutions in Romania by withholding approval of MFN until the elections have been held and it has been determined that the outcome was the result of free and fair procedures, with reasonable access to the media for the competing candidates. By doing so, we are giving the Romanian leadership an important incentive to make sure that this is in fact what does occur.

In addition, it is important that an effective delegation of international election observers be present to ascertain that these procedures and principles have been followed. Accordingly, the amendment calls for the Secretary of State to take a leadership role in putting together a credible and effective international observer delegation for both the elections of September 27, and any runoff elections that might be necessary subsequent to that.

Thus, the purpose of the amendment we are offering is to send a clear message to the leadership and competing parties in Romania that the conduct of the upcoming elections is a critical litmus test for future relations with the United States; that free, fair, and open campaigning and proper conduct of the polling apparatus will be of the utmost importance; and that a stable, growing and favorable economic relationship with the United States will be very much dependent upon what happens in that process.

I urge all my colleagues to support this amendment and the progress of democracy taking firm root in Romania.

Mr. DECONCINI. Mr. President, I am pleased to be an original cosponsor of this amendment regarding the upcoming Parliamentary and Presidential elections in Romania, and I commend my colleague Senator BYRD for introducing this timely resolution. It sends a clear and simple message to the Romanian authorities: The preparation and administration of the September 27 elections will be a critical component of our consideration of most-favored-nation trade status for Romania.

Mr. President, Romania stands at a critical point in its journey toward democracy. Despite the brave hopes of those who toppled the Ceausescu regime in the bloody street battles of December 1989, this journey has been difficult from the start—besieged by po-

litical instability, occasional violence, and a debilitating legacy of mistrust. Progress in the area of human rights has been hampered by unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

Over the past year, nonetheless, Romania has taken a number of important steps. Prime Minister Theodor Stolojan and his caretaker government have overseen the adoption of a new Constitution, the continuation of economic reforms, and the holding of local elections in February 1992 that made considerable progress toward meeting CSCE standards and guidelines.

The local elections were noteworthy not only for their procedural improvements relative to the general elections of May 1990, but also because they demonstrated a major shift to the political inclinations of the Romanian voters. The Democratic Convention, an opposition alliance, won the mayorships of many important urban centers, including the capital, Bucharest. The ruling National Salvation Front, in contrast, saw its support decline precipitously—from 66 percent to 33 percent of the vote.

Unfortunately, developments since then have been less than encouraging. The general elections, originally slated for May, were ultimately postponed to September. Furthermore, the Parliament passed electoral legislation purporting to restrict the role of domestic observers, contravening the spirit of Romania's CSCE commitments.

I firmly believe, Mr. President, that the upcoming elections represent an important test of the Romanian authorities' commitment to democratic procedures and institutions. Our resolution asks the United States Secretary of State to initiate an international effort to ensure a sufficient number of United States and international observers to monitor the elections and runoffs; the Helsinki Commission, of which I am cochairman, will also be sending a staff observer, and I understand that the National Democratic Institute and the International Republican Institute have plans to organize a joint observer mission, as they did for the elections of May 1990 and February 1992.

Delaying congressional consideration of most-favored-nation status adds extra incentive for all forces in Romania to ensure that the September 27 elections are truly free and fair, and to anchor the foundations of democracy and rule of law. I urge my colleagues to join me in support of this important amendment.

EXPRESSING THE SENSE OF THE SENATE REGARDING MOST-FAVORED-NATION STATUS FOR ROMANIA

Mr. DODD. Mr. President, I rise to join the distinguished chairman of the Appropriations Committee on the introduction of this amendment, and I want to commend him for his effort on this very important subject.

Mr. President, there can be no doubt that the Romanian Government has taken remarkable strides toward democracy and freedom since the fall of Nicolae Ceausescu in 1989. And there can be no doubt that the favorable trade treatment accorded under MFN status would certainly help the Romanians strengthen their progression to free markets and true democratic pluralism.

But for all that has changed in Romania over the past few years, there is much that still remains the same. Parliamentary and Presidential elections, once scheduled for the spring, have now been postponed until September 27. Access to the media remains severely limited. And the recent resurgence of anti-Semitism, along with the continued discrimination against ethnic Hungarians and Gypsies, serve as stark reminders that half a century of Communist rule is not easily overcome.

And so the question on MFN status, Mr. President, is not so much a question of whether but rather when. We all agree that extension of most-favor-nation status would be beneficial to the Romanian economy. But it is for exactly this reason that MFN is a useful instrument in bringing about positive change. Grant MFN too quickly, and we will have lost a unique opportunity to help foster true democracy in Romania.

Accordingly, Mr. President, this resolution is a simple one. It states the will of the Senate that MFN should not be granted until free and fair elections have been held in Romania. Certainly this basic test of democracy is a reasonable price to pay for normalized trade relations with the United States.

Mr. President, while I strongly support this resolution and commend the Senator from West Virginia for sponsoring it, I want to make clear my belief that the Romanian commitment to democracy must extend beyond the issue of elections. In fact, last Friday, 13 Senate colleagues and I sent a letter regarding this issue to Secretary of State James Baker.

in the letter, which I will submit for the RECORD, we spelled out the areas in which we will look for substantial improvements as we consider approval of MFN for Romania. Those areas include the holding of free and fair elections, the establishment of civilian control over the Romanian intelligence service, the operation of an independent media, and the protection of human rights and civil liberties, including the rights of minorities.

It is my sincere hope that the Romanian leadership will undertake legitimate reform in all of these areas between now and September. And it is my hope that the Senate Department will do everything in its power during that time to encourage Romania to bring about these changes.

Mr. President, I know MFN was not designed as a political tool. And I know many Members of this body are hesitant to use it as one. But today in Romania, it is not just democracy and human rights that are on the line, but the permanent emergence of a nation from half a century of Soviet rule. If a delay in MFN can possibly help democratic change take root in Romania, that seems to me a chance well worth taking.

I ask unanimous consent that the letter to Secretary Baker, signed by 14 Members of the Senate, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 24, 1992.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY BAKER: As the U.S. and Romania continue to chart a course for closer political and economic relations, we are writing to let you know of our concerns about the issue of Most Favored Nation (MFN) status for that country.

We believe the eventual restoration of MFN status to be an important step for Romania as it faces up to its serious economic challenges. Indeed, we look forward to the day when Romania casts off the last vestiges of its autocratic legacy and becomes a full-fledged member of the family of democratic nations. Sadly, that day has not yet arrived.

As we understand it, the Administration has set down three markers for the restoration of Romania's MFN status: free and fair elections, an independent media, and civilian control of the Romanian Intelligence Service [SRI]. We support these goals and would add a fourth: the protection of human rights and civil liberties, including the rights of minorities. Before supporting the restoration of MFN, we will look for significant progress in these areas.

In the area of elections, once-promising progress has recently been set back. We are deeply troubled by the recent decision to postpone elections until the fall, a further setback for this fundamental test of democracy. Furthermore, the election law now under consideration would eliminate or severely restrict domestic observers, contravening the spirit of the CSCE Copenhagen Document. And other serious problems remain, notably the existence of a county prefect system which gives broad power to centrally-appointed officials.

We will also look for improvement in the tolerance and protection of an independent media. Independent and opposition reporters continue to be subject to harassment and arbitrary denial of press privileges. The long-awaited establishment of an independent nationwide television station has not yet been achieved. And minority language television broadcasts—effectively halved under a February 3, 1992 order—have not been reinstated.

As for civilian control of the SRI, limited progress has been made to place this agency under suitable civilian control and to abandon ties with the former Securitate. Indeed, we view the recent appointment to the SRI leadership of Ion Talpes—a former advisor to

President Ion Iliescu with well-established ties to the Securitate—as a serious setback. Furthermore, the Romanian Government has yet to adequately distance itself from extremist, SRI-supported entities such as anti-Hungarian Vatra Romaneasca and anti-Semitic publications such as Romania Mare and Europa.

Finally, the protection of basic human and civil rights—especially where applicable to minorities—has been uneven at best. Three months ago, for example, the Mayor of the City of Cluj unilaterally cancelled a conference involving an ethnic Hungarian political party and issued an autocratic ban on bilingual signs. He has also led efforts to evict the Hungarian youth organization Madisz and the Hungarian journal Korunk from their offices.

At the national level, Romanian officials continue to limit television broadcasts in Hungarian, refuse to re-open the Hungarian Bolyai University in Cluj, and have introduced a draft Education Law which would eliminate Hungarian-language instruction in all medical, technical and business schools. And ethnic Hungarians and Gypsies who have been victims of anti-minority violence lack suitable legal protection and remedies, while many have been imprisoned on false charges.

Modern Romania has reached a turning point. Today its political leaders must decide, once and for all, whether they are truly ready to embrace democracy and its ideals. With a firm and principled hand, the United States can play a positive role in this historic moment—or we can sit on the sidelines. The prcess of restoring MFN status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. Let us not waste it.

We appreciate your prompt consideration of this matter, and we look forward to hearing from you at your earliest convenience.

Sincerely,

Christopher J. Dodd, Paul Simon, Brock Adams, Alan J. Dixon, Edward M. Kennedy, Claiborne Pell, Alfonse M. D'Amato, Dennis DeConcini, Frank R. Lautenberg, Daniel K. Akaka, Jesse Helms, John Glenn, George J. Mitchell.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready for any further amendments, and I would tell Senators that we expect to have just a couple of amendments, which should not take a long period of time; and I would urge Senators, therefore, if they want to have their amendment considered before we close this matter out very shortly that they should come to the floor.

I know the Senator from Nebraska wants to make a statement.

So I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I thank the distinguished Senator from Louisiana, as well as the distinguished senior Senator from Oregon, for accepting the amendment related to low-level nuclear waste.

I did not hear the full name of cosponsors of that amendment. I ask unanimous consent that the full list of cosponsors be Mr. DASCHLE, Mr. EXON, Mr. LIEBERMAN, Mr. DODD, Mr. LEVIN, Mr. RIEGLE, and Mr. MOYNIHAN.

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

Mr. KERREY. Mr. President, this sense-of-the-Senate amendment is needed in order to urge not only Congress but also the National Governors Association, and in the executive branch the Department of Energy to reexamine the Nation's law regarding low-level radioactive waste.

It is particularly important that we begin this now, because next year we will be debating the reauthorization of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act. It is very likely that we will make further progress toward resolving many conflicts that exist in both of those two pieces of legislation. Low-level waste is a very important issue that should not be neglected as we focus on RCRA and the Clean Water Act.

Mr. President, I believe it would be useful to provide some background about low-level radioactive waste so that my colleagues might have some point of reference here, because I understand that any time you are dealing with something controversial like this, if your State has not been sited there is a tendency to say: Why bother? Leave the status quo as it is. Let us not reopen this.

I urge my colleagues to consider that this needs to be reopened as a consequence of rather dramatic change that has occurred in the entire process.

Mr. President, in October 1980 the National Governors Association Task Force on Low-Level Radioactive Waste Disposal issued a report with 17 recommendations on how the Nation could cope with apparent lack of disposal capacity for low-level radioactive waste. This report was itself the end of a several-year process where the Governors of the States worked with the Federal Government to decide how to proceed. The Department of Energy was fully involved and fully apprised of the situation. The Governors concluded and made recommendations as to what ought to be done.

Mr. President, I ask unanimous consent that three pages from this report—that does a much better job than I could do laying out the issue—be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. KERREY. Mr. President, the most critical part of the report was the assumption about the amount of low-level radioactive waste this Nation would be generating. I would say to my colleagues low-level radioactive waste includes clothing, gloves, other sorts of articles that are worn or used by individuals who work in nuclear powerplants or by individuals who work with nuclear medicine in hospitals.

There is some dispute about whether there is a so-called class A waste that ought to be reclassified as high-level waste. I happen to think it should be.

But that is an argument for this morning that is not as crucial as the fact that in 1980, according to Department of Energy figures 3.4 million cubic feet of low-level radioactive waste was being generated by all of America's nuclear powerplants and nuclear medicine facilities in America's hospitals. Some 3.4 million cubic feet was the baseline figure upon which it was determined how many compacts, how many sites this Nation would need. In fact, it was assumed that the volume of waste would continue to grow.

I want to make it clear that at the time there were three States that were very much concerned—Washington, South Carolina, and Nevada—because they had low-level radioactive sites and they were increasingly concerned about safety and reaching their capacity. There were serious environmental concerns at each of these sites. There was a great deal of concern amongst these States. This amendment by no means is a statement that we are going to put the burden back upon these three States.

I believe we have an obligation to face this as a national issue. We should not move in a direction that simply says if we hold our breath long enough, perhaps somehow Nevada and Washington and South Carolina will pick up the ball and run with it again. This amendment says that we should deal with this problem in a responsible fashion. And in so doing, Mr. President, it is my strong belief that the 1985 amendments, which clearly specify that we were going to move beyond these three sites, should be a part of our assumptions.

Nonetheless, Mr. President, instead of currently generating 3.4 million cubic feet, the amount of waste that is generated by nuclear facilities has been steadily declining over the years. In 1981, it dropped from 3.4 to 2.9, steadily going down. In 1988, the amount of waste that was being generated was 1.5 million cubic feet.

Furthermore, Mr. President, there was a 1989 study by the Office of Technology Assessment that stated that this volume will decline by another 50 percent by 1993. This decline occurs mostly as a consequence of power companies understanding that the less waste they generate, the less cost they have and the more advantages that will accrue to the ratepayers as a result.

So what sort of a problem does it create for us, Mr. President?

Well, the problem is that we are planning to build far more sites than are necessary. Furthermore, Mr. President,

I have decided to offer this amendment because of my deep concern as to the impact of the June 19 U.S. Supreme Court decision in a New York case. The State of New York filed a lawsuit objecting on constitutional grounds to certain conditions in the 1985 Low-Level Radioactive Waste Act.

The court ruled that provisions of the law that require States to take ownership of and liability for low-level radioactive waste were both coercive and unconstitutional.

In light of this decision and the clear evidence that we are currently planning on building too many low-level waste disposal sites, I believe it is critical for the Congress to reopen the 1985 law—and again reopen it with an attitude of responsibility and an attitude that says we are by no means going back to the South Carolina, Washington, and Nevada sites; we know we are going to move on and build some additional sites—that we need to reopen this law nonetheless, working with the National Governors Association that the law assumes has responsibility, and with the Department of Energy to create a solution that better addresses the Nation's low-level waste problems in a fair and in a reasonable fashion.

Mr. President, I want to make it clear that Nebraska is one of the States that has diligently followed the 1985 act, and it is slated to be among one of the first new sites on line. As such, particularly given the Supreme Court's decision, I am concerned that my State may be asked to accept waste not just from our compact but from across the country because the other States will not heed the 1985 act following the Supreme Court's June 19, 1992, decision.

Let me make it clear that as Governor for the State of Nebraska in 1983, I signed the legislation that made Nebraska a member of the central interstate low-level waste compact. At the time, I strongly supported, in particular, the idea, the theory, of forming State compacts as a way to handle this particular problem as opposed to a Federal solution run by the Department of Energy. I strongly supported this approach because I also believed the States should bear some responsibility for disposing of waste that is generated within their borders and is generating as well within their regional compacts.

Unfortunately, Mr. President, these theories oftentimes do not hold up very well in practice.

I have already referred to the most important piece that has changed, and that is the amount of waste that is being generated substantially having changed the terms upon which the 1980 proposal was itself based. We find ourselves, in spite of the fact that we have decreased the amount of waste, with a great deal of difficulty getting anybody to say, "Let us reopen this thing."

I urge my colleagues to understand that allowing this thing to go forward is not itself a responsible way to deal with it. We can move this thing forward, but we should move it forward with changes. Because on paper and in practice, we will currently develop far more sites than this Nation needs. We have nine compacts today. We have nine unaffiliated States that under the current arrangement are required to develop a solution for their own State.

We would end up, Mr. President, if we continue on the current course, with 18 sites being built. It is estimated by the Office of Technology Assessment that we do not need six or more sites. Obviously, this law needs to be changed.

Mr. President, everybody who has looked at this issue knows that in light of the declining level of waste being generated, that we do not need the number of sites we contemplated. But, unfortunately most States are sitting quietly waiting for the others to first cross the line and license a new facility before proclaiming the compact system unworkable. The Supreme Court's decision reinforces that attitude, that perhaps if we wait, things will work out on their own.

Mr. President, things very rarely work out on their own, and in this particular case, they will not do so either. Unless we, as a Congress, work with the administration and with the Governors in the very same fashion, Mr. President, that in the late 1970's the Governors of this Nation worked with the Congress and worked with the administration on this problem in the first place, unless we revisit it with the same responsible attitude, we will find ourselves with another one of those problems that could have been avoided, another one of those situations where we say, "Gosh, if only we had only done this 5 or 6 years ago, this particular situation would not exist."

Mr. President, in conclusion, I would offer the following comments:

One, I have said a number of times and used a number of times the word "responsible." I believe that we have to be responsible in this case. We cannot simply say, "Gosh, I do not want it in my backyard."

We are Americans who take advantage of nuclear power. We are Americans who, when we find ourselves needing nuclear medicine for ourselves or our family, we do not sit and say, "Gee, I do not want nuclear medicine because there is low-level waste that is being generated."

We enjoy the benefits of these situations and we have a responsibility to figure out what we are going to be doing with our own waste. We are close to having a solution. If we will merely open this act, take into account the amount of waste that is being generated, alter that act accordingly, work with the Governors, work with the Department of Energy to come up with the number of sites that are being needed, deal in a straightforward open—and I emphasize the word "open," Mr. President—an open fashion so that the people themselves feel as if they are being dealt with in a fair fashion, I believe, Mr. President, we will come up with a fair solution.

I would comment as well in closing, Mr. President. We assumed that the compacts themselves would be a good solution. One of the problems we have run into is on this point of the need to be open with the people and give them the sense that they have an opportunity to participate in the process. Regrettably, our experience with the central Interstate low-level waste compact is that the compact itself is disconnected from the people. People in Nebraska, people in Kansas, people in Louisiana, people in the rest of the compact do not elect members to the compact. They elect Governors. They elect members to the legislature, to the U.S. Senate, Members of the U.S. House of Representatives. They do not elect members to the compact and they feel disconnected as a consequence.

We have had a great deal of difficulty at times getting direct and honest answers from the Department of Energy. It has changed recently with Admiral Watkins, and we have been provided with more direct access to the information.

Mr. President, if we expect to get a solution in the end that the people themselves trust will work, we must give the people access to information and access to the opportunity to say "I want it done this way, I want it done that way," and access to the moment when the elected political officials say "I vote aye, I vote no; based upon the information being provided to me, this is what I thing ought to be done."

Mr. President, the RCRA legislation and the clean water legislation will come up next year. My hope, strongly felt, is that Congress, taking this sense-of-the-Senate amendment, will through the appropriate committees, hear the information, will work with the Governors' association, will work with the Department of Energy, will listen to what the people themselves want to do, will fashion a solution. It will not be universally popular. It will require us to deal with our waste in a responsible fashion.

There will always be some who say they prefer the waste to be just sort of out of sight, out of mind; let somebody else figure out what to do with it. It will not be universally popular, Mr. President, but I believe in order to stand at some point in the future and say we did our best to be responsible, that this particular act needs to be reopened, reexamined, and a new approach taken.

Again I thank the distinguished Senator from Louisiana for his assistance on this amendment. I thank as well my cosponsors to this amendment for their consideration to what the resolution

itself ought to look like and the action that needs to be taken if we are going to solve this difficult but important problem.

I yield the floor.

EXHIBIT 1

THE ISSUE

In July of 1979, the Governors of Nevada, South Carolina, and Washington, the states housing the nation's only operating commercial low-level waste disposal sites, became concerned about the threat to public health and welfare posed by improper packaging and unsafe vehicles. They demanded that the Nuclear Regulatory Commission and the Department of Transportation enforce waste packaging and transportation regulations. Despite assurances from these agencies, the State of Washington found further violations of the regulations. Governor Ray closed the Hanford facility on October 4. On October 23, Governor List closed the Beatty, Nevada site after a U.S. Geological Survey team uncovered waste buried outside the existing fence—demonstrating inadequate recordkeeping for past operations at the site.

The sites were eventually reopened, following promises of certain corrective actions, but the three Governors of the repository states clearly and forcefully stated their unwillingness to continue to shoulder the entire national burden for low-level waste. They emphasized the necessity for other states to share in that responsibility. In addition, the citizens of repository states have for years borne the health and monetary costs of effective packaging and faulty vehicles. Moreover, some low-level waste is shipped from New England to Hanford, Washington causing excessive transportation costs and threatening unnecessary exposure to residents along the shipping route. The Governors' pronouncement, coupled with the diminishing physical capacity of those sites, compels immediate action.

Low-level wastes are defined as all radioactive wastes except spent fuel, high-level wastes which result from reprocessing of spent fuel, uranium mill tailings to wastes which contain more than ten nanocuries of transuranic contaminants per gram of material. They are generated by a wide variety of government, commercial, and medical sources. Federal generators of low-level include defense and research facilities.

The preponderence of commercial low-level waste is contaminated paper, plastics, rubble, filters, construction material, tools, and protective clothing from nuclear power plants. The growing use of radioactive materials in such products as luminous watch dials, measurement devices and smoke alarms has added to the volume of industrial waste. Finally, during the past two decades the medical profession and the academic community have increased their use of radioactive materials in research and diagnosis. Nearly 100 million diagnostic applications of radioactive isotopes are performed annually.

Excluding federal government sources, between 75,000 and 100,000 cubic meters of commercial low-level waste are generated each year. Nearly half comes from power plants, with almost a quarter from industry and the final quarter from medical and research institutions. A failure to expand low-level nuclear waste capacity can have serious adverse effects on our national energy program and our national health care system.

Low-level radioactive waste management may rapidly become crisis management if states continue to delay development of new disposal sites and techniques. National inaction regarding the creation of additional disposal capacity and techniques threatens to halt or seriously curtail medical research and diagnostic activities critical to the public health and welfare. Every community in this nation will be affected if it becomes more difficult to reap the benefits of nuclear medicine. The timetable associated with providing additional sites is a critical factor.

Until recently, Barnwell accepted low-level waste without restriction, annually receiving in excess of 75% of the nation's commercial wastes. However, since mid-1978, South Carolina has limited waste receipts at the Barnwell site to 2.4 million cubic feet per year. On October 31, 1979, Governor Riley announced a phased schedule to further reduce that limit to 1.2 million cubic feet within two years. Because it is geologically unacceptable, South Carolina also prohibits the burial of organic chemical wastes which comprise a large fraction of the wastes generated by hospitals, medical schools and universities. South Carolina has also refused to accept any waste from certain generators with poor packaging or shipping records.

Based on projected increases in the volume of low-level waste produced in this country and the restrictions on acceptance by current repository states, DOE estimates that a total of at least six low-level waste disposal sites could be required by the year 1990 in accordance with the following schedule:

1980: Barnwell, Beatty and Hanford can handle the nation's low-level waste.

1982[1]: Hanford could be closed as a national disposal site and a new site in addition to Barnwell and Beatty is required.

1984: Beatty is filled to capacity and a second new site is required.

1986: Only Barnwell remains open, three new sites are required.

1988: Barnwell is still open, but the national generation rate requires four additional sites.

1990[2]: Barnwell and five additional sites are required.

There are several other compelling facts:

Projections from past trends indicate that the nation will generate 321,000 cubic meters of low-level waste by 1990 as compared to approximately 99,000 cubic meters in 1980.

DOE estimates that, with a total of six low-level waste disposal sites which may be required by the year 1990, by dividing the nation into five regions, no region would require more than 1⅓ sites comparable to Barnwell's capacity.

The U.S. Department of Energy estimates that without additional sites we could experience severe disposal problems by mid-1983.

The Nuclear Regulatory Commission estimates that, even beginning immediately, complete development of a new site would take from two to four years.

[1] Policy issues, not physical limitations, are the more immediate factors controlling the future of the Hanford site. Governor Ray has threatened a 1982 closure of the Hanford site as a national repository (except for medical wastes) unless some meaningful progress occurs toward region formation. The mood of the state on this issue is further evidenced by a recent unsuccessful effort by the Washington State Legislature to codify Governor Ray's position, and a subsequent state initiative drive to accomplish the same. However, the actual physical capacity of the present Hanford site is not projected to be exhausted until approximately 1990, with the potential for future site expansion.

[2] In the absence of any restrictions or other complicating factors relating to these three sites, it is possible, but not probable, that all three sites could remain open until 1990. However, it is already questionable as to whether the Beatty site can expand on surrounding federal lands, and Barnwell has already adopted a phased volume-reduction schedule.

In summary, the severity of the problem requires that additional waste disposal capacity be developed as soon as possible. To accomplish that, the Task Force urges the National Governors' Association to adopt the recommendations outlined below.

Mr. LIEBERMAN. Mr. President, I rise in strong support of Senator KERREY's amendment. I am delighted to be an original cosponsor and I appreciate Senator JOHNSTON's cooperation in accepting this amendment.

Since the enactment of the Low-Level Radioactive Waste Policy Act in 1980, there have been some dramatic developments. The Congressional Office of Technology in a 1989 study indicated that the volume of low level radioactive waste generated in the United States declined approximately by half between 1980 and 1989. Moreover, the study predicts that the volume may decline again approximately by half between 1989 and 1993.

But at the time of enactment of the 1980 law, the report of the National Governors Association, which formed the basis for the law enacted by Congress, projected that the nation will generate 321,000 cubic meters of low-level waste by 1990 as compared to approximately 99,000 cubic meters in 1980.

In 1980, even based on the view that the level of waste would rise dramatically, the Department of Energy estimated that six disposal sites could be needed. Now, however, the General Accounting Office reports that more than ten disposal sites may be built. The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of the waste; accordingly, the disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed.

Another development is the recent decision by the Supreme Court, ruling on a challenge brought by New York in which other States, including Connecticut joined in. The Court struck down one of the law's provisions requiring States to take title of the waste and become liable for damages suffered by the generator of the waste if the State fails to provide for disposal by 1996.

Mr. President, these new factors—which may significantly undermine the basis for the original law—mandate a reconsideration of the law by the Congress. But the basis for a new or amended law should, if possible, be forged from the States themselves who reached a consensus in 1980 on these issues and brought that consensus to the Congress. The National Governors Association played a pivotal role in that consensus. This amendment properly reflects the sense of the Senate that the Congress should work with NGA and the Department of Energy to develop a national solution to the problem.

Mr. EXON. Mr. President, I rise in support of the resolution by my colleague from Nebraska.

The issue of low-level radioactive waste has been extraordinarily divisive in Nebraska. A recent sociological study of residents in the area proposed as the site for a waste facility in Nebraska concludes that there is a high likelihood of violence if construction begins on a low-level waste facility. While I am not familiar with the details or methodology of that study, it appears to underscore the tremendous difficulties that for some time have been clear to this Senator.

Those difficulties, in my estimation, are compelling reasons to review the act. Equally compelling, however, are the financial implications of low-level waste disposal under current rules.

The facts of the matter are that the volume of waste is declining and the projected per unit cost of disposal has risen dramatically since the act was reauthorized in 1985. That point is made abundantly clear in a 1989 Office of Technology Assessment Report which is referenced in the resolution. For these reasons, this matter simply must not be shunted aside.

I look forward to working with my colleagues, the Nation's Governors, and the Secretary of Energy as we review this very difficult matter.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized.

Mr. PRESSLER. Mr. President, basically I want to congratulate the Senator from Nebraska [Mr. KERREY] for his sense-of-the-Senate resolution regarding a reexamination of the number of sites needed in our Nation for disposal of low-level radioactive waste. I know it has been a very controversial subject.

There has been a controversy in my State regarding a site near the South Dakota border. The site is located in Boyd County, NE, just a few miles from South Dakota. I must say I have had some sharp exchanges with some people, including the Senator from Nebraska, regarding my opposition to that site. But I congratulate him on this amendment. We need to take a closer look at how many of those sites we need in our Nation. The OTA study indicates we need far fewer sites. Hopefully, the one that is now designated for Nebraska, so close to our border, will not need to be built.

South Dakota is a small State. We do not have the kind of population to be noticed much in Presidential elections, and we do not have much clout in the House of Representatives in terms of numbers. So the Senator from South Dakota is protective of the rights of the people of South Dakota.

I think the Senator from Nebraska has done an excellent job of offering the sense-of-the-Senate resolution. I think we should work with the Department of Energy, and with the National Governors Association, to see whether we can resolve this matter in a favorable fashion. I know some of the sites already are receiving waste. Perhaps they will be adequate to meet the needs. Perhaps we will have to build more. We ought to take our responsibility in that regard.

But I congratulate him on his work on this, on his thoughtfulness, and I ask unanimous consent to be added as a cosponsor of his sense-of-the-Senate resolution.

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

Mr. BURNS. Mr. President, after conferring with the chairman of this subcommittee, Mr. JOHNSTON, I have asked him to enter into a colloquy this morning with regard to NEWTTEC.

If I might, I would like to commend the distinguished chairman of the Energy and Water Development Subcommittee, Senator JOHNSTON, for the exemplary job he has done in bringing a good bill before us today despite very trying budgetary pressures. The ranking member of the subcommittee, Senator HATFIELD, also deserves our thanks for his work on this difficult measure.

I was very pleased to note that the bill provides an increase of $50 million from the administration's budget request for technology development activities under the defense environmental restoration and waste management account. As the report on the bill says, "the committee recommendation includes sufficient funding to continue integrated demonstration for new technology related to waste minimization, environmental conscious manufacturing, weapon component disposal and recycling, and waste landfill integration activities."

Those are some long words, but we are starting to put our money where our mouth is when it comes to developing new technologies as to deal with the environmental waste left from closed military bases and facilities around the Nation.

The senior Senator from Louisiana may recall that my colleague, Senator BAUCUS, and I wrote him on June 5 to urge that he provide $9 million through the program for the work of the National Environmental Waste Technology Testing and Evaluation Center in Butte, MT, known as NEWTTEC. The Center has been working with the Department of Energy to develop, demonstrate, and evaluate promising new environmental technologies such as a plasma arc furnace for the processing of hazardous wastes, spray casting of metals to minimize hazardous waste production, and various soil treatment techniques. NEWTTEC is not specifically mentioned in the committee's report. Consequently I'd like to ask my colleague from Louisiana if he believes the added $50 million recommended by the Appropriations Committee is sufficient to allow DOE to provide the required support to the NEWTTEC facility in fiscal year 1993?

Mr. JOHNSTON. It was our intention in increasing the technology development budget request by $50 million to provide DOE with the resources to fund projects like NEWTTEC. Our hope is that the increase will be sufficient to support NEWTTEC activities at the $9 million level.

Mr. BURNS. I thank the chairman and can assure him that the Montana delegation will do its best to see that the conferees on the energy and water development bill concur in the Senate's decision to increase technology development funding and I look forward to working with the Senator in the future to see that NEWTTEC gets its fair and appropriate share of the increase. We have some very serious problems. As you know, Butte, MT, is one of the largest Superfund sites in the Nation today. We must develop new technologies to remedy situations like Butte.

I want to personally thank the chairman and the ranking member of this committee for their cooperation.

Mr. JOHNSTON. Mr. President, I thank my friend from Montana and I assure him we will do our best to see the Department gives NEWTTEC the support it clearly deserves.

Mr. BURNS. I thank the chairman and yield the floor.

Mr. JOHNSTON. Mr. President, we are open for business. We have one little amendment here we hope to be able to resolve one way or the other. Then we are ready to go. We are ready to close out the bill shortly with the exception of those two big matters, that is the SSC and the nuclear testing.

I urge Senators, if amendments they have, to come over in the next few minutes before we close the bill out.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. HATFIELD. Mr. President, I ask unanimous consent that privilege of the floor be granted to Elizabeth Carroll, of Senator JEFFORDS' staff, during the consideration of H.R. 5373.

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

Mr. HATFIELD. 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. JOHNSTON. 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. 2812

(Purpose: To increase funding for technology transfer from the DOE weapons laboratories to the private sector)

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Mr. BINGAMAN and Mr. DOMENICI which has the effect of bringing technology transfer to the budget-requested level of $141 million.

Mr. President, the committee continues to strongly support the implementation of the National Competitiveness Technology Transfer Act of 1989, and the other new, innovative technology commercialization ventures of competitiveness.

The core research and development programs within the DOE labs represent a great resource. And this program, which we commenced in this committee, and has now been enthusiastically supported by the administration, uses these core technologies of the national labs. They will use these funds to develop these kinds of technologies. The kind which I hope they pursue are such things as high-speed computing, superconducting technologies, battery research, and that kind of thing.

Mr. President, I have discussed this with Senator HATFIELD.

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

The PRESIDING OFFICER. If there is no objection, the committee amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BINGAMAN (for himself and Mr. DOMENICI), proposes an amendment numbered 2812.

Mr. JOHNSTON. 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 63, line 7, delete the figure "$4,498,249,000" and insert in lieu thereof "$4,523,249,000".

On page 66, line 7, delete the figure "$2,548,301,000" and insert in lieu thereof "$2,523,301,060".

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, very briefly, let me thank the chairman of the committee and the ranking member for their willingness to accept this amendment on behalf of myself and Senator DOMENICI. This accomplishes what we jointly have been urging on the committee for some time now, and brings the level of funding for technology transfer activities in the Department of Energy up to where the administration has indicated it would like to have it.

The initiative here is very important. It is one that the Senator from Louisiana has taken a very strong leadership role in. He, myself, and Senator DOMENICI—all three—have been urging each year that more be done in our national laboratories to work cooperatively with industry on projects of a dual-use nature, projects that have benefits for our defense side; but also projects that have benefits for the commercial sector.

This provides some additional funds to allow that to occur. There has been great progress in the last year in identifying areas where cooperation with the private sector can occur, and this would ensure that adequate funds would be there next year to pursue the initiatives that should be pursued, as well.

I do know the chairman has concerns that we have proper accountability for the way these funds are spent. We share those concerns and want to make sure the necessary statutory report language is developed, to be sure that the funds are expended in a way that can be justified to the Congress in all respects.

Mr. President, the amendment which I am offering on behalf of Senator DOMENICI and myself is aimed at increasing funding for partnerships and dual-use technologies between the DOE weapons laboratories and industry to the level of the President's amended request; namely, $141 million.

This funding is urgently needed. I believe it is essential in light of the end of the cold war that we capitalize on the growing interest in industry to work on dual-use technologies with the weapons laboratories. We are finally seeing the fruits of the 1989 National Competitiveness Technology Transfer Act, which for the first time provided a workable mechanism for partnerships between Government-owned, contractor-operated laboratories and industry. The administration earlier this year launched a national technology initiative aimed at building partnerships between Federal laboratories and industry and thereby making better use of existing Federal R&D resources to benefit our industry's competitiveness.

The initiative, which in my view was long overdue, has generated overwhelming industry interest. In fact, Secretary of Energy Watkins wrote the majority leader, Senator MITCHELL, on July 8 and argued that his $141 million request was—

Needed to respond to the tremendous interest we have received from the NTI. We have identified 400 projects which industry and academia have expressed interest in cofunding. In the computer industry alone, we have received proposals worth more than $75 million for cooperative agreements dealing with advanced computing.

I would ask unanimous consent that the full text of this letter appear in the RECORD at the end of my remarks.

Mr. President, unfortunately the House committees of jurisdiction have turned down Admiral Watkins' request for reprogramming of $50 million in fiscal year 1992 funds for cost-shared partnerships between the DOE weapons labs and industry. That makes approval of the full fiscal year 1993 funding even more important.

The manager of the bill, Senator JOHNSTON, has been a leader in pushing for an expansion of partnerships between the DOE laboratories and industry. Senator DOMENICI and I have enjoyed working with the Senator from Louisiana over the past several years in this area and indeed, I am proud to be an original cosponsor of the Senator's Department of Energy laboratory Technology Partnership Act of 1992, S. 2566, which has passed the Senate. That bill is designed to spur even greater activity in this area.

So I appreciate the managers' willingness to accept this amendment. Once more I am in their debt for their assistance in helping the laboratories in my State and the other weapons laboratories make the transition to a post-cold-war world.

This amendment is cost neutral. The offsetting reduction is in the line which funds the production of nuclear materials for weapons purposes. This is an area where the fiscal year 1993 Defense Authorization Act, which the Senate Armed Services Committee reported last week, anticipates significant savings in light of the end of the cold war. The end of the cold war has eliminated the need to produce additional plutonium or highly enriched uranium for weapons purposes. President Bush recently announced that the United States would unilaterally curtail further production of those materials for weapons purposes. My amendment makes only a modest reduction in this line, and in fact leaves this line still significantly above the level in the authorization bill.

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

THE SECRETARY OF ENERGY,
Washington, DC, July 8, 1992.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I was encouraged to see your recent statement of July 1, 1992, in support of making investments to revitalize America's research, manufacturing and high-technology base and promoting commercialization of technologies developed with Federal laboratories. As you and your colleagues must know, the Bush Administration has had a strong and aggressive program in this regard for some time.

The Department of Energy (DOE), along with the other agencies of the Federal Government with substantial research and development programs, has been pursuing efforts to assist business and academia in strengthening our Nation's competitive abilities. To date, over 1,000 collaborative research and development agreements have been initiated. Since February, these efforts have been coordinated through the President's National Technology Initiative (NTI). Through this Initiative 10 Agencies have held 9 seminars meeting with over 3,000 individuals from in-

dustry and academia to share with them how they can collaborate with the over 700 Federal research laboratories.

The DOE has been a major participant in a number of the ongoing efforts which you have endorsed, and we hope you will support our continued participation. In that regard, the DOE has a reprogramming request to further pursue the various industry initiatives in which our Federal laboratories have been asked to collaborate. It has been pending before the Congress since March 20, 1992. In view of your stated support for these efforts, I would ask you to assist me in having this request approved.

I would also like to request for support for our FY '93 request for technology transfer. In our fiscal year 1993 budget, we initially requested $91 million for defense related "dual use" technology transfer. Recently, I submitted a budget amendment requesting a $50 million increase for this program. This further request is needed to respond to the tremendous interest we have received from the NTI. We have identified 400 projects which industry and academia have expressed interest in co-funding. In the computer industry alone, we have received proposals worth more than $75 million for cooperative agreements dealing with advanced computing.

Finally, I ask for your assistance in assuring that the Congress supports the very initiatives you have endorsed. Specifically, I ask that you reverse Appropriation Committee actions cutting:

(1) $82 million from the President's request for high performance computing and communications;

(2) over $50 million from the President's request for advanced materials and processing; and

(3) over $75 million from the President's request for advanced manufacturing research and development.

Your support for these and other initiatives to assist U.S. industry in maintaining America's economic and technological leadership in international competition which are contained in the President's budget request for fiscal year 1993 is appreciated.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. BINGAMAN. I again thank the chairman and ranking member. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2812.

The amendment (No. 2812) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have a statement not pertaining to the bill. Unless the managers have business immediately, I ask unanimous consent to speak out of order for just 4 or 5 minutes.

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

The Senator from Alaska is recognized.

REMARKS OF SENATOR ROBERT C. BYRD AT PRAYER BREAKFAST

Mr. STEVENS. Mr. President, I am delighted to see the current occupant of the chair, because he will be familiar with the subject that I wish to speak about since he was present at the time.

Mr. President, on June 27, our distinguished President pro tempore, Senator ROBERT BYRD of West Virginia, was the leader of the Senate Prayer Breakfast. These breakfasts are seldom mentioned on this floor.

However, as a current chairman of this function, I asked Senator BYRD if I could have the privilege of printing his remarks made to us last Wednesday in the RECORD. Senator BYRD's text at this prayer breakfast builds upon the foundation he had laid with previous addresses to the Senate. Let me remind Senators of those remarks.

First, on September 18, 1990, Senator BYRD spoke about "Drawing a Line for Decency and Taste." Second, on February 7, 1991, the President pro tempore discussed "The Dirty Dictionary." Third, on September 18, 1991, Senator BYRD spoke about "The Damage Television Is Doing to Children." Fourth, on June 16 of this year, my friend from West Virginia asked the Senate to consider his remarks on the question: "Are the Dark Ages Returning?" Fifth, just recently, on July 20, Senator BYRD made statements to the Senate on "Inhumanity and Human Values" and "The Latest Nation's Report Card Is In."

When he was before our prayer breakfast last Wednesday, Senator BYRD spoke at length, reviewing these past statements to the Senate, before he made his prepared remarks. I want to tell the Senate that this appearance of our President pro tempore was simply awesome, really.

I say that because once again Senator BYRD demonstrated his tremendous capacity to recall, analyze, and utilize the lessons of history, the history of our world, and to make his remarks concerning those lessons relevant to his feelings and recommendations about our Nation's future. It was very appropriate before the prayer breakfast, in my opinion.

Mr. President, I have on many occasions urged Senators to join us at these prayer breakfasts. My remarks today I hope will reinforce those invitations. I had asked Senator BYRD to make his annual appearance before us and he consented to come last Wednesday, and I think his words were an inspiration to all of us who participated in the fellowship of the prayer breakfast.

Mr. President, I ask unanimous consent that Senator BYRD's remarks presented to the Senate Prayer Breakfast last Wednesday be printed in the RECORD.

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

SENATOR ROBERT C. BYRD'S REMARKS FOR THE SENATE PRAYER BREAKFAST, JULY 29, 1992

About 750 B.C., a man named Amos from Judah in southern Palestine was inspired to go to Israel in the north. Amos went north to Israel to share visions that God had given Amos concerning Israel's moral and spiritual shortcomings.

Understandably, Amos's words upset some of the political and religious leaders of Israel, and they told Amos to go back home and prophesy to Judah.

In his own defense, Amos said, "I was no prophet, neither was I a prophet's son; But I was a herdman, and a gatherer of sycamore fruit: And the Lord took me as I followed the flock, and the Lord said unto me, 'Go, prophesy unto my people Israel.' Now therefore here thou the word of the Lord:" (Amos 7: 14b–16a)

Amos was saying that he was not one of the orders of clergyman of his day—Hebrew prophets, the scholars tell us, were sometimes organized into brotherhoods and often passed their careers on to their sons.

No, Amos went on, in effect, saying, "I am not a prophet or the son of a prophet. I am a layman. I would just as soon not be telling you all of these things. I am not comfortable bringing this message. But the Lord told me to come up and do this, and I feel bound to do just that."

I understand how Amos felt.

Like Amos in the Old Testament, I am neither a prophet nor "a prophet's son."

Indeed, neither am I a clergyman, a minister, a priest, nor a rabbi.

That notwithstanding, I take somewhat seriously the observation of Matthew 5:15:

"Neither do men light a candle, and put it under a bushel, but on a candlestick; and it giveth light unto all that are in the house."

All of this is by way of saying that I feel compelled this morning to share a concern with you as my colleagues and friends. Please understand, too, that I feel as uncomfortable as Amos must have. I feel somewhat as if I am treading on alien turf in satisfying that responsibility to my conscience.

I suffer no qualms, however, in confessing that I believe that we are each here this morning because we each sense a relationship to God and in our own lives.

To one degree or another, each of us has associated himself with a church or synagogue along the way. Each of us knows something about Holy Scripture and has some understanding of the Judaeo-Christian tradition. In part for those reasons, we feel sufficiently at ease to attend this prayer breakfast, to reflect on words offered by others here touching on divine matters and to share our own perspectives on those words, and even to bow in prayer with others with whom we enjoy an intimacy adequate to allow us to open our hearts and our most private minds to those gathered here.

My concern is that, too often, once we leave this group or our church or the place in which we kneel in private prayer and go off to the Senate floor or into a committee meeting, we too often permit that old wall between church and state to box off our deepest moral concerns—to avoid any subject on the Senate floor, for example, that might suggest that we have delved into our souls and found a spiritual concern there that touches on the Body Politic of our country.

I do not suggest that our duty as U.S. Senators is to go forth and preach an evangelistic sermon on the Senate floor or hold healing services in the Senate Caucus Room.

But I do suggest that, as men concerned with the law and the creation of law, we have

moral and ethical concerns—spiritual concerns—about the quality of life in America that too often we feel must be ignored—or concerns that too often must be so squeezed and tortured into a political semblance as to be unrecognizable as spiritual concerns.

In the phraseology of St. Augustine of Hippo, as U.S. Senators, we above all are citizens of Two Cities—the City of God and the City of the World. As citizens of the City of the World, we are acknowledged and proclaimed as political leaders—the shapers of laws, history, and destiny. But as believers in God—as those who own a Name Above All Names—as Citizens of the City of God who happen to be U.S. Senators—our responsibilities go far beyond holding only to an earthly, political, or material perspective.

Part of my concern is that, as our offspring and alert citizens in the future take a look at our times, they may ask why we, with all of our power, perspective, and privileges—why we, United States Senators in the last decade of the twentieth century, could not more perfectly chart our country's course, more sensitively apply a spiritual perspective to the dilemmas we face, and more faithfully attack the evils of materialism and decadence that seem to flourish all around us today.

Sometimes, I look back through history—at Ancient Greece, at Ancient Rome, at Ancient Constantinople, even at Tsarist Russia—I look back and I ask myself, "Did not somebody see clearly the decay? Did not somebody know that the end was near? Did not somebody have a voice to warn the emperors and kings and nobles and ordinary citizens what was about to happen unless things changed?"

Certainly, some did. Socrates did. Plato did. Cato the Censor did. Tolstoy did.

But not enough voices were raised to save those great civilizations and empires. Or perhaps those voices lacked sufficient pulpits for their warnings to be carried far enough.

I spoke earlier of putting candles on candlesticks. As a "candlestick," can any institution rival the well of the United States Senate? Aside from Teddy Roosevelt's "bully" presidential pulpit, not since the Oracle of Delphi were any people anywhere granted a more bully pulpit than the Senate floor that is our privilege every day—a pulpit to which the ear of the world is daily pressed in hopes of hearing some wisdom, some insight, or some oracle for our time.

Again and again, that which the ear of the world hears from the Senate floor is only partisanship—the philosophical and pragmatic differences that currently and transiently define us as Democrats and Republicans or as liberals, conservatives, moderates, and populists.

But partisanship will not solve, banish, end, or answer the greatest problems and crises facing us as a nation.

All around us, as Citizens of the Two Cities, we are witnesses to the decay, decline, decadence, disillusionment, and depravity into which too much of our society has slipped, fallen, tripped, or was pushed. Certainly, as U.S. Senators and as believers in God, we have a responsibility to proclaim in the midst of an uneasy acceptance of so much of this decay—to proclaim that these things are not right, that there must be a better way, that a halt must be called, and that a renewal of so much of this society is imperative if we are to survive as a nation, a civilization, a society, and a people.

Indeed, we as laymen have a responsibility as the layman Amos did—a herdsman and gatherer of sycamore fruit—to be a voice of God in our times.

Think back into our shared past.

Thirty years ago, could any of us have been so acceptive of the current rates of illegitimate birth? Of cocaine and "crack" addiction? Of drug-related murders not a mile from where we sit? Of the pornography and filth that night after night and day after day foam forth from the television sets of millions of homes across this country? Of television programming that mocks our most cherished values and principles, and that turns the airwaves nightly into a fetid morass through the glamorization of unavenged and unretributed adultery, murder, illicit sex, embezzlement, violence, assault, and promiscuity without a word of dissent uttered? Of sexual perversion being proclaimed as normative and normal for human life? Of children murdering their parents or of parents abusing their children as sex toys?

Think back into our shared past.

Thirty years ago, could any of us been so acceptive of the runaway materialism of this age? Of white-collar thieves robbing the small depositors of savings and loan associations? Of a populace so besotted with the pursuit of consumer goods that they are credit-card spending themselves into bankruptcy, day in and day out? Of lyrics pounding hour after hour into the ears and minds of our children counseling them to rape women, use dope, kill policemen, or steal whatever their fancy chooses? Of churches solemnizing marriages between same-sex couples? Of lesbians and homosexuals adopting babies and young children? Of tons of cocaine being landed on dirt airfields, disembarked in secluded inlets along our shores, or ferried into our country disguised in legitimate trade goods?

Certainly, we do well to rise to speak on the national debt and the deficit, to speak on the environment and energy conservation, to speak on agriculture policy and foreign affairs. All of those fall within our province.

But more than aloof lawmakers, we are the stewards of our country, stewards of our heritage, and stewards of the quality of moral and spiritual life of American society.

I am neither a prude nor a parson. I am neither a saint nor a mystic.

But like Amos, I feel a compulsion to cry out against the decadence and the decline that I witness all around us. And as one who believes in a God who created man and who weighs the nations on the scales of destiny and judges evil, I suggest that we, too, can and should raise our voices in the age in which we live, lest the future rise up and condemn us for too often hiding our lights under a bushel until it was too late—until the darkness becomes so great that it overwhelms even our small candles.

Mr. STEVENS. I thank my friends for allowing this interruption.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Alaska suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment on behalf of Senator GORTON and Senator ADAMS. What the amendment says is that during the 1-year period beginning on the day of the enactment of this act none of the funds made available in this act or any other provision of law for fiscal year 1993 may be made available for the implementation of an environmental restoration management contract at the Hanford, WA site.

This amendment was offered in the committee, and I opposed it at that time, even though we had report language suggesting that this should be done where practical.

Mr. President, our friends, the distinguished Senators from the State of Washington, as well as our friends in the House of Representatives, feel very strongly this should be statutory language rather than report language. So with some reluctance, I will agree to take this to conference.

Now, in taking this to conference, Mr. President, we want to make very clear we are not making a judgment by this on what we call the ERMC, the environmental restoration and management contracts, concept.

One of the issues involved is whether or not you should have separate contractors, ERMC contractors, or whether those contractors now on the site at Hanford, as well as other nuclear facilities, whether existing contractors should, in effect, be entitled to stay in place with their employees or whether you should have an ERMC contractor come in with a separate bid and with new arrangements.

It is a difficult balancing act, Mr. President, and I believe the Secretary of Energy ought to have maximum flexibility to act in the interest of the United States. We have in the issue of environmental management and waste remediation at our nuclear plants one of the most expensive and difficult activities of all the Federal Government. Just 5 years ago, this budget was $440 million. The next year, it was $880 million. The next year, it was $1.6 billion. The year after that, it was over $3 billion. Now it is over $5 billion and growing very rapidly.

So it is essential, Mr. President, that the Congress act on this issue, that the Department of Energy, have maximum flexibility to act in the interest of the taxpayers, and that we not be saddled with any contract, or any set of employees, or any inefficient work rules, or any inefficient labor contracts that would run up the cost of this even further because, Mr. President, as it is right now I do not believe there is enough money in the country thoroughly and totally to clean up every nuclear site in the country, every toxic waste dump, every bit of polluted part of these United States, at least if you define clean as being 100 percent clean.

I think that would take many hundreds of billions, perhaps trillions of

dollars. In any event, whatever resource the United States can spend on this very difficult and expensive activity ought to be with a maximum of flexibility and a maximum of efficiency.

So having said that, Mr. President, I believe this amendment while it does not dictate at all that ERMC contracts may not be pursued, to the contrary, it permits that ERMC contract negotiations may be pursued. It does not deal with the question of who has a right to the new jobs, about what degree of job retraining is required, all important and difficult issues I know for the State of Washington as well as the State of Colorado, the State of Ohio, and other States which have a lot of these defense production facilities.

So, Mr. President, it does not deal with any of those things, but what it says is wait 1 year before you issue directions to the Secretary of Energy, wait 1 year before you issue this contract at Hanford, because there is another contract at Fernald, OH, which is expected to be awarded shortly which will give a basis of experience upon which to award the contract at Hanford.

That is the intent behind the amendment. We are willing on that basis to take it to conference.

I might say that we do so with reluctance, but we have such regard for the two Senators from Washington, and for the Speaker of the House, and Congressman NORM DICKS, that even though we are reluctant, we are also mindful of their good personalities.

Mr. President, I yield.

Mr. GORTON. Mr. President, the amendment is already at the desk and it is simply to be called up if the Senator wishes.

Mr. JOHNSTON. Mr. President, the amendment is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee amendment is set aside.

AMENDMENT NO. 2813

(Purpose: To delay for 1 year the implementation of an environmental restoration management contract at the Hanford, Washington, site)

Mr. JOHNSTON. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. GORTON (for himself and Mr. ADAMS), proposes an amendment numbered 2813.

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

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

The amendment is as follows:

At the appropriate place, insert:

SEC. . During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 may be available for the implementation of an environmental restoration management contract at the Hanford, Washington, site.

Mr. GORTON. Mr. President, for myself and for my colleague, I wish to thank the distinguished and gracious Senator from Louisiana, the chairman of the subcommittee, whose bill we are dealing with here today, for his agreement to accept this amendment which is very important to the people we represent.

I am sure that my colleague agrees with me in saying that none of the goals of efficiency, effectiveness, time, and cost is undercut in our view by this amendment at all. In fact, we believe that examining this more thoroughly is going to add to the efficiency and effectiveness, and lower the cost of this important cleanup.

We also note that the chairman noted the interest of the Speaker and other distinguished Members of the House in this amendment. We are most appreciative of his work, and of the work of the Senator from Oregon on this, and we thank him for proposing the amendment on our behalf.

Mr. President, the appropriation bill currently before the Senate includes some $4.8 billion for cleanup of defense waste at DOE sites nationwide. This amount represents an increase of $1.1 billion over appropriations for fiscal year 1992, and reflects the high priority both the administration and Congress have placed on defense waste cleanup.

But rapid growth in funding for the cleanup program has caused many to question whether the money is being spent wisely. Such criticisms will become more frequent if large cleanup budgets continue to produce precious little actual cleanup. Understandably, the Department of Energy is taking certain steps to address this concern.

The Department has begun to install environmental restoration management contractors, or ERMC's at cleanup sites in an effort to establish greater accountability in the cleanup process. The Department reasons that traditional management and operations contractors are not best suited to perform cleanup work, and that specialized cleanup contractors will do the job more efficiently.

The First ERMC has been bid at the Fernald site in Ohio, and is slated to be in place some time this fall. The second ERMC is to be installed at the Hanford site in my State, home to some 60 percent of DOE's nuclear waste.

Though I understand and share the Department's desire to improve the efficiency of cleanup at all DOE sites, the Hanford ERMC as currently structured threatens to do just the opposite. The ERMC fails to protect adequately the existing work force at the site, and as a result, will lead to work force instability and the loss of highly skilled cleanup personnel. It is by no means clear how the ERMC would interact with the four other contractors at the site, and it is possible that responsibilities will be blurred rather than clarified. These concerns were noted in a report by DOE's own Advisory Committee on Nuclear Facility Safety, which explicitly recommends that an ERMC not be installed at Hanford.

The Energy and Water Subcommittee has recognized these problems in its own report, and has recommended a 1-year delay in the Hanford ERMC so that the ERMC at Fernald, OH, can be fully evaluated. While I appreciate the committee's efforts to provide direction to DOE, I am confident that the Department will proceed in spite of the report language.

Reasonable people may certainly differ on how the Hanford ERMC should be structured. However, my amendment does not seek to dictate particular labor protections or rewrite the request for proposals for the ERMC. My amendment simply puts into bill language the 1 year delay in the Hanford ERMC called for in the committee report.

Simply put, the Hanford community is up in arms about the ERMC concept. It has no confidence that the ERMC will improve cleanup, and is deeply concerned about the dislocation that it may cause. All I am asking for, Mr. President, is more time. Many other DOE sites are slated to receive an ERMC, and I think it would be prudent to all concerned to settle now the significant questions raised by the Hanford ERMC. I also think we would benefit from lessons learned from the Fernald ERMC, which should serve as a test of this concept.

Mr. President, my amendment does only one thing, and that is to put into bill language what is already in the committee report. I am merely seeking more time in which to work out with the Department and the Hanford community the difficult issues associated with the ERMC. This delay will not significantly delay the cleanup activities that the ERMC would perform, as this work will not begin in earnest for several more years.

I ask for my colleagues' support.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I want to join with my colleague, Senator GORTON, in expressing appreciation to Senator JOHNSTON and to Senator HATFIELD for presenting this amendment. It provides an opportunity for us to have a year to study the environmental restoration and management contract [ERMC] at the Fernald site prior to implementing one at Hanford.

The amendment is not meant to in any way halt the drive for efficiency.

Rather, it will allow the cleanup effort at Hanford to continue, undisturbed.

Hanford is the largest and most complex of the DOE's defense-nuclear sites. The country has invested billions, over many years, to ensure that Hanford's workers are some of the best trained, most highly skilled workers in the nuclear complex. We cannot afford to jeopardize that investment with an untested management concept.

The Department's own Advisory Committee on DOE Nuclear Facilities concluded that the ERMC at Hanford should be canceled. The committee rightfully recognized that the ERMC could disrupt progress at the site, at a time when concern about a lack of progress on cleanup is growing in Congress. Delaying the Hanford ERMC for 1 year, which is all this amendment would do, is a modest compromise that will protect these interests. It is the least we can do for the site and for the country.

It is very important to this community, to the residents of the State of Washington, and, as mentioned by my colleague, to the Speaker of the House, to the Senate, and to Representative DICKS that this amendment be adopted.

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

The amendment (No. 2813) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. FOWLER].

Mr. FOWLER. Mr. President, I rise to ask unanimous consent to return briefly to morning business for the purpose of legislative action.

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

Mr. FOWLER. I thank the Chair.

(The remarks of Mr. FOWLER pertaining to the introduction of S. 3116 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment.

I ask unanimous consent that we temporarily lay aside the pending committee amendments.

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

Mr. JOHNSTON. This amendment will be proposed on behalf of Mr. BRYAN and Mr. REID. What it does, with respect to money coming from the nuclear waste fund, is put the same restrictions on the Department of Energy as are put on the State of Nevada. In the bill, as reported to the Senate, we put restrictions on the State of Nevada for using funds from the nuclear waste fund for such things as public relations, media, advertisements, similar activities, lobbying, et cetera; and we have simply added the Department of Energy to that, so that there will be a symmetry between the Department of Energy and the State of Nevada.

AMENDMENT NO. 2814

(Purpose: To extend the applicability of a certain restriction on the use of funds made available for nuclear waste disposal activities to the Department of Energy)

Mr. JOHNSTON. 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 Louisiana [Mr. JOHNSTON], for Mr. BRYAN (for himself and Mr. REID), proposes an amendment numbered 2814.

On page 60, line 1, insert after "appropriated" "from this fund" and

On page 60, line 2, insert "or by the Department of Energy" after "Nevada".

Mr. BRYAN. Mr. President, the distinguished chairman has correctly stated the purpose and scope of the amendment, with respect to the restrictions that are newly added language in the appropriation bill that limits the activities of the State of Nevada and precludes those funds for being used for public relations, media advertising, or similar activities not related to scientific oversight.

The amendment that the Senator has offered on behalf of Senator REID and myself would subject the Department of Energy to the same restrictions, and we agreed with that.

I might ask my friend from Louisiana if he would object to this. There is a piece of correspondence that I bring to the attention of the Senator that lays out what types of expenses are from the Department of Energy itself, in response to our inquiry. Would the Senator have objection if we make that part of the RECORD—not part of the legislation, but as part of the colloquy between the two of us? I think that has been provided to staff.

Mr. JOHNSTON. The Senator asks, would I have an objection to putting a letter in the RECORD?

Mr. BRYAN. Yes. If I offer a piece of correspondence which the Department of Energy sent to us with respect to this issue, not seeking to make it part of the legislation, but part of the colloquy the Senator and I are having in terms of this purpose, would the Senator object? If the Senator needs some time to look at that, I do not have a problem.

Mr. JOHNSTON. Mr. President, the Senator from Nevada is entitled to put that letter into the RECORD, and I have no objection.

Mr. BRYAN. I thank the Senator for his cooperation.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

DEPARTMENT OF ENERGY, YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT OFFICE,
Las Vegas, NV, January 23, 1992.

Re Yucca Mountain Site Characterization Project (YMP) statement on scientists' involvement in outreach programs.

Hon. RICHARD H. BRYAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BRYAN: John Bartlett, Director of the Office of Civilian Radioactive Waste Management, asked that I provide you with the enclosed information about the YMP scientists' involvement in public outreach activities in response to your November 19, 1991, letter to Secretary of Energy James D. Watkins.

The 700 scientists and engineers presently associated with the YMP are among the most eminent men and women in the scientific world. They represent some of the finest scientific research and engineering organizations in America. Their professional credentials are impeccable.

The project, over an extended period of time, has offered public speaking and media training to its scientists and other personnel who frequently speak to the public, the media or technical audiences. This training assists the scientists in more effectively communicating technical information to a variety of audiences.

More than 200 presentations were given to numerous groups in 1991 by project scientific and technical staff (see enclosure 1). Staff also participate in public and media tours of Yucca Mountain, public update meetings, and other informal discussions. In addition, project scientists and engineers give numerous presentations to technical groups such as the Presidentially-appointed Nuclear Waste Technical Review Board and the independent U.S. Nuclear Regulatory Commission. The YMP Office is dedicated to providing verbal or written information to anyone who request it.

The communications training sessions held for project personnel have been conducted by specially-trained consultants (see enclosure 2). As to your specific inquiry, nuclear industry consultants have requested information exchanges with project scientists to obtain information about the scientific studies. In

these exchanges, the industry consultants have provided their insights on local media coverage of the nuclear waste issue. Such exchanges have been attended by scientists representing a variety of scientific disciplines (enclosure 3 is the correspondence associated with these sessions). No training materials were provided to project employees at these sessions by the nuclear industry consultants.

Information exchanges like these are consistent with our education and public outreach programs, and occur frequently with interested parties on all sides of the nuclear waste issue.

We are committed to informing and educating the public about or ongoing studies and will continue to involve the technical staff in these programs in 1992.

I appreciate the fact that Sara Besser and Timothy Hay of your staff took the time to tour Yucca Mountain on Thursday, January 9, 1992. I also would like to take this opportunity to extend to you a personal invitation to tour Yucca Mountain and talk with project scientists and engineers about our ongoing studies which are dedicated to determining whether or not Yucca Mountain is a safe site for a high-level nuclear waste repository.

Sincerely,

CARL P. GERTZ,
Project Manager.

YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT, OVERALL OUTREACH STATISTICS, 1991

Speaker's bureau presentations:
Total Educational, 91.
Total Technical, 60.
Total General Public, 58.
Total Presentations, 219.
Total Speakers, approx. 48.
Tour information:
Public Open House/Tours: 10, 2,505 guests.
All Others (Community organizations, media, congressional, DOE/HQ, schools, etc.): 64, 1,268 guests.
Totals: 74, 3,773 guests (Since march 1991) approx. 400 per month.
Exhibits:
National Exhibit Support Staff Only, 9.
Open to Public, 14.
Public Update Meetings, 6.
Trade/Professional Associations, 12.
Open Houses and other major tours, 10.
Total Exhibits, 51.

OTHER TECHNICAL PRESENTATIONS

	NRC	NWTRB	ACNW
Total presentations	60	192	8
Audience members/meeting	30	75	20
Number of 1991 meetings	14	16	4
Approx. number of staff presenters	60	163	8

YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT, COMMUNICATIONS TRAINING, 1984—PRESENT

Training Course: Technical Communication Workshop: Answering Straight Questions for the General Public and the News Media/EA Interactions.

Date: December 4–5, 1984.

Trainer: Ronald C. Gossling, Stephen Rowa, David Day, and Kelly Lane; The Communication Counsel of America, Inc.

Attendees: Sue Volek, SAIC; Marge Olson, SAIC; and others.

Training Course: Technical Issues Clinic, Media Skills.

Date: January 13–15, 1985.

Trainer: Ronald C. Gossling, The Communication Counsel of America, Inc.

Attendees: Mike Voegele, SAIC; Jean Younker, SAIC.

Training Course: Thinking on Your Feet When Your Back is to the Wall.

Date: September 18–20, 1988.

Trainer: David M. Green, Director of the Business Communications Program, University of California, Berkeley. Worked with David Valentine.

Attendees: Bea Reilly, SAIC; John Robson, YMP.

Training Course: Media Relations/Presentation Effectiveness Seminar

Date: December 19, 1988.

Trainer: David Valentine.

Attendees: Bea Reilly, SAIC; Carl Gertz, YMP; Wendy Dixon, YMP.

Training Course: Media Training Seminar.

Date: June 7, 1990.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Bruce Crowe, LANL; Dave Dobson, YMP; Katie Grassmeier, YMP; Bea Reilly, SAIC; Kevin Rohrer, SAIC; Bill Andrews, SAIC; Jean Younker, SAIC; Jeremy Boak, YMP.

Training Course: Improving Risk Communication/Guidelines for Conducting Effective Public Meetings.

Date: August 3, 1990.

Trainer: Professor Vincent T. Covello, Center for Risk Communication.

Attendees: Roxanne Coniglio, OEA; Tom Bjerstedt, YMP; Jim Gardiner, YMP; Diane Harrison-Giesler, YMP; F.M. Hemmes, YMP; Mike Valentine, YMP; R.J. White, YMP; H.W. Adkins, MACTEC; Chris Binzer, SAIC; Jim Clark, SAIC; Greg Fehr, SAIC; April Gil, SAIC; Melissa Hammer, SAIC; Effie Harle, SAIC; Chuck Herrington, SAIC; Kathy Ingenthron-Fehr, SAIC; Allison Inglett, SAIC; Pete Karnoski, SAIC; Jerry King, SAIC; Ann Kirk, SAIC; Erin Larkin, SAIC; John Matras, SAIC; David Stahl, SAIC; Shirely Tarr, SAIC; L.E. Thompson, SAIC; Joel Berry, Harza; Marvin Saines, Harza; Andres Jenetta, SAIC; Bob Murray, SAIC.

Training Course: Media Training Seminar.

Date: August 10, 1990.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Uel Clanton, YMP; Effie Harle, SAIC; A.C. Robison, YMP; Bea Reilly, SAIC; Kevin Rohrer, SAIC; Jerry King, SAIC; Max Blanchard, YMP; Tom Bjerstedt, YMP; Tony Buono, USGS.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Date: August 1, 1991.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Kevin Rohrer, SAIC; Jerry Lorenz, REECo; Erin Larkin, SAIC; Carleen Hill, SAIC; Theresa Hirsch, SAIC; Amelia Landeros, REECo; Tim Hill, SAIC; Cheryl Sandoz, SAIC; Tim Frisk, SAIC; John Slocum, SAIC; Michael Madison, RSN; Melissa Hamner, SAIC; Jerry King, SAIC; Vicki Best, YMP; Chelsea Muntean, YMP; Kimberly McDonald, REECo; Christy Barry, SAIC; Bob Murray SAIC.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Date: August 2, 1991.

Trainer: David Valentine, David A. Valentine, Inc. Communications Consultants.

Attendees: Hans Ebner, SAIC; Frank Baird, SAIC; James Blink, LLNL; Biane Ridolfi, YMP; Sally Elder, REECo; Christine Barry, SAIC; John Waddell, SAIC; Linda Artis, SAIC; Barbara McKinnon, SAIC; Diane Harrison-Giesler, YMP; Mindy Wadkins, SAIC; Stanley Simms, SAIC; Effie Harle, SAIC; Shirley Tarr, SAIC.

Training Course: Communications Seminar: Communications and Problem Solving.

Date: October 14, 1991.

Trainer: Michael J. Gorman, Licensed Clinical Social Worker & Communications Consultant.

Attendees: Bea Reilly, SAIC; Ginny McNeill, SAIC; Mindy Wadkins, SAIC; Pau Seidler, SAIC; Georgette Guzzetta, SAIC; Theresa Hirsch, SAIC; Chris Binzer, SAIC; Erin Larkin, SAIC; Kevin Rohrer, SAIC; Carleen Hill, SAIC; Melissa Jones, SAIC; Effie Harle, SAIC; Kelly Doyle, SAIC; Linda Artis, SAIC; Dave Swallow, SAIC; Amelia Landeros, REECo.

Training Course: Phase I, Specialized Communication Skills Lab.

Date: October 28–30, 1991.

Trainer: Ronald Gossling, Nancie Poppema, Kelly Lane, The Communication Counsel of America, Inc.

Attendees: John W. Bartlett, OCRWM; Stephen J. Brocoum, OCRWM; Jane R. Stockey, OCRWM; Alan Berusch, OCRWM; A. C. Robison, YMP.

Training Course: Information Exchange Sessions between Scientists and Media Experts Retained by the Nuclear Industry.

Date: 8 sessions (July through October).

Facilitator: Ace Robison.

Attendees: Susanne Bruener, OIZ Advertising; Kent Oram, OIZ Advertising; Jean Younker, SAIC; Bill Dudley, USGS; Alan Flint, USGS; Jerry King, SAIC; Bruce Crowe, LANL; Bill Andrews, SAIC; Dennis Sorensen, SAIC; Dave Dobson, YMP; Tom Bjerstedt, YMP; Jerry Boak, YMP; Russ Dyer, YMP; Mike Voegele, SAIC; Mike Foley, SAIC; Jim Replogle, YMP; Gayle Fisher, YMP; Ace Robison, YMP; Carl Gertz, YMP; Bea Reilly, SAIC; Chris Binzer, SAIC; Kevin Rohrer, SAIC, Carleen Hill, SAIC; Jeanne Cooper, YMP (not all attendees participated in every session).

Training Course: Communications Skills Training.

Date: December 3–5, 1991.

Facilitator: Ronald C. Gossling, Nancy Papema and Kelly Lane, Communications Council of America.

Attendees: Eric Lundgaard, YMP; Wendy Dixon, YMP; Gayle Fisher, YMP; Tom Bjerstedt, YMP.

Training Course: Image and Communication Skills for Women.

Date: December 10, 1991.

Trainer: National Businesswomen's Leadership Association.

Training Course: Public Outreach Volunteer Training, Communications Seminar.

Attendees: Effie Harle, Linda Artis, Melissa Hamner.

SCIENCE APPLICATIONS INTERNATIONAL CORP.,
Las Vegas, NV.

INTEROFFICE MEMORANDUM

Date: July 11, 1991.
To: Distribution.
From: Bea Reilly, Manager, 517/T–18, Office of Institutional and External Affairs.
Subject: David Valentine Seminar.

The Office of Institutional and External Affairs will be sponsoring a seminar for volunteers who help with tours, the Speakers Bureau, exhibits, and other public outreach events. The seminar will be conducted by a specialist in public speaking, David Valentine, and focus on improving public communication skills. The seminar will cover topics such as how to answer tough questions, how to organize an answer, persuasive presentation, and how to probe questions. Some of the in-class exercises will be video-taped allowing for direct and immediate feedback.

This will be a one-day seminar conducted in the training center at the Valley Bank Center. The seminar will be offered twice, once on August 1st and again on August 2nd. There is room for 25 people in each seminar. Names will be taken on a first-come, first-serve basis; however, preference may be given to those who are more actively involved in public outreach activities. If you would like to sign-up to attend this training seminar, Amyl or paper mail Kevin Rohrer (ROHRERK) a note stating which date you prefer. The deadline to sign-up is 4:30 p.m. Thursday, July 18. We will try to schedule you on your preferred date. If you know of someone who would like to participate, please forward this memo to them or have them contact Kevin.

We look forward to your participation in this training seminar.

SCIENCE APPLICATIONS INTERNATIONAL CORP.,
Las Vegas, NV, August 22, 1991.

CARL P. GERTZ,
Project Manager, Department of Energy, Yucca Mountain Site Characterization Project Office, Las Vegas, NV.

LIST OF PUBLIC OUTREACH VOLUNTEER TRAINING SEMINAR PARTICIPANTS

In our efforts to maintain a credible pool of volunteers available to help staff public outreach events (such as tours, exhibits, and presentations) we periodically offer training sessions to develop and improve the communication skills of volunteers. Attached you will find a brief summary of the recent Public Outreach Volunteer Training Seminar conducted by David Valentine. If you have any questions concerning the seminar or would like any additional information concerning this, please contact Kevin Rohrer of my staff at 4-7769.

Sincerely,

BEATRICE E. REILLY,
Manager, Office of Institutional and External Affairs, Technical and Management Support Services.

David Valentine conducted two Outreach Volunteer Training Seminar on August 1st and 2nd, 1991, in the Training Center at the Valley Bank Center. Yucca Mountain Project employees that have been actively involved in outreach activities and those who expressed an interest in volunteering were invited to attend. Below is a list of those who attended the seminar.

Comments received on the evaluation forms after the seminar were extremely positive. The seminar participants indicated that this type of training will be quite helpful in staffing tours and exhibits, as well as giving formal presentations.

Some of the major points covered included the art of answering questions and the 10 steps to an information/persuasive presentation. There were many opportunities throughout the seminar for the participants to practice their newly learned skills accompanied with video feedback.

SEMINAR PARTICIPANTS THURSDAY, AUGUST 1, 1991

Jerry Lorenz, REECo.
Erin Larkin, SAIC.
Carleen Hill, SAIC.
Theresa Hirsch, SAIC.
Amelia Landeros, REECo.
Tim Hill, SAIC.
Cheryl Sandoz, SAIC.
Tim Frisk, SAIC.
John Slocum, SAIC.
Michael Madison, RSN.
Melissa Hamner, SAIC.
Jerry King, SAIC.
Vicki Best, DOE.
Chelsea Muntean, DOE.
Kimberly McDonald, REECo.

SEMINAR PARTICIPANTS FRIDAY, AUGUST 2, 1991

Hans Ebner, T&MSS.
Frank Baird, SAIC.
James Blink, LLNL.
Diane Ridolfi, DOE.
Sally Elder, REECo.
Christine Barry, SAIC.
John Waddell, SAIC.
Linda Artis, SAIC.
Barbara McKinnon, SAIC.
Diane Harrison-Giesler, DOE.
Mindy Wadkins, SAIC.
Stanley Sims, SAIC.
Effie Harle, SAIC.
Shirley Tarr, SAIC.

DEPARTMENT OF ENERGY, YUCCA MOUNTAIN SITE CHARACTERIZATION PROJECT OFFICE,
Las Vegas, NV, June 27, 1991.

Michael I. Foley, SAIC, Las Vegas, NV, 517/T-39.
Michael D. Voegele, SAIC, Las Vegas, NV, 517/T-44.
Jerry L. King, SAIC, Las Vegas, NV, 517/T-03.
Jean L. Younker, SAIC, Las Vegas, NV, 517/T-10.
Bruce M. Crowe, LANL, Las Vegas, NV.
Carl P. Gertz, YMP, NV.
David C. Dobson, YMP, NV.
Thomas W. Bjerstedt, YMP, NV.
Ardyth M. Simmons, YMP, NV.
James M. Replogle, YMP, NV.
Jeremy M. Boak, YMP, NV.

MEDIA TRAINING SESSION

You are invited to participate in a training session on media interactions scheduled for July 2, 1991, from 9 am to noon in the Blue Conference Room.

The public tours during recent months have reconfirmed the fact that the public and the media respond more positively to individual scientists than to an institution. Accordingly, and consistent with Deputy Secretary W. Henson Moore's counsel to us, we are encouraging individual scientists to be more assertive in speaking out. In the training session on Tuesday, a local media expert will help you to better understand how to work with local members of the media, who they are, and how you can help them to better understand the issues that they are reporting on so they can, in turn, accurately report to the public.

I encourage you to attend Tuesday's session. If, for any reason, you are not able to attend, please contact Stacey Priest at 794-7964.

A.C. ROBISON,
Special Assistant for Institutional Affairs.

SCIENCE APPLICATIONS INTERNATIONAL CORP.,
Las Vegas, NV, August 1, 1991.

INTEROFFICE MEMORANDUM

Date: July 31, 1991.
To: Distribution.
From: Bea Reilly, Manager, 517/T-18, Office of Institutional and External Affairs.
Subject: Editorial Board Pre-Meeting on Aug. 5.

A meeting is scheduled for 9:30 a.m. in Project Office large conference room on Monday, August 5 for those YMP staff who will be participating in upcoming editorial boards with local media.

The following people have agreed to participate along with four others who will be alternates.

Yucca Mountain Project Editorial Board Participants:

Dave Dobson (lead), Geologist; Jean Younker, Geologist; Bill Dudley/Alan Flint, USGS; Jerry King, Seismologist; Bruce Crowe, Volcanologist; Gayle Fisher/Bea Reilly, Public Information; Bill Andrews, Transportation; Dennis Sorenson, Radiation.

Alternates: Tom Bjerstedt, Jerry Boak, Mike Voegele, Mike Foley.

We would appreciate all of you attending the meeting on Monday.

If you have not turned in detailed biographical information that was requested, please give it to Carleen Hill, Room 880, extension 4-7375 by the end of this week.

Distribution:

Also enclosed are handouts for those of you who could not attend yesterday's meeting.

If you have any questions, please give me a call at 4-7761.

Enclosures:
1. Common Questions.
2. Sample Questions.
3. News clips.
4. Talking Points.

Distribution:

Jean L. Younker, SAIC, Las Vegas, NV, 517/T-10.
Bill W. Dudley, Jr., USGS, Denver, CO.
Jerry L. King, SAIC, Las Vegas, NV, 517/T-03.
Bruce M. Crowe, LANL, Las Vegas, NV.
Bill Andrews, SAIC, Las Vegas, NV, 517/T-29.
Tom W. Bjerstedt, YMP, NV.
Jerry M. Boak, SAIC, Las Vegas, NV, 517/T-13.
Alan Flint, USGS, Mercury, NV.
cc w/encls:
Gayle Fisher, YMP, NV.
C. P. Gertz, YMP, NV.
A. C. Robison, YMP, NV.
C. M. Binzer, SAIC, Las Vegas, NV, 517/T-18.
C. R. Hill, SAIC, Las Vegas, NV, 517/T-18.
T&MSS LRC (2).
cc w/o encls:
D.C. Dobson, YMP, NV.
B.E. Reilly, SAIC, Las Vegas, NV, 517/T-18.
M.A. Voegele, SAIC, Las Vegas, NV, 517/T-04.
M.I. Foley, SAIC, Las Vegas, NV, 517/T-04.

To: Editorial Board Participants: Ace Robison, Mike Voegele, Jean Younker, Alan Flint, Bill Andrews, Dennis Sorensen, Beatrice Reilly, Bruce Crowe.
From: Gayle Fisher.

You are scheduled for an "editorial board" meeting Thursday, November 7, at 7 p.m. at KVBC TV-3, which is located at 1500 Foremaster Lane. This is one block north of Cashman Field as you head north on Las Vegas Boulevard. You will make a right at a stoplight and then head toward Rancho High School. The station is located before the school, and you should be there by 6:45 p.m.

A pre-board meeting will be held at 3:30 p.m. in the Blue Room at the Yucca Mountain Project Office.

The station doesn't have an editorial board per se, so the television panel will consist of those persons who report, write, edit or in some manner make decisions about Yucca Mountain stories and editorials which air on Channel 3. Those persons include reporter Tonia Ellis, news director Mike Cutler, assignment manager Hank Tester and managing editor Dan Burns. Three or four other people have been invited and might attend, including station owner Jim Rogers, anchorwoman Gwen Castaldi and anchorman Dave Courvosier.

The editorial board meeting will consist of the following:

1. Ace Robison will give a brief, overall statement about the Project, its complexity and the difficulty in communicating technical subjects to the public.

2. He will also introduce the YMPO panel members, who will each give a three-minute presentation on his or her role in determining whether or not Yucca Mountain is a suitable site for a potential repository.

3. The meeting will then be opened up for questions from the Channel 3 staff.

We have allotted two hours for this meeting. It may or may not last that long, depending on the questions. At its conclusion, the station might want to interview one or several of you on camera about something that you said during the meeting, so be prepared for this.

At the pre-board meeting, we will go over these steps and will also give you a rundown of the kinds of stories Channel 3 has been doing on Yucca Mountain during the last four months. This meeting should take about one hour or less.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2814) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Senator SANFORD regarding a study of the Falls Lake, NC, boundaries and lake levels. It provides, from available funds, that $600,000 shall remain to make the study on the Falls Lake, NC, project.

I ask unanimous consent to temporarily lay aside the pending business and to consider this amendment.

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

AMENDMENT NO. 2815

(Purpose: regarding a study of the Falls Lake, North Carolina boundaries and Lake Levels)

Mr. JOHNSTON. 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 Louisiana [Mr. JOHNSTON], for Mr. SANFORD, proposes an amendment numbered 2815.

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

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

The amendment is as follows:

On page 28, line 7, insert the following after "662": ": *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989, or any modifications to Plan 5 that would require raising and spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the N.C. Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency".

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

The amendment (No. 2815) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I ask unanimous consent that we lay aside the pending amendment.

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

Mr. JOHNSTON. Mr. President, I have a series of amendments I would like to offer and have considered en bloc which I will soon send to the desk. The first, amendment No. 2816, is on behalf of Senators BOREN and NICKLES to provide that the Secretary is directed during the fiscal year to maintain a minimal conservation pool level of 475.5 feet at Wister Lake in Oklahoma.

The second, amendment No. 2817, is on behalf of Senators MOYNIHAN and D'AMATO, that the Corps of Engineers is directed to use $5 million within available funds to carry out the purpose of an existing law. What this is for the development of conservation, restoration, and management activities at Onondaga Lake in New York.

The next amendment, No. 2818, is on behalf of Senators SEYMOUR and CRANSTON to provide that $500,000 in funds appropriated herein shall be for the Ventura Harbor project in Ventura, CA. This is, of course, within available funds.

The next, amendment No. 2819, is on behalf of Senator DOLE, which provides that within available funds, $50,000 is available for planning for the Center of Energy Research at the University of Kansas.

AMENDMENTS NUMBERED 2816 THROUGH 2819

Mr. JOHNSTON. Mr. President, I have, of course, discussed these with the ranking minority Member, and I now send those to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for other Senators, proposes amendments numbered 2816 through 2819.

The PRESIDING OFFICER. Is there additional debate? If not, the question is on agreeing to the amendments, en bloc.

The amendments (No. 2816, No. 2817, No. 2818, and No. 2819) were agreed to, en bloc, as follows:

AMENDMENT NO. 2816

": *Provided further*, That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma".

AMENDMENT NO. 2817

Page 12, line 4, insert the following before the period; ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 of actable funds to carry out the purposes of section 411 of Public Law 101-640".

AMENDMENT NO. 2818

On page 28, line 7, insert the following before the semicolon: ": *Provided further*, That the $500,000 of funds appropriated herein shall be for the Ventura Harbor project in California".

Mr. SEYMOUR. Mr. President, I would like to thank the two distinguished managers of the energy and water appropriations bill, Chairman JOHNSTON and Senator HATFIELD, for accepting my amendment regarding Ventura Harbor.

Ventura Harbor is located approximately 60 miles northwest of Los Angeles in southern California. This Harbor generates over $30 million annually and provides employment for thousands of individuals in the commercial fishing and tourism industries. These industries are reliant on a safe and dependable harbor entrance. Unfortunately, Ventura Harbor has one of California's most dangerous harbor entrances. Costly dredging is required annually to maintain safe passage.

The $500,000 appropriated by my amendment will enable the harbor district to begin construction of a breakwater, which will ultimately provide both substantial economic benefits for the region and millions of dollars in savings for the Federal Government in future maintenance funds.

The city and the local project sponsor, the Ventura Port District, have secured 20 percent of the improvement cost and have demonstrated a strong commitment to seeing this valuable project through.

I hope Congress will continue to support this project in the future, allowing

for complete construction of these harbor entrance improvements.

Thank you, Mr. President. I yield the floor.

AMENDMENT No. 2819

On page 53, line 19, add the following after the word "Fund:" ": *Provided further*, That within the funds appropriated herein, $50,000 shall be available only for planning funds for the Center for Energy Research, University of Kansas, Lawrence, Kansas".

Mr. JOHNSTON. Mr. President, I will shortly propound a unanimous-consent request, and I want to describe that now.

Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I will propose a unanimous-consent request which states that the only amendments remaining in order other than the excepted committee amendments to the energy and water bill will be a Conrad amendment on a North Dakota project, that is, on Garrison diversion, a Craig amendment on actinide research, a Reid amendment on nuclear testing, another Reid amendment on nuclear testing, a Bumpers amendment to strike funding for the super collider, a Bumpers amendment to strike funding for the super collider with some add-back, a Bumpers amendment to put a cap on American participation in the super collider if foreign contributions lag, a Bumpers amendment to put a prohibition on sole sourcing of super collider contracts that would shut out American firms, and a Cohen amendment on nuclear testing.

Mr. President, I correct that by stating the two Reid amendments on nuclear testing will not be part of the unanimous consent when I propound it. There will also be, of course, a Hatfield amendment on nuclear testing. It will provide that relevant second-degree amendments, where appropriate, be in order; that if Senator HATFIELD'S nuclear testing amendment is not tabled, it be in order for Senator COHEN to offer his nuclear testing amendment contained in the list as a substitute amendment for the Hatfield amendment; that the only amendments in order after the close of business today be the amendments contained in this agreement dealing with nuclear testing, the super collider, and the Conrad amendment on Garrison diversion.

Before I propound that, is that the understanding of all?

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

Mr. JOHNSTON. Yes. Certainly.

Mr. HATFIELD. As I understand the wording, not necessarily the procedure, of this unanimous consent, that the bill that we now have before us has nuclear testing provisions, and that Mitchell-Hatfield amendment which would ban nuclear testing for a year, that is nuclear underground testing, would be then the first issue on that subject to be voted on. If it is tabled, as I believe the wording was, or if it is not tabled, then the Senator from Maine [Mr. COHEN] would be recognized or would be in a position to offer an amendment in the second degree, so that the first vote on that issue would occur on the Mitchell-Hatfield amendment. Is that correct?

Mr. JOHNSTON. Mr. President, I would expect that to happen. We have not sequenced these amendments, although I would see no objection to doing that, unless anybody—in fact, if the Senator would like to lock in a 2-hour time agreement, as I understand he wants, before a motion to table on his amendment, I would think that would be consistent with the sense of what we are trying to do. That would guarantee that we would first vote on a motion to table.

Mr. HATFIELD. Let me say two things: First of all, I would like to make certain that the Mitchell-Hatfield amendment, when offered, would be voted on by a tabling motion or whatever, and then after the disposition of that, sequentially Senator COHEN be recognized for the amendment of the second degree.

I do not think we should be able to cut out any other Member's rights to offer an amendment in the second degree following Mr. COHEN'S, but I am merely saying it seems to me what we want to lock in here is a vote on a time agreement on the major substitute amendment or the amendment being offered by Senator MITCHELL and 52 other Senators here who have signed this test ban proposal.

I just do not think I want to get into a situation, as the Senator knows, to have an amendment in the second degree, and proceeding to a vote when we are going to be voting on a tabling motion.

Mr. JOHNSTON. Would the Senator want a 2-hour time agreement?

Mr. HATFIELD. Two hours is fine.

Mr. EXON. Reserving the right to object——

The PRESIDING OFFICER. No unanimous consent has yet been propounded, the Chair will remind the Senator from Nebraska.

Mr. EXON. I will withhold.

Mr. JOHNSTON. If the Senator can tell me what his concern is before I propound the request.

Mr. EXON. Yes. I very likely will object to any prearranged agreement with regard to scenarios for second-degree amendments if nuclear testing matter comes up. Myself and Senator NUNN have an amendment that we think might be acceptable to the majority of the Senate.

The Senate is split down the middle on this very, very important issue. I was alerted to the fact that the Senator, the manager of the bill, the Senator from Louisiana, indicated that Senator REID had two amendments, but then I heard him say later that those would not be included in the unanimous-consent agreement. So that takes care of that particular proposition.

Mr. JOHNSTON. I understand they are now back on.

Mr. EXON. I have several questions I would like to ask. The first question would be whether or not the Senator from Louisiana is intending to leave in the bill the widely published, talked about, as I understand it, provision reported out by the committee with regard to the attempt to settle this problem as outlined by the Senator from Louisiana. I am not saying I am necessarily for or against that proposal at this time.

I would first like to know whether or not it is the intention of the Senator from Louisiana to leave that particular suggestion in the bill. Does he intend to have that in the bill?

Mr. JOHNSTON. Yes. Mr. President, that will be the pending matter before the Senate. Not only is it pending, but I will strongly urge that on the Senate. That is the underlying amendment which then, without an agreement or with an agreement, is then subject to further amendment.

What we are discussing doing is having Senator HATFIELD first recognized with a 2-hour time limit to propose his amendment, and then I would move to table on that. If it is tabled, then the underlying committee amendment will be the issue which will be subject to further amendment.

If the Hatfield amendment is not tabled, then, under this agreement, Senator COHEN would be recognized to offer a substitute amendment for the Hatfield amendment.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. I say to the Senator from Nebraska that going back to the authorization committee's effort to come up with some kind of definitive position as the House committee has on authorization, relating to this subject, and recognizing a very deep interest on the part of the chairman of your committee and other members of your committee, that the staffs of Senator MITCHELL and my own staff, Senator NUNN'S staff, have been trying to work together to see wherein we might be able to broaden the so-called moratorium, 1-year moratorium, which is a very simple straightforward proposal that is in the House energy water bill, that has been acted upon by the House military authorization.

We are trying to work out, and possibly by Monday we might have some kind of a broader base proposal that would carry even greater numbers than the 53 who have now signed on this particular moratorium.

So I want the Senator from Nebraska to know that all lines of communications are open. We are anxious to try to be able to get a very, very large consensus of the Senate, not just 53, assuming that all people who signed the bill would vote for it. Both of us have been around long enough to know that sometimes people will find circumstances different or such, and when they have signed on a bill as a sponsor, it does not necessarily mean that is the final vote.

Second, rather than to try to sequence, as I understood the Senator from Nebraska to have some objection to, I certainly would be open to having the second-degree amendments, if we could get, say, 2-hour time agreements. What we are trying to get is a time agreement on any such second-degree amendments, without sequencing.

I am now told the Senators from Maine would like to have two testing second-degree amendments, and not to deny any Senator the right to a second-degree amendment without sequencing, if we could then get those 2 hours agreed to on such second degree, proceed as has the Senator from Louisiana has, our chairman, with this unanimous-consent agreement to at least get the issue before us as an alternative to the language in the committee, the so-called Mitchell-Hatfield amendment; then move to table that, or whatever disposition; then move to the second degree on sequence without sequence.

I would be agreeable to that.

Mr. EXON. If I could, reserving my right to object and responding further, as the subcommittee chairman of jurisdiction on this matter, I have been intimately involved in it from day one. I am aware of the negotiations that have been going on. It is my intention to later on today, when the time is right, to confer with the Senator from Oregon to try to maybe come to some kind of an understanding. There is a possibility of agreement I think here with maybe a little give and take here and there and elsewhere.

Many of us have been working in good faith for a long, long time to try to come up with a plan that we think might have a greater support in the Senate. Certainly many of us do not support the House-passed position. There are many of us who have some reservations about the amendment offered by the Senator from Oregon.

I guess what I am rising to object to—without objecting to the right of the manager to have the underlying bill which is the basis of the discussion and the unanimous-consent agreement that we are discussing at this time, I do not disagree with any of that or any time limit. I guess what I would like to object to, though, is what amendments would receive prior consideration, under what circumstances it would occur, whether the amendment to be offered by the Senator from Oregon either fails or does not fail on a tabling motion, or anything else.

I would object at this time to any unanimous-consent agreement that went beyond that point.

Mr. JOHNSTON. If that went beyond the 2 hours for the Senator from Oregon—does the Senator mean preferential consideration of a Cohen amendment?

Mr. EXON. Right.

Mr. JOHNSTON. Mr. President, I wonder if——

Mr. EXON. Mr. President, I might say that I am doing that because I think that in the event we have some kind of a consensus, which I think is still possible, I hope that would be the amendment that would intervene someplace, along the line of this consideration being made.

And I am not prepared at this time to agree to have any other amendment by either one of the Senators from Maine take a priority over the possibility of some kind of an agreement.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Maine is willing to agree that we dispose of the Hatfield amendment on a motion to table; and, thereafter, that any of these listed amendments be in order, and let recognition depend on who gets recognition.

Mr. COHEN. Certainly, on the second amendment, I would be willing to defer that one. But I would like to have my amendment considered immediately after the action taken on Senator HATFIELD'S amendment.

Mr. JOHNSTON. Well, it takes unanimous consent. Will the Senator from Nebraska object to that?

Mr. EXON. Mr. President, the Senator from Nebraska indicated previously that he would not agree to that. I do not with great reluctance.

I guess what I am fearful of is, if we have the stacking of amendments at this time, it might further complicate the matter of reaching some kind of an agreement. Therefore, with all due respect, I have to object to that.

I believe that what the manager of the bill has just said would be acceptable, without saying whether the amendment of the Senator from Maine, or any other amendment that we might later agree on, would come one before the other, which would not be in the interest of reaching a compromise, in the opinion of the Senator from Nebraska, at this juncture.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, let me propound the unanimous-consent request and see if we can get this agreed to.

Mr. President, I ask unanimous consent that the following be the only amendments remaining in order, other than the expected committee amendments to the energy and water appropriations bill, H.R. 5373:

A Hatfield nuclear testing amendment; a Conrad amendment on a North Dakota project, the Garrison conversion project; a Bumpers amendment to strike funding for the super collider; a Bumpers amendment to strike funding for the super collider with some add-back; a Bumpers amendment to put a cap on American participation in super collider if foreign contributions lag; a Bumpers amendment to put a prohibition on sole sourcing of super collider contracts that would shut out American firms; an Exon-Nunn amendment on nuclear testing; a Reid amendment on nuclear testing; another Reid amendment on nuclear testing; two Cohen amendments on nuclear testing; a Craig amendment on actinide recycle research on nuclear energy.

I further ask unanimous consent that the relevant second-degree amendments, where appropriate, be in order; that if Senator HATFIELD'S nuclear testing amendment, which will be offered to one of the committee amendments, is not tabled, it be in order for any of the designated Senators to offer one of their nuclear testing amendments contained in the list as a substitute amendment for the Hatfield amendment, notwithstanding the fact that a further degree of amendment would not be in order; and that that permission be granted for any of the listed Senators who have listed nuclear testing amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Louisiana?

If not, without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, if we can dispose of the——

Mr. HATFIELD. If the Senator will yield for a moment, Mr. President, while we have the Senators who are here—and many others who are not here at the moment—who are expecting to perhaps join in an amendment on this question of nuclear testing.

I hope that Senators will feel that on this issue—as one of the main authors of the total test ban—that if there are ways in which we can broaden that, particularly in such areas as the comprehensive test ban, then I think all of us want to see more action, more acceleration of action, at least; and as to how to define safety tests or devices, and so forth.

I will not try to enumerate all of the possibilities, because they are multiple. I think it would be very compatible to the basic, underlying proposal here of suspending the underground testing for 1 year.

But we are just very open. I want to say that on behalf of the cosponsors I have had a chance to visit with.

Mr. JOHNSTON. If the Senator will yield at that point, Mr. President, I have been asked to state to our colleagues that there will be no more rollcall votes today.

Mr. HATFIELD. There is really nothing else for me to say, except to indicate that we are hoping to spend the weekend, at staff level, seeing where we might find common ground, and at the same time, be able to take a very strong legislative action on this very comprehensive question.

Mr. JOHNSTON. Mr. President, I wonder if we can try to lock in a unanimous-consent agreement that the Hatfield amendment, and all second-degree amendments, have a time limit of 2 hours equally divided.

Mr. President, I so request that when Senator HATFIELD presents his amendment, that his be the first amendment—that he be first recognized when the issue of nuclear testing comes up; that there be a time limit of 2 hours, equally——

Mr. EXON. Reserving the right to object, Mr. President, and I shall not object. I want to make a suggestion, if I might.

The PRESIDING OFFICER. The Senator has not completed his unanimous-consent request yet.

Mr. EXON. Mr. President, in order to accommodate all Senators on this matter that I think is a very deep and sincere conviction by Members on both sides of the issue, and at the same time, I know they want to move this bill along, could we have a unanimous-consent agreement that any and all amendments, in whatever form, with regard to nuclear testing, have the same time agreements as has been set forth on the amendment to be offered by the Senator from Oregon? Would that possibly expedite the procedure?

Mr. JOHNSTON. Mr. President, I would think it expedites things to have a 2-hour time agreement for Senator HATFIELD, which is the principal amendment. I say the principal amendment—at least, the first amendment. And I think it may be well to put a 2-hour time agreement on these others, as well.

If we have very many amendments, at 2 hours each, keeping in mind that we start this after a 5-hour debate on the SSC, we are going to be here late.

Mr. HATFIELD. Mr. President, I suggest that possibly getting just a 2-hour time agreement on the Mitchell-Hatfield amendment would perhaps put us in a better position after that 2 hours to be able to determine how many hours should be ascribed to the next Senator.

Mr. JOHNSTON. I think that is an excellent suggestion.

Mr. President, I therefore ask unanimous consent that there be a 2-hour time limit equally divided on the Hatfield amendment, to be followed by a motion to table.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JOHNSTON. Mr. President, I withhold that.

And that I have an additional time of 1 hour for Senator REID and 20 minutes for Senator BRYAN.

Mr. HATFIELD. On What?

Mr. JOHNSTON. On the Hatfield amendment.

Mr. HATFIELD. No.

Mr. JOHNSTON. Mr. President, I withdraw the request. I hope we can work out a time agreement on that on Monday.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition? If not the Chair in his capacity as an individual Senator from Virginia suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ACTINIDE RESEARCH

Mr. JOHNSTON. Mr. President, under the Advanced Reactor Research and Development Program, we have been carrying on a program called actinide research, the goal of which is to be able to reduce the volume and the radioactivity of nuclear waste. The hope is that these quantities could be reduced down by as much as 70 percent, thereby making much more manageable the problem of nuclear waste. This is a research program that I have long been in favor of.

Mr. President, my colleagues from Idaho and Illinois, who have a great interest in this really wanted to put in an amendment to take $9 million from another activity for this actinide research. They have, in the spirit of compromise, just asked for my commitment in conference to produce $6 million for this purpose.

Of course, Mr. President, as my colleagues know, the chairman of the Senate conferees cannot guarantee anything in conference. They are, of course, aware of that. But I will state to my colleagues that I will do the best I can to find an appropriate place from which to get $6 million for the Actinide Research Program. That cannot be a guarantee, but it can be a good-faith statement between my staff and I that we will do the very best we can to find the place to get that money.

I am frank to say at this point, not having looked over all of the accounts and all of the appropriate places from which this money might come and the way it might be funded, I cannot say precisely where that would be at this point. I think, rather than try to find such a place, that we would all be better off to take this to conference with that spirit and let me do the best I can in conference to find a place for that.

I think, really, you are better off to do that than even to pass an amendment here, because you would still have to face the conference. Even as we speak, my staff and I are looking at various accounts and, as I say, we will do the best we can.

(Mr. KERREY assumed the chair.)

Mr. SIMON. Will my colleague yield?

Mr. JOHNSTON. I will.

Mr. SIMON. I appreciate that. As you have suggested, this is really critical, because if we can find financing for a good chunk of our nuclear waste problems, we would help the Nation very, very significantly.

While the Senator from Louisiana is correct, no one can absolutely guarantee what is going to happen in conference, frankly—and I do not speak for my colleague from Idaho here; he will have to speak for himself—my feeling is, with that assurance from the Senator from Louisiana, that I think we can move ahead.

My own instinct is—and I yield to my colleague from Idaho on this—that we are better off not offering the amendment, but following the good will and the guarantee of the Senator from Louisiana that he will do his best.

Mr. JOHNSTON. Mr. President, before my friend from Idaho is recognized, I recognize that the goal that we are trying to achieve here is to keep his program alive. And the $6 million, in the view of the Senators from Idaho and Illinois, as I understand it, is what it takes to keep the program alive.

I would say the $6 million seems to be an appropriate goal, but I think my colleagues understand if we figure out a way to keep a program alive with a little less funding—and the difficulty of finding the money may be such—I hope that they would consider such a result to be a good-faith effort.

I mention that because in fiscal year 1992, there was $4.39 million provided for the program; in fiscal year 1991, $4.92 million. So these dollar amounts are regarded, if I may, as reasonable goals. But I hope I will not be held, in good-faith efforts, to the exact figure. Indeed, it might take a little more than $6 million if we can find it in our view to keep the program alive, but that is the goal: To keep the program alive.

Mr. CRAIG. If the chairman will yield, I believe the Senator from Illinois and I, in our discussions with the Senator from Louisiana, suggested somewhere in the $6 million range, also recognizing the administration's request of $9.23 million for this particular project.

The Senator from Louisiana and I, serving on that Energy Committee, are extremely concerned about how we manage waste. We have now just been caught up in some phenomenally inflated figures as it relates to Yucca Mountain, being able to go forward just with the licensure of moving forward with the construction of a facility, that we are now talking about billions—billions—more than we had originally thought might be the case.

Here is a research program that goes toward reducing the overall capacity of light water reactor fuel, spent fuel, by burning it in a very safe way. It is the kind of thing that I think this country speaks so loudly to at this moment. If we are going to have a nuclear industry, we have to be able to handle our waste effectively. This is one of the ways of doing it while generating increased energy capacity. And it is simply one of those worthy programs.

There are a lot of others, but when the National Science Foundation comes forward, really putting a very high priority on this particular program, then it makes all kinds of sense.

Mr. President, I have the following information to be included in the RECORD. First is a copy of a DOE news release that addresses this topic; second is an explanation of the actinide recycle process and its relationship to the integral fast reactor; and last is an excerpt from the National Research Council of the National Academies of Science and Engineering report, "Nuclear Power: Technical and Institutional Options for the Future" that addresses this important research and development.

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

[DOE News, June 17, 1992]

Note to Editors:

A Congressionally-mandated report by a committee of the National Research Council of the National Academies of Sciences & Engineering identifies several prerequisites to preserve a U.S. nuclear power option and recommends support for key reactor designs. The report, which is titled *Nuclear Power: Technical and Institutional Options for the Future*, will be published later this month, but an advance copy has been circulated to several news organizations.

The Department of Energy (DOE) also was provided with a copy. Commenting on it, DOE's Assistant Secretary for Nuclear Energy, William H. Young, expressed appreciation to the committee for their thorough review of a very complex issue. "We are pleased that the report is supportive of DOE's civilian nuclear power research and development programs and priorities, and of the nuclear power goals expressed in the administration's National Energy Strategy," he said.

Mr. Young further commented: "The committee evaluated seven designs proposed as next-generation nuclear reactors. The report supports Large Evolutionary Light Water Reactors (LWRs) as offering the most advantages, being closest to completion, and probably next to be deployed. The report also recommends that Mid-sized LWRs with passive safety features receive the highest priority for federal funding for further development. We agree that the LWR offers the best possibility for near-term deployment and that both concepts should be made ready for selection by the marketplace."

"The report recommends that Liquid Metal Reactors (LMRs) should be the highest-priority long-term option, and calls for expansion of the existing LMR design activity. The administration's National Energy Strategy also stresses the importance of developing the LMR because it is a potential contributor to our long-term radioactive waste management system and extends supplies of uranium fuel."

"Both the LWR and LMR funding recommendations made by the committee are higher than the existing DOE funding for these programs, but the committee's recommendations are consistent with DOE priorities. The reactor deployment schedules estimated by the committee differ in some respects from DOE plans. We will carefully consider the committee's recommendations on these issues in evaluating our future plans and budgets."

"The committee also recommended that the Modular High-Temperature Gas-Cooled Reactors should receive no federal funding because its market potential was judged to be low. The department will take this recommendation under advisement."

"The committee recommended closing the Hanford Fast Flux Test Facility near Richland, Washington. In April 1992, DOE placed that facility in a standby condition to conserve federal funds, pending a review to be completed this fall of potential future alternative DOE missions not considered by the committee."

"DOE is pleased that the committee emphasized the need to resolve the issues related to disposal of high-level radioactive waste. DOE notes that the committee recommended as a contingency plan that the linkage between a surface storage facility and the geologic repository be eliminated. This would permit construction of the Monitored Retrievable Storage facility to proceed before the Nuclear Regulatory Commission has issued a license for the construction of a repository.

Actinide recycle refers to the extraction of actinides (Plutonium and the minor actinides: Neptunium, Americium, Curium) from spent LWR fuel, so that they can be put back into a reactor, or otherwise burned up. These materials form the major long term (beyond a few hundred years) hazard in high level nuclear wastes. By recycle, the long term hazard is greatly reduced.

Actinide consumption is achieved by causing these materials to fission. This can be done in a reactor or in a subcritical assembly driven by an accelerator. The physics of actinide consumption is well known. The process is much more efficient in a fast reactor, where all of these materials fission readily and therefore constitute a useful fuel. In a light water reactor (LWR) the process is much less efficient and the actinides tend to poison the nuclear reaction. Material damage limits require that the actinides be recycled many (about 10) times, even in a fast reactor to achieve effective burnup.

The process is feasible only if the actinides can be effectively separated first from the spent LWR fuel and then repeatedly separated for recycle. Traditional (PUREX) reprocessing, when extended to reduce waste levels to an acceptable level, would be very expensive.

The Actinide Recycle Program at Argonne is focused on developing innovative pyrometallurgical (high temperature) processes to separate actinides from LWR spent fuel in a cost effective and efficient manner. The program started in FY91 with a funding level of $3 million per year in FY 1991 and FY 1992. The DOE funding request is $9.2 million for FY 1993.

The basic approach of the (LWR) Actinide Recycle Program is to develop an efficient head end process which will extract excess uranium from spent LWR fuel and convert the remainder to a form suitable as feed to the IFR process. Actinide recycling occurs naturally in the IFR for IFR fuels. The IFR process is highly efficient, reducing the waste streams to very low residual levels. A preliminary assessment of the feasibility of several pyrometallurgical processes has been completed and the results appear quite promising. Three candidate processes have been identified for further development.

An aggressive program has been developed to develop the necessary database to judge the technical feasibility of the proposed flowsheets by the end of FY95.

If this process is successfully developed, the result would be a system whereby essentially all actinide elements are extracted from LWR spent fuel in a single product stream, along with most rare earth fission products. A pure plutonium product is not possible. The product is highly radioactive and is not significantly more attractive than the original spent fuel as far as the diversion risk is concerned. The process therefore provides nonproliferation benefits. In these processes uranium remains as metal ingots with some noble fission product contamination. In this form the uranium can be easily stored for later recovery and use in the IFRs. The process involves small mass flow and the few process steps, so the compact equipment systems and small facility size portend favorable economics.

The program includes the following items:

Develop the process chemistry and materials in small-scale experiments.

Demonstrate unit operations at 20-kg scale (engineering scale) with simulated fuel to show scalability, materials handling, phase separations, engineering issues, and materials compatibility at a significant fraction of full scale.

Develop an integrated process at a larger scale to demonstrate that the process can be operated in a continuous or semi-continuous mode, that containment materials can be scaled up to near full-scale, and to provide sufficient cost and engineering data for design of a full-scale demonstration plant. This process can be operated cold, with depleted UO_2 and without TRU elements.

Demonstrate the decladding and separation process, the effects of irradiated fuel morphology, and the chemistry of curium and americium at prototypical levels in an intermediate-scale process with actual LWR spent fuel.

[National Academy Press, Washington, DC, 1992]

NUCLEAR POWER: TECHNICAL AND INSTITUTIONAL OPTIONS FOR THE FUTURE

(Committee on Future Nuclear Power Development, Energy Engineering Board, Commission on Engineering and Technical Systems, National Research Council)

* * * * *

c. Government incentives, in the form of shared funding or financial guarantees, would likely accelerate the next order for a light water plant. The Committee has not addressed what type of government assistance should be provided nor whether the first advanced light water plant should be a large evolutionary LWR or a mid-sized passive LWR.

5. The CANDU-3 reactor is relatively advanced in design but represents technology that has not been licensed in the United States. The Committee did not find compelling reasons for federal funding to the vendor to support the licensing.

6. SIR and PIUS, while offering potentially attractive safety features, are unlikely to be

ready for commercial use until after 2010. This alone may limit their market potential. Funding priority for research on these reactor systems is considered by the Committee to be low.

7. MHTGRs also offer potential safety features and possible process heat applications that could be attractive in the market place. However, based on the extensive experience base with light water technology in the United States, the lack of success with commercial use of gas technology, the likely higher costs of this technology compared with the alternatives, and the substantial development costs that are still required before certification, the Committee concluded that the MHTGR had a low market potential. The Committee considered the possibility that the MHTGR might be selected as the new tritium production reactor for defense purposes and noted the vendor association's estimated reduction in development costs for a commercial version of the MHTGR. However, the Committee concluded, for the reasons summarized above, that the commercial MHTGR should be given low priority for federal funding.

8. LMR technology also provides enhanced safety features, but its uniqueness lies in the potential for extending fuel resources through breeding. While the market potential is low in the near term (before the second quarter of the next century), it could be an important long-term technology, especially if it can be demonstrated to be economic. The Committee believes that the LMR should have the highest priority for long-term nuclear technology development.

9. The problems of proliferation and physical security posted by the various technologies are different and require continued attention. Special attention will need to be paid to the LMR.

* * * * *

LIQUID METAL REACTOR

LMRs offer advantages because of their potential ability to provide a long-term energy supply through a nearly complete use of uranium resources. Were the nuclear option to be chosen, and large scale deployment follow, at some point uranium supplies at competitive prices might be exhausted. Breeder reactors offer the possibility of extending fissionable fuel supplies will past the next century. In addition, actinides, including those from LWR spent fuel, can undergo fission without significantly affecting performance of an advanced LMR, transmitting the actinides to fission products, most of which, except for technetium, carbon, and some others of little import, have half-lives very much shorter than the actinides. (Actinides are among the materials of greatest concern in nuclear waste disposal beyond about 300 years.) However, substantial further research is required to establish (1) the technical and the economic feasibility of recycling in LMRs actinides recovered from LWR spent fuel, and (2) whether high-recovery recycling of transuranics and their transmutation can, in fact, benefit waste disposal. Assuming success, it would still be necessary to dispose of high-level waste, although the waste would largely consist of significantly shorter-lived fission products. Special attention will be necessary to ensure that the LMR's reprocessing facilities are not vulnerable to sabotage or to theft of plutonium.

The unique property of the LMR, fuel breeding, might lead to a U.S. market, but only in the long term. From the viewpoint of commercial licensing, it is far behind the evolutionary and mid-sized LWRs with passive safety features in having a commercial design available for review. A federally funded program, including one or more first plants, will be required before any LMR concept would be accepted by U.S. utilities.

Mr. CRAIG. Mr. President, I, for one, for a long time—and I think the chairman shares in this concern—have been fearful that we had headed in the wrong direction as it relates to handling nuclear waste or spent fuel materials, and that we really ought to complete the process of finding alternative approaches for using them, to activate the energy sources available within them, while at the same time reducing the overall waste stream.

This actinide research, which is going on at Argonne National Lab, does just that at this time. The preliminary reports on that work that has been done to date are very, very positive, so much so that I think, as the issue of a repository moves up as it relates to the cost, this issue comes along with it.

So we believe it is of prime importance. I am one of whose who is willing to lift its priority, as I think this Senate will do in coming years as other approaches become nearly insurmountable.

I appreciate and also respect the word of my chairman in a good-faith effort to try to recognize this. We have seen the sorting around, if you will, of priorities and would like to have them reshuffled a bit more, because I am one, and I think my colleague from Illinois agrees, who recognizes that this is a key priority issue.

Mr. JOHNSTON. Mr. President, as I mentioned in my first remarks, I do think this is a very, very exciting and useful endeavor, particularly when you consider the priority that nuclear waste has and the cost that nuclear waste has.

This, if it turns out to be what I believe it can be and what the Senator from Idaho and Illinois believe it can be, could vastly reduce the quantity that we have to deal with here and make our task cheaper and easier and safer. So I share his enthusiasm for this program. We will approach this conference with that attitude.

Mr. CRAIG. I thank the chairman.

Mr. SIMON. And I thank the Senator. When we talk about $6 million, I recognize it is absolute. If you come in with $5.9 million, we will not be unhappy or, if you come in with $7 million, we will not be unhappy.

Mr. JOHNSTON. Mr. President, I wonder if we may now take the Craig amendment from the unanimous-consent request?

Mr. CRAIG. I have no objection to that.

Mr. JOHNSTON. Mr. President, I therefore ask unanimous consent that the Craig amendment on actinide research previously referred to in the unanimous-consent request be deleted from that list of eligible amendments.

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

Mr. SYMMS. Mr. President, H.R. 5373 has many good provisions, but I object to the apparent elimination of actinide recycling research at the Argonne National Laboratory-West at the Idaho National Engineering Laboratory [INEL]. Nowhere in this bill do I see language assuring me that the program will continue in 1993.

This $9 million-per-year research program could literally save the nuclear power option in this country. It will do this by developing technology that will make spent nuclear fuel safer to handle and safer to store much sooner. The goal of the program is to reduce the half-lives of radioactive residues in spent fuel from thousands of years to approximately 200 years. If this can be achieved, a national spent fuel repository will be much easier to site, construct, and operate than it is today. However, progress cannot continue toward this goal if we arbitrarily eliminate the program in 1993.

Public and industry opinion in this country is nearly unanimous that the only way the nuclear option will become viable is if radioactive waste can be made less dangerous and less long-lived. The work at Argonne-West in Idaho will do this. For these reasons, and in order to treat the Argonne researchers at INEL fairly, I would strongly urge that the conferees from the Senate support this actinide research program in conference.

Mr. JOHNSTON. Mr. President, I believe that constitutes all of the business that we can tend to on this bill today. I will mention for the benefit of my colleagues that on Monday we will begin with the issue of the superconducting super collider. A number of amendments by Senator BUMPERS are eligible. I expect the principal amendment will be an amendment simply to strike the funding, although that will be up to Senator BUMPERS. He has, I believe, four amendments eligible.

I expect we will debate that for a period of about 5 hours, and I hope and expect at that point, then, we will leave the issue of the superconducting super collider and go to the issue of nuclear testing. And I hope we can stack votes from both to occur at around 6:30 or so.

But I caution my colleagues that is not locked into any unanimous consent, so at this point I cannot offer that assurance. I am sure the majority leader will have more to say about that, but that is at least my desire as floor manager on Monday. So we can expect a very full day on Monday, and I hope we will be able to finish this bill on Monday.

TECHNOLOGY TRANSFER

Mr. DECONCINI. Mr. President, I wish to compliment the chairman of our subcommittee for taking the lead in prodding our national laboratories

to focus on technology transfer and the commercial possibilities discovered as a result of basic research. I ask my friend Senator JOHNSTON, has not our committee provided a significant increase for technology partnership between the national laboratories and the private sector?

Mr. JOHNSTON. Yes, notwithstanding the difficult fiscal situation we find ourselves in, the subcommittee feels that this was a priority and thus we were able to provide additional funding.

Mr. DECONCINI. Mr. President, I would like to ask the distinguished Senator from Louisiana if funding has been provided for critical technologies such as nanolithography and high resolution computation science programs?

Mr. JOHNSTON. Mr. President, within the funding provided for the national laboratories, there is funding for these technologies as well as many others.

Mr. DECONCINI. Mr. President, I would also like to ask the chairman of the committee one other question. Is it the Senator's opinion that we should encourage the national laboratories to join in partnerships with universities and the private sector in technology transfer endeavors?

Mr. JOHNSTON. Again, I say yes to my friend from Arizona. But that is not as easy as it sounds. For decades the research done at our labs was classified and consequently the scientific breakthroughs were rarely and reluctantly shared with the private sector. In view of the changing international political climate, we have to work to getting the knowledge that is within these laboratories out to American business so that we can become more competitive in the world marketplace.

Mr. DECONCINI. Mr. President, Phoenix, AZ has the third highest concentration of high-technology businesses in the country. However, most of these businesses are defense oriented and we, as many other communities throughout the Nation, find ourselves having to broaden our economic base given the changing international security needs. I believe that it is critical for us to do this in order for our country to regain our world leadership in high-technology manufacturing. By encouraging our national laboratories to engage in technology transfer, the Senator from Louisiana has clearly demonstrated that he is a leader in moving our country forward in this regard. This Senator appreciates his efforts.

Mr. CRANSTON. Mr. President, I would like to ask the manager of the bill, the distinguished Senator from Louisiana, about the San Lorenzo River flood control project in California.

Flooding along the San Lorenzo has been a concern since 1955 when the river spilled its banks, causing $30 million of damages. The Corps of Engineers built a channel and levee flood control project in 1959 to provide flood protection, but sediment has built up in the riverbed, reducing the level of protection to a 20-year event. The corps is now studying the feasibility of raising the levees. It is my understanding the current schedule calls for the feasibility study to be completed in October. Thus, unless additional moneys are made available, the project could come to a halt until fiscal year 1994 funding is approved.

I note that the Senate Appropriations Committee recommended $133,000 to complete the feasibility study for the corps flood control project on the San Lorenzo River, but was unable to include additional funds for preconstruction engineering and design work. It is important to the city of Santa Cruz, CA, that work be accelerated so the San Lorenzo River flood control project is ready for authorization in the 1994 water resources authorization bill.

Given this situation, I would like to ask the manager of the bill if he would consider a reprogramming request by the corps if additional funds are needed to complete the Chief of Engineers report on San Lorenzo River so that the project can be included in the 1994 authorization bill.

Mr. JOHNSTON. I appreciate the interest of the Senator from California in the San Lorenzo River flood control project. Based on the information that the Senator has presented, I believe the corps should take a close look at accelerating work on the project. If additional funds are needed, the committee would carefully consider any reprogramming request to advance the project in order that it can be included in the 1994 authorization bill.

Mr. CRANSTON. I thank the Senator for his support of this critical project.

Mr. GRAHAM. Mr. President, this week the Senate began debate on the appropriations bills for fiscal year 1993. With the support of many of my colleagues, I have offered amendments to try to bring to the attention of the Senate, the issue of reducing the Federal budget deficit and rebuilding the credibility of Congress in the public eye.

While the Federal Government has made some efforts to reduce the size of the budget, the severity of our fiscal crisis can be seen most clearly at the State level.

In these times of economic strife, many State legislatures have been forced to drastically reduce the size of their budgets. Mr. President, many States, such as my own home State of Florida, have had to make very tough choices and will have to make more. They have nearly reached the limit on streamlining government and cutting waste—we are now seeing significant reductions in the most basic of State services.

On July 27, the National Conference of State Legislatures released a study tracking State budget cuts for fiscal year 1993. Of 45 States responding to the survey, 28 reported "significant budget reductions." These program cuts, totaling $650 million, spanned almost every budget area including Medicaid expenditures, education, and social service programs.

The Federal effort at serious deficit reduction must start somewhere. As I have stated before, Congress is an institution which by its nature is inductive and incremental. We cannot wait until the day Congress is ready to tackle the issue of comprehensive deficit reduction. We must act immediately to begin, bit by bit, to trim the Federal budget.

In my opinion, and many of my colleagues have agreed, the administrative accounts of the major executive departments are the perfect place to begin this process. We were successful in freezing the Department of Commerce, the Department of State, and the Department of Justice administrative budgets at fiscal year 1992 levels—a savings of $94 million.

Although I had intended to offer similar amendments to each of the 13 appropriations bills, I will not offer such an amendment to the Energy and Water appropriations bill that is before us right now.

As I reviewed the committee's proposed bill, I found that the committee not only held the administrative account for the Department of Energy at 1992 levels, but slightly reduced it. When this bill came before the other body for debate, an amendment was accepted to cut a proposed increase in the administrative account of $21.5 million.

I want to take this opportunity to commend the subcommittee chairman and ranking member, my distinguished colleagues from the State of Louisiana and the State of Oregon, for their work and for their wisdom in including this rescission in their subcommittee's legislation.

Although several of the accounts within departmental administration are increased over 1992 levels, cuts have been made in other areas. With enhanced revenues expected for 1993 from DOE services and products and with the $21.5 million general reduction, the administrative budget for the Department of Energy will not increase under this bill.

Just as this bill has already done for the Department of Energy, I do intend to continue to offer a series of amendments to these appropriations bills to freeze administrative accounts. Once again, I would like to commend the subcommittee for their sensitivity to developing an administrative budget for DOE which will not increase our 1993 contribution to the budget deficit.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Sen-

ate resumes consideration of the energy and water appropriations bill at 10 a.m. on Monday, August 3, that Senator BUMPERS be recognized to offer one of his super collider amendments contained in the agreement earlier entered; that the time between 10 a.m. and 1:30 p.m. be equally divided for debate between Senators BUMPERS and JOHNSTON; that at 1:30 p.m., the Bumpers amendment be set aside and Senator HATFIELD be recognized to offer his nuclear testing amendment; that there be a time limitation on the Hatfield amendment as follows: 60 minutes under the control of Senators REID and BRYAN; 15 minutes under Senator DOMENICI'S control; 60 minutes under Senator JOHNSTON'S control; and 2¼ hours under the control of Senator HATFIELD; that at 6 p.m., the Senate resume consideration of the Bumpers amendment; that the time between 6 p.m. and 6:30 p.m. be equally divided between Senators BUMPERS and JOHNSTON; that at 6:30 p.m., there be a vote in relation to the Bumpers amendment, to be followed immediately by a vote in relation to the Hatfield amendment; and that the preceding occur without any intervening action or debate.

Mr. President, I will state that the phrase "a vote in relation to" include a motion to table. I put the request, Mr. President.

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

The text of the agreement follows:

Ordered, That at 10:00 a.m. on Monday, August 3, 1992, the Senate resume consideration of H.R. 5373, the Energy Water Appropriations Bill, with the only amendments remaining in order, other than the excepted committee amendments, to be the following:

Bumpers: Strike funding for Super Collider;

Bumpers: Strike funding for Super Collider with some add back;

Bumpers: Cap on American participation in Super Collider if foreign contributions lag;

Bumpers: Prohibition on sole sourcing of Super Collider contracts that would shut out American firms;

Cohen: Nuclear testing;

Conrad: North Dakota project (Garrison Diversion);

Exon/Nunn: Nuclear testing;

Reid: Nuclear testing; and

Reid: Nuclear testing.

Ordered further, That relevant second degree amendments, where appropriate, be in order.

Ordered further, That if Senator Hatfield's nuclear testing amendment, which will be offered to one of the committee amendments, is not tabled, it be in order for any of the designated Senators to offer one of his nuclear testing amendments contained in the list as a substitute amendment for the Hatfield amendment, notwithstanding the fact that a further degree of amendment would not be in order.

Ordered further, That at 10:00 a.m. on Monday, August 3, 1992, when the Senate resumes consideration of H.R. 5373, the Senator from Arkansas (Mr. Bumpers) be recognized to offer one of his Super Collider amendments contained in the agreement and that the time between 10:00 a.m. and 1:30 p.m. be equally divided between the Senator from Arkansas (Mr. Bumpers) and the Senator from Louisiana (Mr. Johnston).

Ordered further, That at 1:30 p.m. on Monday, August 3, 1992, the Bumpers amendment be laid aside and the Senator from Oregon (Mr. Hatfield) be recognized to offer his nuclear testing amendment, on which there shall be the following time limitation: 60 minutes under the control of Senators Reid and Bryan; 15 minutes under the control of Senator Domenici; 60 minutes under the control to Senator Johnston; and 2¼ hours under the control of Senator Hatfield.

Ordered further, That at 6:00 p.m. on Monday, August 3, 1992, the Senate resume consideration of the Bumpers amendment, with the time between 6:00 p.m. and 6:30 p.m. to be equally divided between Senators Bumpers and Johnston, with a vote in relation to the Bumpers amendment to occur at 6:30 p.m., to be followed immediately by a vote in relation to the Hatfield amendment, with the preceding to occur without any intervening action or debate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT REQUEST

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the energy and water appropriations bill at 10:30 a.m. on Monday, August 3, that Senator BUMPERS be recognized to offer one of his super collider amendments contained in the agreement entered a few moments ago; that the time between 10:30 a.m. and 3:30 p.m. be equally divided between Senators BUMPERS and JOHNSTON; that at 3:30 p.m., the Bumpers amendment be laid aside and Senator HATFIELD be recognized to offer his nuclear testing amendment; that there be a time limit on the Hatfield amendment of 3 hours equally divided in the usual form, 15 minutes of which will be under Senator DOMENICI'S control and 20 minutes under Senator BRYAN'S control; that at 6:30 p.m., a vote in relation to Senator BUMPER'S amendments occur to be followed by a vote in relation to Senator HATFIELD'S amendment with no intervening action or debate between the time for debate and the two votes.

Mr. President, just to make clear that with respect to the 3 hours on the Hatfield amendment that Senator DOMENICI shall have 15 minutes, Senator BRYAN shall have 20 minutes and the balance shall be equally divided between Senator HATFIELD and myself.

Mr. President, I correct myself on that; that the 15 minutes for Senator DOMENICI and the 20 minutes under Senator BRYAN'S control would come out of the time allotted to me so that the 3 hours will be equally divided, an hour and a half allotted to me, of which I will allot 15 minutes to Senator DOMENICI and 20 minutes to Senator BRYAN.

If I may withhold until we have a final signoff by Senator DOLE. I will just withhold that unanimous-consent request until we hear from Senator DOLE.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask there now be a period for morning business.

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

ALLOCATION OF FISCAL YEAR 1993 SPENDING AUTHORITY TO THE SUBCOMMITTEES OF THE COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, under section 602(a) of the Congressional Budget Act, the "Statement of Managers" accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 602(a) allocation of the fiscal year 1993 budget totals among the Senate committees was printed in the conference report on the concurrent resolution on the budget for fiscal year 1993.

Section 602(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction and to report these allocations to the Senate.

The Committee on Armed Services submits that following report in compliance with section 602(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask unanimous consent that the report be included in the RECORD at this point.

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

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 602(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. Nunn, from the Committee on Armed Services, submitted the following report:

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 287, reports the division of such allocations among subcommittees of the Committee for fiscal year 1993.

BACKGROUND

Under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 602(b) of the Act requires the committees to allocate such spending authority

among either subcommittees or the programs over which they have jurisdiction and to report these allocations to the Senate.

ALLOCATION RECEIVED BY THE COMMITTEE

The direct spending authority allocation received by the Committee on Armed Services was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

The Committee on Armed Services received the following allocation for fiscal year 1993:

Fiscal Year 1993

Direct spending authority:	*Millions*
	Millions
Budget authority	$37,775
Outlays	37,624

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in H. Con. Res. 287, the Concurrent Resolution on the Budget for Fiscal Year 1993.

Fiscal Year 1993

Subcommittee on Manpower and Personnel:	*Millions*
	Millions
Budget authority	$37,693
Outlays	37,564
Subcommittee on Readiness, Sustainability, and Support:	
Budget authority	82
Outlays	60

FIGHTING THE NEW THREAT IN THE WAR ON DRUGS

Mr. McCAIN. Mr. President, the war on drugs is a battle that has not ended with the cold war. If anything, it is intensifying. Where we once faced one major cartel in Latin America, we now face three: the Medellin, Cali, and Urdinola. Latin American producers have added heroin production to their cultivation of cocaine and marijuana. Asian producers have expanded their cultivation of heroin and have begun to smuggle vast amounts of cannabis into Canada. New sources of drugs have emerged in Lebanon, and both Lebanon and Syria have joined the list of major drug-smuggling nations.

There are some encouraging trends. A survey released earlier this year by the National Institute of Drug Abuse did find that the number of adolescents from age 12–17 who admit to drug use has dropped 25 percent since 1988. At the same time, the number of Americans who recently used cocaine is estimated to have declined by 35 percent since 1988, and has dropped by half in the last 10 years.

THE CHANGING THREAT IN THE WAR ON DRUGS

Unfortunately, such surveys cannot distinguish with any accuracy between those who make less use of drugs and those who say they make less use of drugs. We all know the terrible cost that drugs exact from the poor and particularly from African-Americans. We know that the violence on our city streets is increasing and is spreading to the suburbs. There is a wealth of data to show that drug use has not been curtailed among several key segments of our population. Cocaine use by addicts and frequent users has increased, as have recent emergency room admissions involving cocaine.

While we may have sharply reduced casual drug use, our war on drugs is only having a minor impact on Americans who are heavy users of narcotics, or who have been involved in the drug culture for lengthy period of time. There are still approximately 10.2 million marijuana users, 1.6 million cocaine users, and 492,000 heroin users in the United States.

As any drug enforcement agent or inner city policeman will tell you, we have not been successful in raising the price of drugs or reducing their availability on the street. Although drug seizures have grown, and some have been dramatic, the amount of drugs under cultivation has also increased. Every improvement in interdiction and interception has been matched by an improvement in the sophistication of the smuggler.

This is clearly reflected in the latest estimates of the flow of drugs. According to the latest unofficial estimates by the El Paso Intelligence Center, which is DEA's center of expertise in assessing the flow of drugs, approximately 22,000 metric tons of marijuana were smuggled into the United States last year from Mexico, Jamaica, and Colombia alone. We seized only 231 metric tons from all sources—or about 1 percent. This meant that marijuana with a street price worth $52.2 billion successfully entered the United States.

Similarly, Bolivia, Colombia, and Peru alone produced about 880 to 1,090 metric tons of cocaine. We seized 145 metric tons from all sources in the world, and if we ignore all other producers, we seized a maximum of 13.3 to 15.5 percent of these imports. DEA estimates that under the most favorable possible assumptions, the street value of this cocaine was $33 billion, and the true value could have exceeded $50 billion.

In addition, DEA estimates world heroin production at 341.9 to 385.9 metric tons. DEA also estimates that 85 metric tons, or 25 percent of this production reaches the United States and that the United States only seized 1,645 kilograms of this total production. This means that U.S. addicts spent $4.25 billion on heroin last year, and that the drug traffic in the United States, was worth a total of $89.4 billion—even if we ignore all other drugs such as LSD and the amphetamines.

It is scarcely surprising, therefore, that there has been no drop in the amount of drugs available in the United States, and no drop in prices due to law enforcement. In fact, senior officials in both the joint task forces working to halt the flow of drugs, and in EPIC, El Paso Intelligence Center, agree that the only changes in the street price of drugs have been the result of price manipulation by the cartels—not the result of increased drug seizures.

FIGHTING THE WAR IN AMERICA AND THE WAR AGAINST SUPPLY

There is informal agreement within each of the joint task forces, and within the centers analyzing the war on drugs, that this situation will persist until we do a far more successful job of reducing demand. The gap between the street price of drugs and the cost of production and smuggling is so great that no effort to reduce supply can totally solve the problem.

The war on drugs can never be won unless we win the war against demand. The drug problem does not exist because other nations are forcing drugs on Americans. It exists because of a relentless American demand to which the world's criminals—both foreign and domestic—respond. It is painfully clear that the key battles in the war on drugs are still to be fought, and that they must be fought on American soil.

Nevertheless, we must fight to reduce supply. We must do the best we can to shield our borders, to prevent smugglers from reaching the United States, and to intercept and imprison them whenever and wherever we can.

THE MILITARY ROLE IN THE WAR ON DRUGS

We recognized these facts in the Senate Armed Services Committee 2 years ago when we held the hearings that led us to bring the military into the war on drugs. We understood that the military could not tip the balance and win the war, but that they have to play a critical role if we are ever to present a major challenge to drug smugglers.

This was the reason we funded a major military effort to fight the war on drugs. Over the past several years, the Department of Defense antidrug budget has tripled to $1.2 billion.

This military effort has produced progress in many areas. We have created joint task forces to cover each of our coasts, the Caribbean, and our land borders with Mexico. We have provided military and intelligence sensors, and communications systems far more sophisticated than those available to Federal, State, and local law enforcement officers.

We have created strong interdiction and interception programs to halt smuggling using light aircraft and small ships. We have created programs to help our Latin American neighbors improve their efforts to halt drug cultivation and smuggling, and we have improved the surveillance of our land borders.

THE NEED TO IMPROVE THE MILITARY EFFORT

As is almost inevitable, however, our efforts to use the military have led smugglers to adapt their efforts, and

this has led to imbalances in the effectiveness of the various task forces. In fact, the increased effectiveness of the joint task forces guarding the air and sea routes through the Caribbean, across the gulf, and into California has driven smugglers to emphasize three other approaches to smuggling.

These three approaches include:

Using aircraft and ships to smuggle drugs into Mexico, and then using commercial vehicles, private vehicles, animals, and individuals to smuggle drugs across the land border;

Using large commercial aircraft, which are not subject to military surveillance and interdiction; and

Using container ships, which also are not subject to military surveillance and interdiction and which present a surveillance problem for Customs that is so large that only 5 percent of the hundreds of thousands of containers coming into the United States each year are subject to even the most perfunctory Customs inspection.

There is no precise way to know which of these routes is responsible for the largest volume of drugs. Experts in each joint task force, and in the DEA's El Paso Intelligence Center are in agreement that we simply lack the data to accurately assess both the overall volume of drugs being smuggled into the United States, and the amount of drugs coming in by a given smuggling method or crossing a given border.

There is agreement, however, that the volume of drugs being smuggled across the land borders of Arizona, California, New Mexico, and Texas has increased sharply over the last 2 years. There is complete agreement that massive new smuggling networks have been established in Mexico, and that some smuggling networks are so large that they have hundreds of large truck trailers and smuggle drugs in on a daily basis. There is complete agreement that at least 80 percent of the drugs smuggled across our land borders come safely into the United States, and some senior experts put the figure as high as 95 percent.

It is also striking that smuggling across the land borders accounted for 153.3 metric tons out of the total of 231 metric tons of marijuana seized last year. Similarly, 22.3 metric tons of cocaine were seized out of a total of 145 metric tons. Given the ease of smuggling, these figures would not be so large if only a small percentage of the total volume of marijuana and cocaine coming into the United States was coming across our land borders.

Drug experts agree that the problem is particularly severe in the case of large trailers because hundreds wait at our borders each day, and many are refrigerated. Delays lead to widespread protests by American businesses that depend on Mexican exports, and such trailers are extremely difficult to search. In fact, when they contain refrigerated or frozen goods, a search requires hours and means the destruction of most of the cargo.

As a result, the Latin American cartels have found that they can actually increase their profits if they do not use small aircraft by trying to cross the United States border at States like Arizona. While some such smuggling still does occur, the more sophisticated smugglers have found that a quick flight to Mexico from Latin America, instead of flying across the United States border, means far less risk of losing the aircraft or pilot, and that an aircraft can make more trips with much higher payloads. At the same time, Mexican-based smugglers have learned they can operate with great safety in Mexico, choose from among hundreds of possible crossing points, and cross the border with little risk. At worst, the smuggler loses a cheap truck and an expendable driver.

IMPROVING THE COVERAGE OF THE SOUTHWEST BORDER

The trends and problems I have just discussed became all too clear last year, when I began an investigation of the effectiveness of our war on drugs in covering the Southwest border. This investigation led me to ask Senator NUNN to hold a Senate Armed Services Committee hearing on the role of the military in the war on drugs.

This hearing was held in March, 1992. Both the testimony we received during the hearing, and our follow up investigations, revealed that we had created a military surveillance and interdiction system that was driving drugs into Mexico and across our land borders. Worse, it revealed that we had created major legal barriers to our military in using their surveillance and intelligence assets to detect and interdict land smuggling efforts.

Mr. President, I do not believe that a public discussion of all the details involved would be useful, and much of the data is law enforcement sensitive. I do, however, ask unanimous consent to print a letter in the RECORD that dramatizes the issues involved.

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

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: There is forwarded herewith a draft of the proposed legislation "To amend titles 10 and 18, United States Code, to enhance the ability of the Department of Defense to perform its counternarcotics operations, and for other purposes."

The proposal is part of the Department of Defense legislative program for the 101st Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

Section 1213(b)(3) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 requires the Secretary of Defense to provide the Congress recommendations for legislation that would assist the department in performing its drug interdiction and counterdrug activities. This proposal is designed to meet that requirement and to offer needed authorities for the conduct of our operations in this important area.

Our proposal consists of eight provisions that we have found will provide us some assistance in the performance of our role as set forth in chapter 18 of title 10, United States Code. Specifically, the proposal would:

(1) authorize the transfer of seized or forfeited drug property to a country where it is most needed in the counternarcotics arena and transport it by departmental means,

(2) make the "additional cost incurred" standard, relating to statutory reimbursement for services provided above costs incurred which is currently authorized the Department of State, a universal standard for the Department of Defense and civilian law enforcement agencies,

(3) clarify that maritime communications transmitted through marine telephone operators to locations in the United States do not carry an expectation of privacy (obviating a recent 9th Circuit Court of Appeals decision),

(4) provide for an additional exception to the limited size of US Military Assistance Groups per country (from current level of six but only with notification and presidential level determinations),

(5) provide authority to military forces for the detection and monitoring of the movement of land traffic of illegal drugs,

(6) permit military working dog teams to assist civilian law enforcement agencies,

(7) state more positively the objective of ensuring that support to law enforcement is consistent with preparedness to perform traditional military missions, and

(8) provide a succinct statutory underpinning for our counternarcotics mission.

COST AND BUDGET DATA

The enactment of this proposed legislation would result in little or no additional costs to the Government.

Sincerely,

TERRENCE O'DONNELL.

SECTION-BY-SECTION ANALYSIS

Section 1 amends subsection 511 (e)(1)(E) of the Controlled Substance Act (21 U.S.C. 881(e)(1)(E)) to permit the transfer of forfeited drug property to foreign countries for counternarcotic uses without requiring the recipient country's participation in the seizure of the property. In addition, this provision would permit the transportation of the forfeited property by the Secretary of Defense on a space available basis.

Section 2 amends the Classified Information Procedures Act (CIPA), (18 U.S.C. app. IV (1988)), to establish a higher standard for a defendant to satisfy before the U.S. Government is required to produce classified foreign intelligence information in a criminal proceeding. Currently, a defendant is entitled to discover classified information, including classified foreign intelligence information, upon a showing of relevance. Under the proposed amendment, a defendant would be entitled to discover classified foreign intelligence information only upon a showing that he would, without the information, be denied his constitutional right to a fair trial. The amendment would prohibit a court from

ordering production to a defendant as well as disclosure by a defendant of classified information that may have been provided the defendant during discovery. This amendment would extend to all classified foreign intelligence information the same protection as that currently provided for information lawfully obtained under the Foreign Intelligence Surveillance Act (FISA) of 1978, 50 U.S.C. §§1801–1811, at §1806(g) (1982).

Section 3 amends 10 U.S.C. §377(a) reimbursement provisions to conform with the "additional costs incurred" provisions found in 22 U.S.C. §2392 (c).

Current law requires civilian law enforcement agencies to reimburse the Department of Defense for any support provided. This has been interpreted by the Department of Defense as requiring "full reimbursement" (57 Comp. Gen. 674 (1974) and 31 U.S.C. §6505), unless a waiver is authorized. Counternarcotics support provided to the Department of State requires reimbursement only for the amount of additional costs incurred by the Department of Defense (22 U.S.C. §2392 (c)). The proposal would apply the same standard to *all* counternarcotics support provided by the Department of Defense to civilian law enforcement agencies, both Federal and state/local.

Section 4 amends title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Electronic Communications Privacy Act (ECPA), (18 U.S.C. §2510 et seq.) to clarify that the radio portion of maritime communications transmitted to and through a marine telephone operator located in the United States is not "a wire communication." The current wording of title III, coupled with Ninth Circuit case law, raises the question of whether the interception of maritime communications which travel in part by wire is prohibited. This amendment would clarify that title III does not prohibit the interception of the radio portion of such a transmission.

Section 5 amends section 515(c)(1) of the Foreign Assistance Act (22 U.S.C. §2321i) which currently limits the size of U.S. military personnel per country to six to manage in-country U.S. security assistance. There are a number of exceptions to this section for Colombia and sixteen other countries; the ceiling for U.S. MILGPs in Bolivia and Peru should be granted an exception, as in the other countries.

Section 6 amends section 374(b)(2)(A) of title 10, United States Code, to provide a significant but limited exception to the Posse Comitatus Act (18 U.S.C. §1385) by authorizing military personnel to operate equipment in support of Federal drug law enforcement agencies to detect and monitor the movement of traffic across the external land borders of the United States. This section authorizes ground surveillance of vehicular, equestrian, pedestrian or other traffic coming into the United States using night vision devices, ground sensors, or other military equipment to assist Federal drug law enforcement agencies.

Use of military personnel for ground surveillance of civilians within the United States has traditionally been viewed as prohibited by the Posse Comitatus Act. See Department of Defense Directive 5525.5, DoD Cooperation with Civilian Law Enforcement Officials, Encl. 4, para. 3d, 15 Jan. 1986. This general rule recognizes that physical surveillance of persons suspected of criminal conduct and reporting their movements to civilian law enforcement authorities to assist them in detaining or arresting the suspected offenders constitute direct participation of military personnel in law enforcement activities. (When military personnel also provide a base of operations for and transport the civilian law enforcement agents to the location of the arrest (as is now authorized by 10 U.S.C. 374(b)(2)(E)), they have done everything short of taking the suspect into custody). Without express statutory authority for physical surveillance assistance, it may be prohibited by the Posse Comitatus Act as well as by the restrictions of 10 U.S.C. §375.

Notwithstanding these restrictions, limited ground surveillance support can be provided incident to normal military training exercises or operations as authorized by the "Military Purpose Doctrine" and 10 U.S.C. §371(a), see Meeks, "Illegal law enforcement: Aiding Civil Authorities in Violation of the Posse Comitatus Act," 70 Mil. L. Rev. 83, 124–26 (1975), and as required by section 1206 of the National Defense Authorization Act for Fiscal Years 1990 and 1991. The assistance must be provided in the course of normal military training to avoid prohibited direct assistance. The provision of such support only as an incident of normal military training without express statutory authority, however, reduces the effectiveness of the support which may be given and exposes DoD personnel to unnecessary risk of personal liability.

Accordingly, this section is intended to provide a limited and narrowly circumscribed exception to the Posse Comitatus Act's prohibition on use of military personnel to execute the law by authorizing operations of military equipment only in border areas to detect and monitor the movement of traffic across the external land borders. Activities under this section are subject to the express restrictions of 10 U.S.C. §375 which prohibit the direct participation of military personnel in a search, seizure, arrest, or similar activity. To the extent that operation of military equipment for the purposes provided in this section in itself may constitute such direct participation, however, this section is intended as a very limited exception to the restrictions of section 375 as well. This section does not, however, authorize military personnel to effect a search, seizure, arrest or similar activity or to participate directly in such activities except as authorized in this section or as otherwise authorized by law.

This section in effect provides DoD personnel authority to do on land, at the external borders of the United States, in support of law enforcement agencies, that which they are currently authorized to do under 10 U.S.C. §124 as lead agency for aerial and maritime detection and monitoring of the transit of illegal drugs into the United States. Like the DoD lead agency mission, this support is intended to use DoD personnel in a role that is consistent with the traditional military mission and that maximizes the use of military skills, equipment, and technological capabilities while leaving to civilian law enforcement agencies the law enforcement activities for which they are trained and equipped. No radical break with the historic separation between military and civilian functions is intended.

Section 7 amends 10 U.S.C. §374(b)(2) by adding an additional purpose for which military personnel may operate Department of Defense equipment to assist civilian law enforcement agencies involved in the enforcement of drug, customs, and immigration laws. This would authorize the Secretary of Defense, upon request by the head of a Federal law enforcement agency, to loan military working dog teams (the team consists of a military working dog and its handler) to civilian law enforcement agencies for the purpose of conducting "sniffs" of containers that may be carrying illegal loans. The military working dog team would not be authorized to confront civilian citizens, *i.e.*, the dog may not "sniff" individuals. Nor may the team engage in any subsequent search, seizure, or arrest of civilian citizens and their property as a result of an "alert" (a reaction by the dog indicating the presence of an illegal substance) by the military working dog.

Section 8 amends 10 U.S.C. 376 to state more positively the objective of ensuring that support to law enforcement is consistent with preparedness to perform traditional military missions. As a matter of practice, the Department's counternarcotics operations generally enhance the preparedness of the armed forces to perform traditional missions. For example, personnel on radar planes and ships tracking suspected drug traffickers are honing their skills in performing their regular military functions.

Section 9 amends chapter 3 of title 10 by inserting a new section 124 before the current section 124 and redesignating the current section 124 as 124a. The current section 124 was enacted by section 1202 of the Department of Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101–189; 103 Stat. 1563). The revision is to state with clarity the function and mission of the Department of Defense in the war on drugs. The second sentence provides for regulations to ensure that the counternarcotics mission is carried out in a manner not inconsistent with accomplishment of other high priority missions, and in accordance with applicable law.

Mr. McCAIN. This is a draft letter, developed by the Department of Defense, which was never formally sent to Congress. It does, however, catalog the various legal barriers that have constrained the military efforts to fight the flow of drugs, and which have had a particularly severe effect in limiting the effort to fight the smuggling across our land borders.

I am glad to report that some of these barriers have been removed. As a result of questions that I and others raised to the Department of Defense, it has reexamined the law and permitted the use of key sensors like forward looking infrared or FLIR.

Far more important, the fiscal year 1993 Defense Authorization Act just reported by the Senate Armed Services Committee contains provisions that will allow the military to use its senors and intelligence assets to continuously track smuggling activities across our land borders rather than simply take the equivalent of one reading or a snapshot of such activity. This reform is critical because continued tracking and large scale surveillance efforts are necessary to attack the overall drug smuggling effort, and because land smuggling is much harder to detect and analyze than smuggling by air or sea.

The bill language that I proposed which is incorporated in the Committee version of the fiscal year 1993 Defense Authorization Act makes changes to section 374 of title 10, United States

Code, and the counterdrug activities under section 1004 of the National Defense Authorization Act for fiscal year 1991. These changes clarify the intent of Congress to broaden the statutory authorities to permit systematic and continuing reporting on the movement of persons, vehicles, or other potential modes of transporting drugs over land to provide law enforcement with the necessary intelligence required to plan effective interdiction efforts.

The Act also calls for a comprehensive sensor mix study that would reinforce the need for providing for more effective coverage of the land border, improved networking of communications and intelligence, the development of new sensor equipment to rapidly detect the presence of drugs in containers and trucks, tests of airships to try to develop more cost-effective substitutes for the aerostats now in the border area, and expanded use of the National Guard in providing air patrol of the border area to allow Customs to concentrate more resources in intercepting smugglers.

I would like to thank my colleagues for their supporting my portion of this package, and congratulate Senator NUNN and Senator WARNER for the overall equality of this section of our bill.

THERE IS STILL MUCH TO BE DONE

The fact remains, however, that there is still much to be done. I have followed up this action by the committee with letters to Secretary Cheney and to Bob Martinez, Director of the President's Office of National Drug Control Policy, asking both for a comprehensive examination of how many legal barriers—if any—remain to the effective use of the military in the war on drugs. I ask unanimous consent that these letters be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. MCCAIN. I have also asked them to review the measures of effectiveness currently being used by the military to ensure that: First, adequate analysis is taking place on the effect of the military in halting the drug trade across our land borders and into other methods not subject to effective military surveillance, and second to ensure improved analysis of the overall patterns in the traffic across each border State.

I believe this review is needed so that we can deal with the real smuggling threat to the Southwest border States, and so that we do not again fall into the trap of emphasizing one aspect of the war on drugs in a way that may actually make the situation worse in other areas and regions.

At the same time, I want to stress that I am not attempting to join those who talk about victory or who feel that any one step in fighting supply can change the overall situation. The sad fact is that we are only now learning how to fight half a war: The supply side.

I believe that one of the most urgent tasks of the next administration and the next Congress will be to link the improvement in the war on supply with equal improvements in the war on demand. I intend to do everything I can to support that effort.

We cannot rely on the comforting illusion that our military and our law enforcement officers can win this war without the help of every American. If we try to avoid the problem, or claim false victories, the pain and suffering inflicted on millions of American families by the drug traffic will continue.

DOMESTIC ISSUES IN THE WAR ON DRUGS

This will require a new focus on education and our youth. There can be no serious discussion of our Nation's drug use problems without a proper emphasis on the role of education and treatment programs. The onrushing flow of drugs into the United States means that those people who wish to buy drugs will almost certainly be able to find them.

Among the many other social problems that schools in America are struggling to cope with, drug use by students is a problem in thousands of school districts. If students can be brought face to face with the clear and present dangers of drug use through education programs during their school careers, we can build a formidable resistance in our Nation to the false allure of drug experimentation.

Since the alarming rise of drug use among Americans of all ages during the 1980's, antidrug education programs have become both part of standard health classes and special initiatives in our schools. At the Federal level, the Drug Free Schools and Communities Program was established to help schools and community groups educate their youth about the dangers of drugs. Currently funded at $620 million, the Drug Free School Program is an extremely important way to empower younger Americans with the truth about illegal drugs.

While States and local communities have the primary responsibility for education, the Congress should continue to expand the Drug Free Schools Program to ensure that all students participate in antidrug classes each year. It would be worthwhile to target new funds to the most troubled schools and communities through the emergency grants account of this program.

The equally important partner in demand reduction strategies is effective treatment programs. The disturbing amount of crimes is an unmistakable alarm that this chain must be broken. The need for greater treatment efforts is most heart-rendingly shown by the images of suffering infants born to crack-addicted mothers.

In my home State of Arizona, we are fortunate to have an array of specialized treatment programs that have achieved excellent results in turning substance abusers away from drugs. Unfortunately, the demand for treatment slots and resources far outstrips their availability. Whether it be at a county jail, a community treatment facility, or a Federal prison, steadily expanding treatment programs and supportive services must be a priority in our national drug strategy as well.

This is not an area where we can all turn to the Federal Government to shoulder this burden. All levels of government and the private sector must work in concert to expand drug treatment programs in our communities, and individuals who can afford to pay for their treatment must be required to do so. Federal funding for treatment services under the administration's national drug strategy has been increased to almost $2 billion this year, and I look forward to new initiatives in the Congress to monitor the effectiveness of various treatment approaches and to improve our targeting of new funds.

I am glad that the Bush administration has led a broad expansion in Federal antidrug programs in the last 4 years. I am glad that this effort has gone beyond supply and that overall funding for drug interdiction, prevention, and treatment programs has nearly doubled, increasing to almost $12 billion this year.

But, Mr. President, I believe that wars are meant to be won. I believe that we must not let political hope or partisan debate blind us to the fact that this war will take decades to win and can only be truly won on the homefront. I fought one war in which rhetoric became a substitute for both victory and reality. I promise you that this is a certain road to defeat, and this country cannot and must not take that road.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 29, 1992.

Hon. BOB MARTINEZ,
Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR BOB: Thank you for your letter of July 17, 1992.

I believe that you have good reason to be proud of the progress we are making in the war on drugs, and the improvements we are making in the federal effort. At the same time, I have growing concerns with several aspects of both the overall effort to fight the scourge of drugs, and with the impact of the military part of this effort.

MEASURES OF EFFECTIVENESS

I applaud the efforts you are making to expand the reporting systems and analytic capabilities that help us understand the results of our efforts in the war on drugs. I am particularly pleased with the progress being made by the El Paso Intelligence Center (EPIC).

It is painfully clear, however, that we have a long way to go. First, I believe that we must be much more cautious in using statistics on drug demand based on surveys of

youth and adolescents. Such surveys present major questions regarding statistical validity in terms of both sampling and validity of the input data.

Second, we need to take up the challenge of producing detailed estimates of the nature of the drug traffic the explicitly measures what is happening in terms of the national and local patterns in drug traffic. These estimates should provide:

Detailed estimates of the total flow and sale of drugs across each part of our border and into and within each state.

Estimates by type of drug of the method of smuggling, production, and sale—with the same break out by state and portion of the border.

Estimates showing the patterns in type of smuggling and domestic production.

Third, we need to stop focusing on the amount of drugs we seize, and develop analytical tools which provide a clearer picture of the effectiveness of our fight against smuggling and supply. These figures should include:

Regular reporting by state and major urban area on the initial, distribution, and street price of drugs to measure in a statistically valid way whether our interdiction efforts are really affecting supply.

Regular reporting on the amount of drugs being produced or cultivated, the amount of drugs being smuggled into the U.S., and the amount being seized—with supporting estimates by type of smuggling, source country, state, and border to show our success in winning the war against supply.

At least semi-annual statistically valid surveys of shifts in demand.

These are all areas where I am fully aware there are major analytic difficulties. At the same time, I believe that organizations like EPIC can develop reasonably accurate figures if they are given the proper resources, and that we can never really know whether we are winning or losing without such data.

IMBALANCES IN THE WAR ON DRUGS

I raise these broader issues because, as the attached letter to Secretary Cheney indicates, I believe they would have warned us about what I believe may be a major problem in the way we are using the military to fight the war on drugs. It appears that our current efforts are acting to drive the drug traffic into Mexico and across the land borders of Arizona, California, New Mexico, and Texas.

As you warned me during some of our earlier discussions, the smuggling effort through Arizona and other southwest border states has been increasing for some time, and virtually all of the growth in this traffic into Arizona moves by land.

The military has had a major impact in reducing smuggling using small ships and aircraft. It is also clear, however, that this is driving drug smugglers to try to bypass the surveillance efforts of JTF-4 and JTF-5, and that their solution is to smuggle drugs by using container vessels and commercial aircraft that are not subject to military surveillance.

More important, the efforts of JTF-4 and JTF-5 have acted to drive the drug traffic into Mexico, where ships and aircraft can enter relatively freely, and then across the land border using tractor trailers, private and other commercial vehicles, mules, and individuals. While there have been some impressive seizures, this traffic is moving across our borders with near impunity.

This is why I have asked Secretary Cheney to review this issue and provide me with an analysis of the patterns in the drug traffic in the Southwest border, and the role the military is and can play in preventing land smuggling. We need to know the full extent to which the success of JTF-4 and JTF-5 is driving drug traffic into Mexico; how the resulting changes in the drug smuggling traffic in Mexico have acted to create a vast new set of smuggling networks within that country, and what JTF-4, JTF-5, and JTF-6 can do to deal with this problem.

REMOVING ALL OF THE BARRIERS TO EFFECTIVE USE OF THE MILITARY IN THE WAR ON DRUGS

Finally, I believe we face problems because we are not making full use of all the potential capabilities of the military and National Guard, and military sensors and intelligence sensors. As I noted in my letter to Secretary Cheney, I included legislation in the FY1993 Defense Authorization Act designed to correct one of the most critical problems in the present military effort to support the war on drugs: Limitations on the use of advanced military sensor and intelligence systems.

I have already asked Secretary Cheney for his analysis of this legislation and whether any major legal barriers still need to be addressed. I believe, however, that a coordinated effort is needed by your office to determine the views of customs and all relevant federal, state, and local enforcement agencies.

I believe that such an effort on your part could be critical in ensuring that we can achieve the same success we have achieved in dealing with small aircraft and ships in halting traffic across the land border, and in dealing with other problems like the use of container ships and commercial aircraft.

NEXT STEPS IN IMPROVING OUR EFFORTS TO WIN THE WAR ON DRUGS

I realize that I have raised a number of complex issues. I would be grateful, however, if you could let me know your views on each of these points as soon as possible. I believe we need to do as much as we can to build on our initial successes in winning the war on drugs, and to steadily improve our understanding of the impact of our efforts. We can only do this if we both improve the sophistication of our reporting and analysis, and ensure that we do not create imbalances in our efforts that simply drive drug traffickers from one form of smuggling to another, or place artificial limits on the role the military can play in achieving a victory.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, July 29, 1992.

Hon. RICHARD B. CHENEY,
Secretary of Defense, Washington, DC.

DEAR SECRETARY CHENEY: During the last two years, you have forged the military effort to aid the war on drugs into a highly effective tool in fighting many forms of drug smuggling. I am concerned, however, that success in some areas is creating a fundamental imbalance in our efforts, and one that is acting to drive the drug traffic into Mexico and across and land borders of Arizona, California, New Mexico, and Texas.

It has become apparent that the smuggling effort through Arizona and other southwest border states has been increasing for some time, and that virtually all of the traffic into Arizona moves by land. This was one of the reasons I asked Senator Nunn to call the drug hearings the Senate Armed Services Committee held this March, and I have since had my staff visit JTF-4, JTF-5, JTF-6, EPIC, and the Customs C3I centers on each coast.

It is clear from both the testimony we have received, from these vists, and from the data provided by the Joint Task Forces and EPIC that the military has had a major impact in reducing smuggling using small ships and aircraft. It is also clear, however, that this is driving drug smugglers to try to bypass the surveillance efforts of JTF-4 and JTF-5, and that their solution is to smuggle drugs by using container vessels and commercial aircraft that are not subject to military surveillance.

More important, the efforts of JTE-4 and JTF-5 have acted to drive the drug traffic into Mexico, where ships and aircraft can enter relatively freely, and then across the land border using tractor trailers, private and other commercial vehicles, mules, and individuals. Both EPIC and JTF-6 officials informally agree that while there have been some impressive seizures, this traffic is moving across our borders with near impunity.

I believe that this aspect of the military role in the war on drugs deserves your careful study, and that of Assistant Secretary Duncan. I am deeply concerned that we may create a situation where we focus on our success in maritime and air surveillance, and fail to properly analyze the changing land threat, and the shift to container vessels and commercial aircraft.

I would, therefore, be grateful if you would review this issue and provide me with an analysis of the patterns in the drug traffic in the Southwest border, and the role the military does and can play in preventing land smuggling. Such an analysis should pay special attention to the impact of JTF-4 and JTF-5 in driving drug traffic into Mexico, the changes in the drug smuggling traffic in Mexico that have created a vast new set of smuggling networks within that country, and what JTF-4, JTF-5, and JTF-6 can do in combination to deal with this problem.

I realize that such an analysis may take some time, and I would be grateful if you could take two interim steps that would allow us to make immediate progress on these issues.

First, I gather that much of the preliminary analysis supporting the issues I have raised was done in response to questions I asked for the record in the March, 1991, hearing before the Senate Armed Services Committee. These answers were prepared by the proper JTFs several months ago, but I still have not received the result.

Second, I included legislation in the FY 1993 Defense Authorization Act designed to correct one of the most critical problems in the present military effort to support the war on drugs: Limitations on the use of advanced military sensor and intelligence systems. This legislation was a response to both the problems encountered by the JTFs, and problems raised by the Department relating to Titles 10 and 18 (USC) which place unnecessary constraints on the military in fighting drug smuggling. (A copy of the DoD analysis is attached).

I would appreciate it if you could ask Counsel to fully review the relevant text of the Authorization Act, and (a) let me know whether it gives the Department the full authority it needs to use all available reconnaissance and intelligence sensors with full effectiveness, and (b) whether further legislative changes are needed to correct the problems raised in the attached analysis by the Department.

I realize that I have raised a number of very complex issues, and that it may take some time for you and Assistant Secretary Duncan to decide how best to proceed. I

would, however, be grateful if you could provide me with your views on how to proceed with the analysis I have requested as soon as possible.

I would also be grateful if you could provide me with the answers to my questions for the record and the supporting data from the JTFs as soon as possible, and if you could provide me with Counsel's opinion on the language in the Authorization Act by August 7, so we could have it in time to make any necessary amendments as part of the Senate floor action on the Act.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

DEPARTMENT OF DEFENSE,
Fort Bliss, TX, June 4, 1992.

Senator JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR DR. CORDESMAN: Per your request, the attached documents are forwarded directly to your office. They include copies of the slides you saw during your visit, and a copy of the DoD legislative proposals. The legislative proposals were submitted to OMB in June of 1990. They were never sent to the Hill. They were, however, the official DoD position on land detection and monitoring.

If you are considering a continuous observation authority, you might look at amending 10 USC 374(b)(3), as follows:

Add "(A), (B), or" between (2) and (c); replacing "into" with "in"; and replacing "vessels or aircraft where detection began outside such land area" with "vessels, ground conveyances, persons or aircraft engaged in international narcotics trafficking."

This is not an official DoD position, so I cannot supply more language, or a more lengthy explanation. We are hopeful that draft legislative proposals which we have submitted within DoD channels will be acted on in an expeditious manner.

Sincerely,

RICHARD B. JACKSON,
Major, Judge Advocate, Legal Advisor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 429.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 429) entitled "An Act to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1991".

SEC. 2. DEFINITION OF SECRETARY.

For the purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows:

"RECREATIONAL FACILITIES, CONSERVATION, AND FISH AND WILDLIFE";

and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE FOR TITLES II-VI; TABLE OF CONTENTS FOR TITLES II-VI; AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles II through VI of this Act is as follows:

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin replacement project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Crops for which an acreage reduction program is in effect.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased project water capability.
Sec. 303. Stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation schedule.

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 401. Findings, purpose, operation and administration.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

Sec. 501. Findings and purpose.
Sec. 502. Provision for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

(c) DEFINITIONS.—For the purposes of titles II-VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activi-

ties, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $922,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: Provided, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in table 2 of the report accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

(e) STATUS OF PARTICIPATING PROJECTS.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1992, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommendation.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 107(e)(2) for related purposes.

(C) The feasibility study and the project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) STRAWBERRY-PROVO CONVEYANCE STUDY.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8: Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, township 3 south, range 12 west, and sections 7 and 8, township 3 south, range 11 west, Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water construction within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available, upon appropriation by Congress.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust respon-

sibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in section 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by sections 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be cost shared until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section. The District may commence such studies prior to entering into binding agreements and upon execution of binding agreements the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 202(a)(1) or 203 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make such sums as are necessary available to the District for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(a)(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be 30,000 acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Effi-

ciency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab Counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory." For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1993, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new author-

ity to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made first available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b).

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Prior to March 31, 1992, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.);

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air-conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1993, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1994, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1993.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, and prior to October 1, 1992, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which

the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. CROPS FOR WHICH AN ACREAGE REDUCTION PROGRAM IS IN EFFECT.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to crops for which an acreage reduction program is in effect until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge an acreage reduction program production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949 if the stocks of such commodity held in storage by the Commodity Credit Corporation exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the acreage reduction program crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise of final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall give due consideration to all substantive recommendations and measures received pursuant to section 301(g)(3)(A), and shall incorporate recommendations received from Federal and State resource agencies, county and municipal entities, and the appropriate Indian tribes, unless the Commission, in its sole judgment, determines that doing so would be inconsistent with the purposes of this Act or would interfere with or prevent the Commission from fulfilling the duties and responsibilities assigned to it in this Act, or result in inefficient or impractical resource management practices. The Commission shall include in its plan a written description of the recommendations received and adopted. In addition, the Commission shall include in its detailed report to Congress required under paragraph (g)(5) a summary of the recommendations received with a written finding explaining why such recommendations were adopted or rejected. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) AGENCY CONCURRENCE.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be subject to review and concurrence by the Secretary of Agriculture.

(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act, (A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and, (B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amount available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Re-

sources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A non-consumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry Basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta Basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah Counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry Basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek Drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry Basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry Basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or streambed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered

unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(12) The Commission is authorized to compensate out of funds available in section 201 landowners adjacent to the Utah Lake Wetlands Preserve who experience provable economic losses attributable to the establishment of the Preserve or provable economic losses directly resulting from Preserve management practices contrary to the provisions of this subsection or from the manipulation of water levels within the Preserve. Total compensation for claims pursuant to this subsection shall not exceed $2,000,000: Provided, That the amount of funds available from the Commission for such compensation shall be adjusted according to the mechanism provided in section 201. The filing of a claim for compensation pursuant to this subsection shall not preclude an affected adjacent landowner from seeking other remedies or damages otherwise available under State or Federal law.

(13) Valuation of interests acquired under this subsection shall be independently determined as though the Preserve had not been established.

(14) Any property acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the Commission to the Utah Division of Wildlife Resources.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2,000 feet out into the bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and (B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond River and Sixth Water Creek drainages.

(7) $475,000 for fish habitat restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary of the Wasatch-Cache National Forest to a level of practical necessity. For purposes of this subsection, the Lakes Management Area shall be

defined as depicted on the map in the Wasatch-Cache National Forest Land and Resource Management Plan.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream, access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed rehabilitation, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in the following sections shall be treated as expenses under section 8: all sections of title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multiagency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, 3 percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600
	FY96	FY97	FY98	
Instream flows				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775
	FY96	FY97	FY98	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	$150	$150	$200	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$100	$100	$100	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000	
Subtotal	$7,850	$9,850	$9,750	
	TOTAL	FY93	FY94	FY95
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400
	FY96	FY97	FY98	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700	
Subtotal	$1,400	$1,400	$1,400	
	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075
	FY96	FY97	FY98	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150	
Subtotal	$2,175	$2,425	$2,300	
	TOTAL	FY93	FY94	FY95
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700
Total Additional	$133,290	$21,615	$21,675	$24,350
	FY96	FY97	FY98	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of funds appropriated to the Western Area Power Administration, such expenditures to be considered non-reimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive—

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) The unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features

contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing on July 1, 1992 and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: Provided, however, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 201, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,000 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. TREATMENT PLANT AND RELATED WORK.

(a) AUTHORIZATION.—The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by the treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, Colorado, in order that water flowing from the Leadville Tunnel shall meet water quality standards.

(b) COSTS NONREIMBURSABLE.—Construction, operation, and maintenance costs of the works authorized by this section shall be nonreimbursable.

(c) OPERATION AND MAINTENANCE.—The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this Act. The Secretary may contract for services to carry out this subsection.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated beginning October 1, 1989, to carry out this title $20,000,000 (based on January 1989 prices), $2,000,000 of which shall be for the fish and wildlife restoration program authorized in section 704 of this title. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by this Act.

SEC. 703. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel, Colorado.

SEC. 704. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, is authorized, in consultation with other Federal entities and the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River Basin impacted by the effluent discharge from the Leadville Mine Drainage Tunnel, Colorado. The formulation of the program under this section shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO CONGRESS.—At least sixty days prior to implementing a program under subsection (a), the Secretary shall submit a report outlining a proposed program for carrying out subsection (a), including estimated costs, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 705. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the provisions of subsection (e) of this section, the Secretary is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal, local, and private entities, to conduct investigations of water pollution sources and impacts attributed to mining and other development in the Upper Arkansas River Basin, to develop corrective action plans for such basin, and to implement corrective action demonstration projects for such basin. The Upper Arkansas River Basin is defined as the hydrologic basin of the Arkansas River in Colorado extending from Pueblo Dam upstream to the headwaters of the Arkansas River.

(2) LIMITATION.—The Secretary shall have no authority to implement corrective action demonstration projects under this section at facilities which have been listed or proposed for listing on the national priorities list or are subject to or covered by the Solid Waste Disposal Act.

(b) LIABILITY.—Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for costs or damages as a result of actions taken or omitted in the course of implementing an action developed under this section. This subsection shall not preclude liability for costs or damages as the result of negligence on the part of such persons.

(c) FUNDING.—In carrying out this section, the Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans required in subsection (a). The Federal share of costs for the implementation of corrective action plans as authorized in subsection (a) shall not exceed 50 percent.

(d) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects under this section shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations issued under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(e) SUBMISSIONS OF PLANS TO CONGRESS.—At least sixty days prior to implementing any corrective action demonstration project under this section, the Secretary shall submit a copy of the proposed project plans, including estimated costs, to the Speaker of the House of Representatives and President pro tempore of the Senate.

(f) EFFECT ON CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601). The development of corrective action plans and implementation of corrective action demonstration projects shall be exclusive of all enforcement actions under such Act. It is not the intent of this title to relieve non-Federal potentially responsible parties of their liability under such Act.

SEC. 706. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VIII—LAKE MEREDITH PROJECT

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 738, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of

project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 902. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0-07-70-W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 905. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT

SEC. 1001. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

SEC. 1002. AUTHORIZATION FOR LONG-TERM CONTRACT FOR WATER DELIVERY.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary of the Interior is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation Laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XI—SALTON SEA RESEARCH PROJECT

SEC. 1101. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 25 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in

the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—NAME CHANGE

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—EXCESS STORAGE AND CARRYING CAPACITY

SEC. 1401. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

TITLE XV—AMENDMENT TO THE RECLAMATION PROJECT ACT OF 1939

SEC. 1501. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

TITLE XVI—WATER RECLAMATION AND REUSE

SEC. 1601. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the city of San Diego, California, in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 percent of the total cost of the study.

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1601 of this title.

TITLE XVII—RECLAMATION REFORM ACT OF 1982

SEC. 1701. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1991".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97–293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 1702. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition after paragraph 2, and redesignating the subsequent paragraphs accordingly:

"(3)(A) The term 'farm' or 'farm operation' means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof.

"(B) The following arrangements and transactions, if negotiated at arms length between unrelated parties, shall not be factors for the purpose of determining the existence of a farm or farm operation:

"(i) Participation in a bona fide cooperative;

"(ii) Entering into an agreement in which each party bears the risk of loss individually for: (I) the use of equipment or labor; (II) processing, handling, brokering, or packing crops; (III) ginning cotton; (IV) purchasing seed; (V) purveying water; or (VI) other similar agreements;

"(iii) Entering into financial transactions involving land or crop loans, in which the lender has no interest in providing farm services of any kind (except in a fiduciary capacity as trustee), including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

"(iv) Entering into (or exercising rights under) an agreement to assure or require bona fide quality control measures and/or the right to take control of farming operations in order to ensure quality control; or

"(v) Entering into an agreement for custom farming or farm management services if the custom farmer or farm manager does not bear a direct risk of loss in the crop.

"(C) With respect to activities between 'related parties', as defined in section 267(b) of the Internal Revenue Code of 1986, the Secretary shall certify that a farm or farm operation does not exist based on information supplied by such parties if such information indicates that all such activities were entered into and performed at arms length."

SEC. 1703. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 1704. TRUSTS.

Section 214 of the Act is amended by adding the following new subsections.

"(c) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(d) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, as follows:

"(1) For trusts established on or before June 14, 1990 and benefitting 25 individuals or less, the ownership limitations shall go into effect nine years after enactment of these amendments, and the pricing limitations shall go into effect pursuant to sections 203 and 205, as applicable;

"(2) For trusts established on or before June 14, 1990 and benefitting more than 25 individuals, one hundred and eighty days after enactment of these amendments; and

"(3) For trusts established subsequent to June 14, 1990 upon the enactment of these amendments."

Section 205 is amended by adding a new subsection (d) as follows:

"(d) Any trust benefitting 25 individuals or less shall not, under any circumstances, be eligible to receive water at less than full-cost on more than 960 acres of Class I land or the equivalent thereof. Full-cost pricing resulting from the application of this subsection shall be phased in over three years, that being of the difference between the applicable nonfull cost rate and the then existing full-cost rate for the first, second, and third calendar years, respectively, following the effective date of these amendments.".

SEC. 1705. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law. Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

SEC. 1706. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 1707. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(1) inserting "(a)" after "SEC. 219"; and

(2) inserting at the end the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: Provided, That the entity or organization directly uses the proceeds of the lease

only for charitable purposes: Provided further, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 1708. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(8) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(10) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

SEC. 1709. ASSESSMENT REVIEW.

The Secretary shall review on a case-by-case basis the full cost charges applied to prior law recipients who filed irrevocable elections pursuant to section 203(b) of the 1982 Act between May 13, 1987 and January 1, 1988. Upon completion of such review, the Secretary shall determine, taking into account all relevant information, whether or not the full cost charges assessed of said prior law recipients are appropriate. Based upon such determination, the Secretary may reduce or rescind said charges accordingly: Provided, That the Secretary shall inform by letter report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of any intent to reduce or rescind such charges and that such reduction or rescission shall not take place until after the passage of ninety calendar days after the receipt by the respective Committees of the letter report. The Secretary shall consult with the Office of the Inspector General of the Department of the Interior in the preparation of such report.

SEC. 1710. APPLICATION TO INDIAN LANDS.

The Act (43 U.S.C. 390aa et seq.) is amended by adding at the end the following new section:

"SEC. 231. APPLICATION TO INDIAN LANDS.

"Nothing in this title shall apply to trust or restricted Indian lands.".

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

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

SEC. 1802. FINDINGS.

The Congress finds the following:

(1) Current operating procedures at Glen Canyon Dam, including fluctuating water releases made for the production of peaking hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(2) The Secretary announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the environmental impact statement process, the Secretary will be in a position to make informed decisions regarding possible changes to current operating procedures for Glen Canyon Dam.

(3) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of an environmental impact statement, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "Colorado River Compact" means the compact consented to by the Act of August 19, 1921 (chapter 72; 42 Stat. 171) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064);

(2) the term "Upper Colorado River Basin Compact" means the compact consented to by the Act of April 6, 1949 (63 Stat. 31); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 1804. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of, the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to the allocation of the Colorado River.

(b) AMENDMENT OF CRSP.—The Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.; commonly referred to as the "Colorado River Storage Project Act"), is amended as follows:

(1) In section 3, by adding at the end the following: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures, so as to protect, mitigate damages to, and improve the condition of the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.".

(2) In the first sentence of section 7, by striking "Acts." and inserting "Acts, nor shall the Secretary operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural, or recreational resources of Glen Canyon National Park or Glen Canyon National Recreation Area downstream of Glen Canyon Dam.".

(c) PROMULGATION OF OPERATING PROCEDURES.—The Secretary shall promulgate interim and long-term operating procedures for Glen Canyon Dam as set forth in sections 1805 and 1806, which procedures shall be consistent with the requirements of this section, and, if necessary, shall take other reasonable mitigation measures.

(d) DISCLAIMER.—Nothing in this title alters or may be construed to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or to affect in any manner the authority and responsibility of the Secretary with respect to the management and administration of such areas, including natural and cultural resources, and visitor use, as provided by laws applicable to such areas, including (but not limited to) the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1805. INTERIM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 1806, the Secretary shall, not later than October 1, 1991, or upon cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989, whichever is earlier, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall—

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River;

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

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

(4) minimize flood releases, consistent with the requirements of section 1804 of this title;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and

(6) limit maximum flows released during normal operations to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam and to protect fishery resources.

(b) CONSULTATION.—The Secretary shall develop and implement the interim operating procedures described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, 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) affected Indian tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) SCIENTIFIC DATA.—The Secretary shall develop and implement the interim operating procedures referred to in this section using the best and most recent scientific data available, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(d) TERMINATION.—The interim operating procedures described in this section shall terminate

upon compliance by the Secretary with the requirements of section 1806 of this title.

(e) DEVIATION FROM PROCEDURES.—The Secretary may deviate from the interim operating procedures described in this section upon a finding that such deviation is necessary and in the public interest in order to—

(1) comply with the requirements of section 1806(a) of this title;

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

(3) further reduce adverse impacts on environmental, cultural, or recreational resources downstream from Glen Canyon Dam.

SEC. 1806. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) EIS.—The Secretary shall, not later than December 31, 1993, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and in addition shall complete the Glen Canyon Environmental Studies. In preparing the environmental impact statement, the Secretary shall consider the views and conclusions of all cooperating government agencies, affected Indian tribes, and the general public. The Secretary shall make use of the best and most recent scientific data and studies in preparing the environmental impact statement, including the scientific information collected and analyzed as part of the Glen Canyon Environment Studies.

(b) REVIEW.—The Comptroller General of the United States shall review, in accordance with the standards set forth in the United States Water Resource Council's March 10, 1983, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, 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 draft of the environmental impact statement referred to in subsection (a). The Comptroller General shall report the results of the review to the Secretary and the Congress within one year after publication of the draft environmental impact statement.

(c) IMPLEMENTATION.—(1) Based on the findings, conclusions, and recommendations made in the studies, the statement prepared pursuant to subsection (a), and the review performed pursuant to subsection (b), the Secretary shall, within ninety days following completion of the final environmental impact statement or completion of the Comptroller General's review, whichever is later, implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River.

(2) Upon completion of the requirements of paragraph (1), the Secretary shall submit to the Congress—

(A) the studies and the statement completed pursuant to subsection (a); and

(B) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural, and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) ANNUAL REPORT.—Annually after the date of the implementation of the procedures under subsection (c)(1), the Secretary shall transmit to the 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 operation of the Glen Canyon Dam during the preceding year and the projected year operations undertaken pursuant to this title. In the process of preparing the long-term operating procedures, the annual plans of operation described in this section, and the annual report specified in section 602(b) of the Colorado River Basin Project Act, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1807. LONG-TERM MONITORING.

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 the requirements of section 1804 of this title. Such long-term monitoring shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1806(c)(1) of this title upon the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area. These monitoring programs and activities shall be established and implemented in consultation with the Secretary of Energy; the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; affected Indian tribes, and the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry and the contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 1809. SAVINGS.

Nothing in this title shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or, except as provided in section 1805, of this title, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or other existing laws relating to environmental or natural resources protection, with regard to the operation of Glen Canyon Dam.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average

yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development oj the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonrei .bursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.,

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: Provided, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—

(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available until expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1911.

TITLE XX—LAKE ANDES-WAGNER, SOUTH DAKOTA

SEC. 2001. DRAINAGE DEMONSTRATION PROGRAMS.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee (hereafter "Oversight Committee") consisting of representatives of the Bureau of Indian Affairs, Agricultural Research Service of the Department of Agriculture, Soil Conservation Service of the Department of Agriculture, Extension Service of the Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water System, Inc. carry out a demonstration program (hereafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such Demonstration Program shall be conducted in accordance with the environmental analysis and documentation requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The objectives of the Demonstration Program shall include—

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1462 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions—

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply all water, delivery system, pivot systems and drains;

(B) operation and maintenance of the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment;

(D) Secretary of Agriculture to determine crop rotations and cultural practices; and

(E) Secretary and Secretary of Agriculture to have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may, in accordance with the Demonstration Program contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their preleased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary of Agriculture. Any crops not sold shall be disposed of as the Secretary of Agriculture determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Merchant Marine and Fisheries of the House of Representatives, to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out in the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare in coordination with the Secretary of Agriculture a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds in amounts sufficient to offset expenses incurred under this title.

SEC. 2002. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2001, the Secretary shall comply with the study and reporting requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof with respect to the Lake Andes-Wagner Unit and Marty II Unit. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Department shall not recommend that any such Unit be constructed unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid all adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

SEC. 2003. INDIAN EMPLOYMENT.

In carrying out this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2004. FEDERAL RECLAMATION LAWS.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof).

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program authorized by this title.

Of the amounts appropriated pursuant to this section, 5 percent of the total shall be utilized by the Director of the United States Fish and Wildlife Service to fund projects on Western National Wildlife Refuges designed to mitigage the adverse effects of selenium on populations of fish and wildlife within such refuges.

TITLE XXI—INSULAR AREAS STUDY

SEC. 2101. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these insular areas require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2102. AUTHORIZATION OF STUDY.

The Secretary of the Interior is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of these insular areas.

SEC. 2103. REQUIREMENTS OF STUDY.

Such study shall include for each jurisdiction, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each insular government in solving the needs.

SEC. 2104. THE INSULAR AREAS ENERGY ASSISTANCE AMENDMENT OF 1991.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding the following subsection:

"(g)(1) There are hereby authorized to be appropriated $500,000 to the Secretary of Energy for each fiscal year for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facility contemplated as part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section; and

"(D) whether the measure will contribute significantly to the quality of the environment in the insular area.".

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. I1r-1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. I1r-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract Numbered IIr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: Provided, however, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of at least 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to monitor operation of Platoro Reservoir regularly including releases from it for instream flow purposes and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—SLY PARK UNIT, CENTRAL VALLEY PROJECT

SEC. 2401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Sale Act".

SEC. 2402. SALE OF THE SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this title, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The sale price shall not exceed—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852) up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (14-06-200-949) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2403. DEFINITIONS.

For purposes of this title, the term:

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means the Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852).

TITLE XXV—COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES

SEC. 2501. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) two years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) four years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in domestic storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by foreseeable disruptions in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3)(A) The Secretary shall credit against any additional payment obligation established by this subsection 70 percent of the costs incurred by individuals or districts subject to the provisions of this subsection during the period beginning on the date of enactment of this subsection and ending on December 31, 1996, up to a maximum cost of $100 per irrigated acre, for the installation of water conservation measures approved by the Secretary. The Secretary shall grant such credit only upon finding that installation of such measures, and any mitigation pursuant to subparagraph (B), have been completed. Credit that exceeds such repayment obligation in any one year shall be applied in each succeeding year until fully utilized. Within one year from the date of enactment of this subsection, the Secretary shall promulgate rules to carry out the provisions of this paragraph.

"(B) Mitigation for fish and wildlife habitat losses, if any, incurred as a result of the installation and operation of such water conservation measures shall be on an acre-for-acre basis, based on ecological equivalency, concurrent

with installation of such conservation measures, and shall be the responsibility of the individual or district served by such measures.

"(4) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(5) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294), 100 Stat. 418; and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$34,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—SOLANO PROJECT TRANSFER AND PUTAH CREEK IMPROVEMENT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Solano Project Transfer and Putah Creek Improvement Act".

SEC. 2702. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Solano Project is a Federal reclamation project located in Solano, Yolo, and Napa Counties, California. The project was constructed by the United States between 1953 and 1958 for the purposes of providing water supply and incidental flood control benefits;

(2) the Solano Project supplies approximately 65 per centum of Solano County's public water supply;

(3) the California State Water Resources Control Board has granted, pursuant to California law, water rights permits to the Bureau of Reclamation for the Solano Project which establish that Solano County is the place of use for Solano Project water, with the exception of four thousand acre-feet used annually by the University of California-Davis in Yolo County pursuant to contract, and with a provisional reservation of up to thirty-three thousands acre-feet for the Putah Creek watershed above Monticello Dam;

(4) repayment of the Solano Project's reimbursable capital costs is the exclusive obligation of the Solano County Water Agencies, and said agencies have repaid more than half of these costs;

(5) the Solano County Water Agencies perform all operation and maintenance for the Solano Project under contract with the United States, and they have paid all operation and maintenance costs of the project;

(6) the Solano Project has no financial or physical interconnection with any other local, State, or Federal water project;

(7) the Solano Project impounds and diverts the waters of Putah Creek, which support riparian habitat, including a riparian reserve operated by the University of California, and both a cold water fishery and a warm water fishery;

(8) the United States Fish and Wildlife Service currently is preparing a Putah Creek Resource Management Plan; and

(9) interested local public agencies and private organizations in Solano and Yolo Counties have formed an advisory group to provide advice regarding Putah Creek enhancement activities.

(b) PURPOSES.—The purposes of this title are—

(1) to convey to the Water Users fee title to the water supply facilities of the Solano Project upon payment to the United States by the Water Users of the sum calculated in accordance with section 2704 of this title;

(2) to provide for continuation of all public benefit purposes of the Solano Project;

(3) to protect Putah Creek fisheries, wildlife and riparian habitat, ground water recharge and diversion rights downstream of the Putah Diversion Dam in conformance with all applicable decisions and orders of the California State Water Resources Control Board and courts of competent jurisdiction, and all applicable State laws;

(4) to provide for enhancement of Putah Creek fisheries, wildlife and riparian habitat;

(5) to provide the Water Users with local ownership over their principal public water supply facilities;

(6) to eliminate significant Federal liabilities; and

(7) to benefit the Federal Treasury from such payment and title transfer.

SEC. 2703. DEFINITIONS.

For the purposes of this title, the term:

(a) "Book value" of the water supply facilities means an amount which equals the product of the depreciable facilities costs and the applicable depreciation factor.

(b) "Capital/O&M adjustment" means the amount in arrears, if any, of capital repayments or operation and maintenance expenses due pursuant to the water service contract, plus accrued interest.

(c) "Construction defect and dam safety adjustment" means $7,270,000 for purposes of this Act.

(d) "Depreciable facilities costs" means the reimbursable capital costs of the water supply facilities of the Project which are to be transferred.

(e) "Depreciation factor" means a percentage derived by calculating the number and fraction of years between the date of purchase and the year 2033 and then dividing by 75.

(f) "Interim water releases" means: (1) releases into Lower Putah Creek of water owned by the Water Users, or any constituent entity thereof, in an amount not to exceed 2,700 acre-feet in 1991 and 3,000 acre-feet in 1992; and (2) releases into lower Putah Creek of water owned by the Yolo County Entities, or any member thereof, in an amount not to exceed 3,000 acre-feet in either 1991 or 1992.

(g) "Lower Putah Creek Coordinating Committee" means an advisory committee established to assist the Secretary in coordinating Federal, State and local efforts to protect and enhance the habitat of Putah Creek. This Committee is to consist of a maximum of fourteen members, up to seven of which are to be appointed by the Water Users and up to seven of which are to be appointed by the Yolo County Entities. The Committee is not an agency or establishment of the United States.

(h) "Lower Putah Creek" means that portion of Putah Creek extending from the Putah Diversion Dam to the Yolo Bypass in Yolo County, California.

(i) "Reimbursable capital costs" means the original reimbursable costs of the Solano Project, as set forth in the Bureau of Reclamation document entitled "Solano Project Statement of Project Construction Cost and Repayment," dated September 30, 1989 ("Solano Project Statement") attached as Appendix "A" in the report accompanying H.R. 429.

(j) "Remaining indebtedness" means the remaining balance of the reimbursable capital costs of the Solano Project, as set forth in the Solano Project Statement, and as adjusted thereafter to reflect any payments made prior to the date of transfer.

(k) "Secretary" means the Secretary of the Interior.

(l) "Solano County Water Agencies" means one or more public agencies in Solano County which have used water from the Solano Project and who are member agencies of the Water Users.

(m) "Solano Project" means the reclamation project described in House Document Numbered 65, Eighty-first Congress, first session (1949).

(n) "Water service contract" means the contract between the United States and the Solano County Flood Control and Water Conservation District for water service and for operation and maintenance of certain works of the Solano Project, dated March 7, 1955 (Contract No. 14–06–200–4090).

(o) "Water supplies facilities" means—

(1) the Monticello Dam and spillway;

(2) Lake Solano, its lands and facilities, and the Putah Diversion Dam;

(3) the Putah South Canal; and

(4) all appurtenant facilities, lands, easements and rights-of-way.

This term does not include Lake Berryessa, its shoreline or any recreational features of the Solano Project, excepting recreational facilities leased and operated by Solano County on lands surrounding Lake Solano.

(p) "Water Users" means a public agency formed under the laws of the State of California duly organized and existing—

(1) including all member public agencies of the Solano Water Authority and the Solano County Water Agency, public agencies formed under the laws of the State of California;

(2) having a governing board in which a majority of the members are representatives of those local entities holding contracts for water from the Solano Project on the date of enactment of this title; and

(3) approved by both the Solano Water Authority and the Solano County Water Agency.

(q) "Yolo County Entities" means a group consisting of authorized representatives of the county of Yolo, the Yolo County Flood Control and Water Conservation District, the city of Davis, the city of Winters, the University of

California at Davis, and the Putah Creek Council.

(r) "Uncontrolled Releases" means water bypassed or released at the Putah Diversion Dam which is not required to be released pursuant to section 2706(c) of this title, or to meet contract or state-law requirements.

SEC. 2704. TRANSFER OF THE SOLANO PROJECT WATER SUPPLY FACILITIES, OPERATIONS AGREEMENT AND PAYMENT.

(a) AGREEMENT.—The Secretary shall, as soon as practicable after the date of enactment of this title, enter into an agreement with the Water Users for the implementation of section 2705(b) of this title.

(b) The Secretary shall, upon execution of the agreement described in section 2704(a) of this title and payment of the sum calculated in accordance with section 2704(c) of this title, and subject to the provisions of sections 2706(a) and 2707(a) of this title, transfer to the Water Users all right, title and interest in and to the water supply facilities of the Solano Project described in section 2703(o).

(c) PRICE.—The price paid by the Water Users for the water supply facilities of the Solano Project shall be the amount which is the total of—

(1) the remaining indebtedness;

(2) the book value of the water supply facilities;

(3) any capital/O&M adjustment amount; and

(4) all administrative costs incurred by the United States in effectuating the agreement and the transfer, less

(5) the dam safety and construction defect adjustment: Provided, however, That in no event shall the sum determined in subparagraphs (1)–(5) of this subsection above be less than 66 per centum of the original reimbursable capital costs of the water supply facilities of the Solano Project which are to be transferred.

SEC. 2705. RESPONSIBILITIES OF THE WATER USERS.

(a) Upon transfer of the water supply facilities, the Water Users shall, except as provided in this title: (1) assume all liability for administration, operation, and maintenance of said facilities and continue to provide for the operation thereof for the authorized Solano Project purposes including (but not limited to) all water supply contracts heretofore entered into by the Secretary; (2) protect Putah Creek fisheries, wildlife, riparian habitat, ground water recharge, and downstream diversion rights, including adhering to minimum water release schedules for Putah Creek downstream of Monticello Dam and Putah Diversion Dam in conformance with all applicable decision and orders of the State of California Water Resources Control Board and courts of competent jurisdiction and all applicable State laws; and (3) continue to provide the incidental flood control benefits currently enjoyed by downstream property owners on Putah Creek.

(b) The Water Users shall cooperate with the United States and the Lower Putah Creek Coordinating Committee to implement the supplemental releases for Putah Creek enhancement purposes mandated by section 2704. Such cooperation may include releasing Solano Project water from Monticello Dam and past the Putah Diversion Dam into Lower Putah Creek in exchange for water provided by the Secretary from other sources: Provided, That the Secretary shall pay the Water Users any actual costs that they may incur as a result of such exchange, less any savings that result from such exchange.

SEC. 2706. RESPONSIBILITIES OF THE UNITED STATES.

(a) PRETRANSFER CONFIRMATION.—The Secretary may not transfer title to the water supply facilities of the Solano Project unless the Secretary confirms that all of the Solano Project member units have executed an agreement addressing their respective contractual entitlements. These member units are the city of Fairfield, Maine Prairie Water District, Solano Irrigation District, city of Suisun City, city of Vacaville, city of Vallejo, California Medical Facility, and University of California, Davis.

(b) RECREATION.—(1) The Secretary shall be responsible for, and retain full title to and jurisdiction and control over the surface of Lake Berryessa and Federal lands underlying and surrounding the Lake, and shall retain full title to all Lake Berryessa recreational facilities, exclusive of those properly constructed by concessionaires under applicable contracts; concessionaire contracts, interests in real property associated therewith; and similar associated rights and obligations. The Secretary shall consult with the State of California and local governments in Napa County, California, prior to implementing any change in operating procedures for such lands. The Secretary is authorized to enter into contracts or other agreements with Napa County, California, regarding land use controls, law enforcement, water supply, wastewater treatment, and other matters of concern within the boundaries of lands surrounding Lake Berryessa that were originally included in the lands acquired from the Solano Project.

(2) The Secretary, acting through the Bureau of Reclamation, is authorized to obtain water from Lake Berryessa consistent with its existing State water rights permit for recreational or other resource management purposes at Lake Berryessa, including that required for concession operation, in the manner, amounts, and at times as may be determined by the Bureau of Reclamation.

(3) The Secretary, acting through the Bureau of Reclamation, is authorized to make available, subject to appropriation, funds collected from recreation entrance and user fees, to local and/or State law enforcement agencies to enforce rules and regulations as are necessary for regulating the use of all project lands and waters associated with Lake Berryessa, and to protect the health, safety, and enjoyment of the public, and ensure the protection of project facilities and natural resources.

(4) The Secretary is hereby authorized to enter into joint future projects with Lake Berryessa concessionaires to develop, operate, and maintain such short-term recreational facilities as he deems necessary for the safety, health, protection, and outdoor recreational use by the visiting public, and, to amend existing concession agreements, including extending terms as necessary for amortization of concessionaire investments, to accommodate such joint future projects.

(5) The Secretary is authorized to assist, or enter into agreements with the State of California, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the planning, development and construction of water and wastewater treatment systems, which would result in the protection and improvement of the waters of Lake Berryessa.

(6) Funds collected from recreation entrance and user fees may be made available, subject to appropriation, for the operation, management and development of recreational and resource needs at Lake Berryessa.

(7) No activities upon the recreational interests hereby reserved to the United States shall, as determined by the Secretary after consultation with the Water Users, burden the Water Users' use of the water supply facilities of the Solano Project, reduce storage capacity or yield of Lake Berryessa, or degrade the Solano Project's water quality, except that, as described in subsection (b)(2) of this section, water will be made available for recreational and resource management purposes: And provided further, That this subsection will not apply to the particular Lake Berryessa recreational uses and operating procedures in existence on the date of the enactment of this legislation.

(8) Notwithstanding any provision in subsection (b) of this section, before the Secretary takes any action authorized by this subsection, including but not limited to the selection and/or approval of the Reservoir Area Management Plan (RAMP) for Lake Berryessa and surrounding lands, the Secretary shall consult with the County of Napa and determine that the proposed action is consistent with the Napa County General Plan, as amended.

(c) PUTAH CREEK ENHANCEMENT.—(1) The Secretary is authorized and directed to participate in a program to enhance the instream, riparian and environmental values of Putah Creek. Such program shall be at full Federal cost, shall cause no reduction in Solano Project supplies, and shall include but need not be limited to the following—

(A) the Secretary shall consult with the Lower Putah Creek Coordinating Committee and the Water Users and take appropriate actions to implement the recommendations contained in the United States Fish and Wildlife Service's Putah Creek Resource Management Plan;

(B) in order to enhance flows in Putah Creek which are prescribed by the California State Water Resources Control Board or courts of competent jurisdiction, arrangements as are necessary shall be made to provide at no net cost to any other party 3,000 acre-feet of supplemental water supply for releases into Putah Creek during "normal years," and 6,000 acre-feet of supplemental water supply for releases into Putah Creek during "dry years." "Normal years" are water years in which the total inflow into Lake Berryessa is greater than or equal to 150,000 acre-feet. "Dry years" are water years in which the total inflow into Lake Berryessa is less than 150,000 acre-feet. For the purposes of this paragraph, "water year" means each twelve month period beginning on October 1 and ending on the next September 30. These amounts to be released shall be in addition to any uncontrolled releases. The schedule for said supplemental releases shall be developed by the Secretary after consultation with the Lower Putah Creek Coordinating Committee. The Secretary is hereby authorized to enter into such agreements as may be necessary to effectuate this subsection;

(C) for purposes of more efficiently conveying and distributing the Lower Putah Creek such supplemental supplies and any additional amounts that the California State Water Resources Control Board or courts of competent jurisdiction may deem appropriate, the Secretary is authorized to construct water conveyance and distribution facilities at a cost of approximately $3,000,000; and

(D) to compensate for the cost associated with the 1991–1992 interim water releases, as defined in subsection 3(f), the Secretary is authorized and directed to supply to the Water Users and/or Yolo County Entities, or any member entities thereof providing the interim water releases, water in an amount equal to those interim water releases actually made or, in the alternative, to reimburse the parties making such releases for all costs associated with such releases.

(2) There are hereby authorized to be appropriated such sums as may be necessary to implement subsections (B), (C), and (D) of this section.

SEC. 2707. PAYMENT.

(a) PAYMENT.—The Secretary shall transfer all right, title, and interest in and to the water supply facilities of the Solano Project to the Water Users after the Secretary has received notification that the Water Users have made the payment specified in section 2704(b).

(b) DISPOSITION OF PAYMENT.—(1) All proceeds from the transfer of the Solano Project will be dedicated to environmental purposes. Eighty percent of the price paid for the water supply facilities of the Solano project as specified in section 4(c) shall be deposited in a separate account by the Secretary. Interest from such account shall be utilized by the Secretary for matching grants with nonprofit organizations and institutions in California for fish and wildlife conservation. The remaining 20 percent paid for the water supply facilities shall be expended by the Secretary for the purpose of protecting and enhancing Lower Putah Creek, and may include expenditures for the purposes of acquiring property, including water rights, making improvements to property, and conducting studies and wildlife management activities. The portion of sale proceeds designated for Lower Putah Creek protection and enhancement shall thereafter be maintained by the Secretary in a separate account. Monies and interest from such account may be expended by the Secretary for the sole purpose of funding projects designed for Lower Putah Creek protection and enhancement purposes, including the payment of direct costs associated with meeting with Secretary's responsibilities under section 2706(c)(1)(B) of this title, in accordance with criteria developed by the Secretary in consultation with the Lower Putah Creek coordinating committee.

(2) All funds under this section shall be available only to the extent provided in an annual appropriation for such purposes.

SEC. 2708. VESTED RIGHTS AND STATE LAWS UNAFFECTED.

Nothing in this title shall—

(a) be construed as affecting or intending to affect or to interfere in any way with the State laws relating to the control, appropriation, use, or distribution of water used for the Solano Project, or any vested right acquired thereunder; and

(b) in any way affect or interfere with State laws relating to the protection of fish and wildlife or instream flow requirements, or any right of the State of California or any landowner, appropriator, or user of surface water or ground water in, to, from or connected with Putah Creek or its tributaries.

TITLE XXVIII—DESALINATION

SEC. 2801. TECHNICAL ASSISTANCE.

The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalination projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau of Reclamation.

(2) The credit is effective on the date the pumps were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) INSTREAM RELEASES.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98-541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre-feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre-feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre-feet.

(b) COMPLETION OF STUDY.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) STUDY RECOMMENDATIONS.—Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

TITLE XXXI—BUY AMERICAN PROVISIONS

SEC. 3101. BUY AMERICAN PROVISIONS.

(a) The Secretary shall insure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this Act.

(b) DETERMINATION BY THE SECRETARY.—(1) If the Secretary, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(4) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(c) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(d) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds authorized under this title pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

TITLE XXXII—LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3201. LIMITATION.

Notwithstanding any other provision of law, amounts expended, or otherwise made available, pursuant to this Act when aggregated with all other amounts expended, or otherwise made available, for projects of the Bureau of Reclamation for fiscal year 1992 may not exceed 102.4 percent of the total amounts expended, or otherwise made available, for projects of the Bureau of Reclamation in fiscal year 1991.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT

SEC. 3301. TRANSFERS.

The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande Project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New

Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsibility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an Act of Congress.

TITLE XXXIV—CENTRAL VALLEY PROJECT REFORM ACT

SEC. 3401. SHORT TITLE.

This Act may be cited as the "Central Valley Project Reform Act".

SEC. 3402. PURPOSES.

The purposes of this Act shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley basin of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to study transfer of the Central Valley Project to non-Federal interests; and for other purposes.

SEC. 3403. DEFINITIONS.

As used in this Act—

(a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term "Central Valley Project water" means all water that is diverted, stored, or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange contracts" and Sacramento River settlement contracts;

(g) the term "Fish and Wildlife Advisory Committee" means the Central Valley Project Fish and Wildlife Advisory Committee established in section 9 of this Act;

(h) the term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(i) the term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(j) the term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(k) the term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the United States Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(l) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(m) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this Act; and

(n) the term "Secretary" means the Secretary of the Interior.

SEC. 3404. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) NEW CONTRACTS.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before—

(1) the provisions of subsections 6(b)-(e) of this Act are met;

(2) the California State Water Resources Control Board concludes its current review of San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards and determines the means of implementing such standards, including any obligations of the Central Valley Project, if any, and the Administrator of the Environmental Protection Agency shall have approved such standards pursuant to existing authorities; and

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving San Francisco Bay/Sacramento-San Joaquin Delta Estuary water quality standards as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) EXCEPTION TO LIMIT ON NEW CONTRACTS.—In recognition of water shortages facing urban areas of California, and subsection (a) of this section notwithstanding, the Secretary is authorized to make available 100,000 acre-feet of Central Valley Project water for sale through water service contracts not to exceed twenty years in length to any California water district, agency, member district or agency, municipality, or publicly regulated water utility, without discrimination among them, for municipal and industrial purposes, except that no water shall be made available under this subsection until the State of California has entered into a binding agreement with the Secretary concerning the cost allocations set forth in section 6 of this Act. In carrying out this subsection, the Secretary shall—

(1) provide public notice of the availability of such water and be available to receive offers for such water for a period not to exceed one week in duration beginning not less than sixty days after enactment of this Act;

(2) make all such offers public immediately upon completion of the period for submission of bids established under paragraph (1) of this subsection;

(3) take such measures as are necessary to ensure that prospective agency purchasers do not engage in anti-competitive behavior; and

(4) accept the offers of the water agency or agencies offering the greatest monetary payments per acre-foot of water made available by the Secretary, except that—

(A) such payment must be greater than $100 per acre-foot of contractual commitment annually and, in addition, cover all Federal costs associated with the proposed sale and delivery;

(B) delivery under the contract must be feasible using existing facilities; and

(C) the proposed use of the water must be consistent with State and Federal law.

All revenues collected by the Secretary from the contract or contracts authorized by this subsection, other than actual operation and maintenance costs, shall be covered into the Restoration Fund.

(c) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary may renew any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project for a period not exceeding 20 years, except that the Secretary shall first analyze the impacts of such proposed contract pursuant to Federal and State environmental laws.

(d) ENVIRONMENTAL REVIEW OF PROPOSED CONTRACT RENEWALS.—Not later than three years after the date of enactment of this Act, the Secretary shall prepare a programmatic environmental impact statement analyzing the impacts of the potential renewal of all existing Central Valley Project water contracts, including impacts within the Sacramento, San Joaquin, and Trinity river basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta and Estuary.

(e) INCLUDING RESULTS OF ENVIRONMENTAL STUDIES.—The provisions of any contract renewed under authority of subsection (c) of this section shall be subject to further modifications by the Secretary based on any environmental impact statements carried out under subsections (c) or (d) of this section.

(f) WATER IDENTIFIED FOR FISH AND WILDLIFE PURPOSES.—Any Central Valley Project water service or repayment contract entered into, renewed, or amended under this section shall provide that the Secretary may, under procedures specified in this Act, allocate a portion of the water supply contained in such contract for the purposes specified in section 6 of this Act.

(g) CHANGE IN THE APPLICATION OF THE 1956 ACT.—Notwithstanding any provision to the contrary in any existing contract, the provisions of the Act of July 2, 1956 (53 Stat. 1187, U.S.C.), shall not apply to any Central Valley Project water service or repayment contract entered into, renewed or amended under any provision of the Federal Reclamation law after December 31, 1995. After December 31, 1995, the Secretary shall not be under any obligation to enter into, renew, or amend any water service or repayment

contracts in the Central Valley Project with any district or individual who has previously had such a contract prior to the date of enactment of this Act. Any Central Valley Project water service or repayment contract entered into, renewed or amended after the date of enactment of this Act and prior to December 31, 1995, shall contain the renewal provisions of the Act of July 2, 1956, for the term of such contract, and any additional renewals.

SEC. 3405. WATER TRANSFERS, IMPORTED WATER MANAGEMENT AND CONSERVATION.

(a)(1) WATER TRANSFERS.—Subject to review and approval by the Secretary, all individuals or districts who receive Central Valley Project water under service or repayment contracts entered into prior to or after the date of enactment of this Act are authorized to transfer all water subject to such contract to any other California water user or water agency, State agency, or private non-profit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(2) CONDITIONS FOR TRANSFERS.—Transfers of Central Valley Project water authorized by this subsection shall be subject to the following conditions:

(A) No transfers shall be made in excess of the average annual quantity of water under contract actually delivered to the contracting district or agency between 1985 and 1989.

(B) All water under the contract which is transferred to any district or agency which is not a Central Valley Project contractor at the time of enactment of this Act shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No water transfers authorized under this section shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No water transfer authorized under this section shall be approved unless the transfer is consistent with State law, including but not limited to, the provisions of the California Environmental Quality Act.

(E) All transfers authorized under this section shall be deemed a beneficial use of water by the transferor.

(F) All transfers in excess of 20 percent of the water in any district contract shall be approved by such district based on reasonable terms and conditions. Any review and approval of such transfer by a district shall be undertaken in a public process similar to those provided for in section 226 of Public Law 97-293.

(G) All transfers entered into pursuant to this subsection between Central Valley Project water contractors and entities outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the transfer.

(H) Any water transfer approved pursuant to this subsection shall not be considered as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(I) No transfer shall be approved unless the Secretary has determined that the transfer will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(J) The agricultural water subject to any water transfer undertaken pursuant to this subsection shall be that water that would have been consumptively used on crops had those crops been produced during the year or years of the transfer or water that would have otherwise been lost to beneficial use.

(K) No transfer shall be approved unless the Secretary determines that the program will have no significant long-term adverse impact on groundwater conditions.

(b) METERING OF WATER USE REQUIRED.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with volumetric water meters or equally effective water measuring methods within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the volume of surface water delivered within its boundaries.

(c) STATE AND FEDERAL WATER QUALITY STANDARDS.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal reclamation law after the date of enactment of this Act, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries.

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this Act, shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions—

(1) the first rate tier shall apply to a quantity of water up to 60 percent of the contract total and shall be not less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 60 percent and under 80 percent of the contract total at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 80 percent of the contract total and shall not be less than full cost;

(4) rates shall be adjusted annually for inflation; and

(5) the Secretary shall charge contractors only for water actually delivered.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office on Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982:

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this Act and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency achievable by project contractors using best available technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or suitable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this Act all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES APPLIED TO REIMBURSABLE COSTS.—Except as otherwise provided in this section, all revenues received by the Secretary under paragraph (a) of this section shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, restoration and enhancement of fish and wildlife," after "Indian reservations,";

(2) in the last proviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be concurrent with such activity and shall be based on the replacement of ecologically equivalent habitat." and

(4) by adding at the end the following:

"(e) Nothing in this Act shall limit the State's authority to condition water rights permits for the Central Valley Project to make water available to preserve, protect, or restore, fish and wildlife and their habitat.".

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, in consultation with the Central Valley Project Fish and Wildlife Advisory Committee established under section 9 of this Act (hereafter "Fish and Wildlife Advisory Committee") and in cooperation with other State and Federal agencies, is authorized and directed to—

(1) develop within 18 months of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in

Central Valley rivers and streams will be sustained, on a long-term basis, at levels not less than twice the average levels attained during the period of 1981–1990:

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through direct and indirect habitat restoration actions, modifications to Central Valley Project operations, and implementation of the measures mandated by this subsection.

(B) As needed to achieve the goals of the program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined jointly by the United States Fish and Wildlife Service and the California Department of Fish and Game.

(C) With respect to mitigation or restoration of upper San Joaquin River fish, wildlife, and habitat, the Secretary is directed to participate in the San Joaquin River Management Program under development by the State of California. In support of the objectives of the San Joaquin River Management Program and the Stanislaus and Calaveras Basin Environmental Impact Statement, and in furtherance of the purposes of this Act, the Secretary, in consultation with the Fish and Wildlife Advisory Committee and affected counties and interests, shall evaluate in-basin needs in the Stanislaus River basin, and shall investigate alternative storage, release, and delivery regimes for satisfying both in-basin and out-of-basin needs. Alternatives to be investigated shall include, but shall not be limited to, conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows to assist in efforts to restore fish and wildlife populations and riparian habitat values in the San Joaquin River. Nothing in this Act or the amendments to the Act of August 26, 1937 shall be construed as requiring a re-establishment of flows between Gravely Ford and Mendota Pool for mitigation or restoration of fish, wildlife and habitat.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures;

(2) upon enactment of this Act, and after implementing the operational changes authorized in subsection (b)(1)(B), make available project water for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this section, except that such water shall be in addition to that required to implement subsections (b)(6) and (b)(15)(A). This water may be assigned immediately to supplement instream flows. The United States Fish and Wildlife Service shall conduct studies and monitoring activities as may be necessary to determine the effectiveness of such flows in meeting the goal established in subsection (b)(1). At the end of the initial five year period, the Secretary shall adjust the quantity of water assigned as necessary to meet the goal;

(3) develop and implement a program for the acquisition of a water supply adequate to meet the purposes and requirements of this section. Such a program should identify how the Secretary will secure this water supply, utilizing the following options in order of priority: improvements in or modifications of the operations of the project; conservation; transfers; conjunctive use; purchase of water; purchase and idling of agricultural land; reductions in deliveries to Central Valley Project contractors;

(4) develop and implement a program to mitigate fully for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(5) develop and implement a program to mitigate fully for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(6) install and operate a structural temperature control device at Shasta Dam to control water temperatures in the Upper Sacramento River in order to protect all life stages of anadromous fish in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(7) meet flow standards and objectives and diversion limits set forth in all State regulatory and judicial decisions which apply to Central Valley Project facilities;

(8) investigate the feasibility of using short pulses of increased water flows to increase the survival of migrating juvenile anadromous fish in the Sacramento-San Joaquin Delta and Central Valley rivers and streams. Costs associated with implementation of this subparagraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(9) develop and implement a program which will eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage facility. The program shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex;

(10) develop and implement measures to correct fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels. The operation of Coleman National Fish Hatchery shall be coordinated with all other mitigation hatcheries in California. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(12) develop and implement a program to restore the natural channel and habitat values of Clear Creek, construct new fish passage facilities at the McCormick-Saeltzer Dam, and provide flows in Clear Creek to provide optimum spawning, incubation, rearing and outmigration conditions for all races of salmon and steelhead trout. Flows shall be provided by the Secretary from Whiskeytown Dam as determined by instream flow studies conducted jointly by the California Department of Fish and Game and United States Fish and Wildlife Service. Costs associated with providing the flows required by this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. Costs associated with channel restoration and passage improvements required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(13) develop and implement a program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the rivers impounded by Central Valley Project facilities. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(14) develop and implement a program which provides, as appropriate, for closure of the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(15) construct, in cooperation with the State of California, a barrier at the head of Old River to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants. The cost of constructing, operating and maintaining the barrier shall be shared equally by the State of California and the United States. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(16) in support of the objectives of the Central Valley Habitat Joint Venture, deliver firm water supplies of suitable quality to maintain and improve wetland habitat on units of the National Wildlife Refuge System in the Central Valley of California, the Gray-Lodge, Los Banos, Volta, North Grasslands, and Mendota State wildlife management areas, and the Grasslands Resource Conservation District in the Central Valley of California:

(A) Upon enactment of this Act, the quantity and delivery schedules of water for each refuge

shall be in accordance with Level 2 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or two-thirds of the water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be delivered until the water supply provided for in subparagraph (B) of this paragraph is provided.

(B) Not later than ten years after enactment of this Act, the quantity and delivery schedules of water for each refuge shall be in accordance with Level 4 of the "Dependable Water Supply Needs" table for that refuge as set forth in the Refuge Water Supply Report or the full water supply needed for full habitat development for those refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation, 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(C) The Secretary is authorized to construct such water conveyance facilities and wells as are necessary to implement this paragraph. The increment of water required to fulfill subparagraph (B) of this paragraph shall be acquired by the Secretary through voluntary water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocation of project yield. The priority or priorities applicable to such incremental water deliveries for the purpose of shortage allocation shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment;

(17) establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(18) develop and implement a plan to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California;

(19) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Coats associated with implementation of this paragraph shall be allocated 50 percent to the United States as a reunbursable expenditure and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditures;

(20) evaluate and revise, as appropriate, existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity river reservoirs sufficient to protect and restore the anadromous fish of the Sacramento and Trinity rivers in accordance with the mandates and requirements of this subsection;

(21) participate with the State of California and other federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a non-reimbursable Federal expenditure, and 25 percent shall be paid by the State of California;

(22) install a temperature control device on Lewiston Dam to conserve cold water for fishery protection, provided that the cost of such device shall not exceed $1,500,000. Such devices, with the same cost restriction, may also be installed on the Trinity and Whiskeytown dams if the Secretary deems it appropriate. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

If the Secretary and the State of California determine that long-term natural fishery productivity in the Sacramento River, American River, and San Joaquin River resulting from implementation of this section is better than conditions that existed in the absence of Central Valley Project facilities, any enhancement provided shall shall become credits to offset reimbursable costs associated with implementation of this section.

(c) ADDITIONAL HABITAT RESTORATION ACTIONS.—Not later than five years after enactment of this Act, the Fish and Wildlife Advisory Committee shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the following subjects:

(1) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies;

(2) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on 120,000 acres supplemental to the acreage referenced in paragraph (b)(15) of this section and feasible means of meeting that water supply requirement;

(3) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and restoring riparian forests;

(4) opportunities for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available;

(5) measures to eliminate losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, and in the Sacramento and San Joaquin Delta, including measures such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas;

(6) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including removal programs or programs for the construction of new fish ladders; and

(7) construction of temperature control structures on Trinity, Lewiston, and Whiskeytown dams to conserve cold water for fishery protection.

(d) REPORT ON PROJECT FISHERY IMPACTS.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this Act.

(e) ECOSYSTEM AND WATER SYSTEM OPERATIONS MODELS.—The Secretary, in consultation with the State of California and in consultation with the Fish and Wildlife Advisory Committee, and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity river watersheds. The primary purposes of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this Act through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) water quality;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley; and

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration.

In implementing this subsection, all studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this Act or by any other state or federal law, statute, or regulation. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost, the other half shall be borne by the State of California.

SEC. 3407. RESTORATION FUND.

(a) RESTORATION FUND ESTABLISHED.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund")

which shall be available for deposit of donations from any source and revenues provided under this Act. Funds made available to the Restoration Fund are authorized to be appropriated to the Secretary to carry out the provisions of section 8(c), section 8(i), and the habitat restoration, improvement and acquisition (from willing sellers) provisions of this Act.

(b) MAXIMUM SURCHARGE ON WATER AND POWER SALES.—The Secretary shall impose an annual operations and maintenance charge on all sales of project power and water sufficient to generate $15,000,000 (October 1991 price levels) to be deposited in the Restoration Fund. The amount of the charge paid by Central Valley Project water and power users shall be assessed in the same proportion as their cost allocation.

(c) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency thereof, or other nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is best able to implement an action authorized by this Act in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity to implement the identified action.

(d) LIMITATION OF EXPENDITURES.—The Secretary shall not expend any funds on construction of capital facilities authorized under section 6 of this Act as to which the State of California is required to contribute a share of total costs until the State of California has agreed to meet such cost sharing requirement.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this Act.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this Act, including that used for groundwater development, shall be deemed as Central Valley Project power and shall be repaid by the user in accordance with Reclamation law and at a price not higher than the lowest price paid by or charged to Central Valley Project contractors.

(c) ACQUISITION OF ADDITIONAL WATER SUPPLY.—In order to carry out the intent, purposes and provisions of this Act, the Secretary is authorized to obtain water supplies from any source available to the Secretary, including, but not limited to direct purchase from willing sellers of water, acquisition of land and associated ground and surface water rights, water made available from conjunctive use projects, and implementation of on-farm water conservation practices where water conserved thereby will be made available to the Secretary.

(d) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this Act with any Federal agency, California water user or water agency, State agency, or private non-profit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

(e) USE OF PROJECT FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to applicable State laws.

(f) LIMITATION ON CONSTRUCTION.—This Act does not and shall not be interpreted to authorize construction of water storage facilities.

(g) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of the first full fiscal year after enactment of this Act, and annually thereafter, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this Act and progress toward achievement of the intent, purposes and provisions of this Act. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this Act.

(h) RECLAMATION LAW.—This Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(i) LAND RETIREMENT.—(1)The Secretary is authorized to purchase from willing sellers at fair market value land and associated water rights and other property interests identified in subsection (2) which receives Central Valley Project water under a contract executed with the United States.

(2) The Secretary is authorized to purchase, under the authority of subsection (i)(1), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to the recommendations contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(j) WATER CONSERVATION.—(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this Act. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this Act, including the requirements of section 6(b)(2). Such projects or measures must be implemented fully by the end of fiscal year 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1997 $0 to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a nonreimbursable Federal expenditure.

(k) CITIZEN SUITS.—(1) Any person may commence a civil suit in his or her own behalf against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under sections 4, 5, 6, 7, 8, and 12 of this Act which is not discretionary with the Secretary.

(2) The court may award costs of litigation (including reasonable expenses and attorney and expert witness fees) to any party other than the United States whenever the court determines such award is appropriate.

(3) The relief provided by this section shall not restrict any right which any person (or class of persons) may otherwise have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(4) The district courts shall have jurisdiction to prohibit or prevent any violation of this Act, to compel any action required by this Act, and to issue any other order to further the purposes of this Act. An action under this section may be brought in any judicial district where the alleged violation occurred or is about to occur, where fish or wildlife resources affected by the alleged violation are located, or in the District of Columbia.

SEC. 3409. CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Fish and Wildlife Advisory Committee", hereafter referred to as the "Fish and Wildlife Advisory Committee".

(b) DUTIES.—The Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the fish, wildlife, and environmental restoration actions identified in section 6. Such recommendations shall be advisory in nature and shall not be binding on the Secretary, however, the Secretary shall give substantial deference to such recommendations in carrying out responsibilities under this Act. Should the Secretary not implement any recommendations made by the Fish and Wildlife Advisory Committee, the Secretary shall notify the Committee in writing and explain the reasons for rejecting the recommendation.

(c) APPOINTMENT AND MEMBERSHIP.—The Fish and Wildlife Advisory Committee shall be comprised of the Director of the U.S. Fish and Wildlife Service and the Governor of California, or their designees, and twenty additional members appointed by the Secretary in consultation with the Governor to provide—

(1) ten representatives of environmental and conservation interests (including one representative of the Hoopa Valley Tribe); and

(2) ten representatives of agricultural and urban water users (including one representative of Central Valley Project power users).

(d) TERMS.—The term of a member of the Fish and Wildlife Advisory Committee shall be five years, except that five of the members appointed pursuant to subsection (c)(1) and five of the members appointed pursuant to subsection (c)(2) shall be appointed for an initial term of three years. Any vacancy on the Committee shall be filled in the same manner as the original appointment.

(e) CHAIRMANSHIP AND VOTING.—The Fish and Wildlife Advisory Committee shall be co-chaired by the Director of the United States Fish and Wildlife Service and the Governor of California, or their designees. The Committee shall meet at the call of the co-chairs or upon the request of a majority of its members. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Fish and Wildlife Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and pre-

scribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Fish and Wildlife Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Fish and Wildlife Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided in this section, the terms and provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. 2), shall apply to the Fish and Wildlife Advisory Committee.

(j) TERMINATION.—The Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3410. CENTRAL VALLEY PROJECT TRANSFER ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the "Central Valley Project Transfer Advisory Committee", hereafter referred to as the "Transfer Advisory Committee".

(b) MEMBERSHIP.—The Transfer Advisory Committee shall be comprised of 16 individuals, appointed as follows:

(1) 8 appointed by the Governor of California, one to represent each of the following organizations and interests:

(A) California Resources Agency;

(B) California State Water Resources Control Board;

(C) Central Valley Project agricultural water contractors;

(D) Central Valley Project municipal and industrial water contractors;

(E) Central Valley Project power contractors;

(F) environmental organizations;

(G) waterfowl conservation organizations; and

(H) fishery conservation organizations.

(2) 1 appointed by the President Pro Tempore of the California State Senate;

(3) 1 appointed by the Speaker of the California State Assembly;

(4) 2 appointed by the Secretary of the United States Department of the Interior to represent individually the United States Fish and Wildlife Service and Bureau of Reclamation;

(5) the Inspector General of the Department of the Interior or his or her designee;

(6) the Administrator of the Environmental Protection Agency or his or her designee;

(7) the Comptroller General of the United States or his or her designee; and

(8) 1 appointed by the Hoopa Valley Tribe.

(c) DUTIES.—The Transfer Advisory Committee shall prepare a report to Congress and the President on all issues associated with transfer of all Central Valley Project facilities and assets, assuming, first, that the transfer would be to the State of California, assuming, second that the transfer would be to Central Valley Project contractors, and assuming, third, that the transfer would be to a Commission with the members appointed by the Governor of California and the Secretary that would jointly operate the California State Water Project and the Central Valley Project. The Transfer Advisory Committee shall provide recommendations on which of these transfer options best serves the interests of the United States and the State of California, and on legislative and administrative measures required to execute such transfer which would ensure that—

(1) the fish and wildlife protection and restoration goals of this Act are achieved;

(2) the reserved fishing and water rights of affected Indian tribes are preserved, and the ability of the United States to meet its trust obligations with respect to such tribal assets is maintained;

(3) the Secretary's contractual obligations and rights associated with the Central Valley Project are fulfilled;

(4) the operations of the Central Valley Project and the California State Water Project are integrated to the maximum extent practicable; and

(5) Federal expenditures associated with the Central Valley Project are minimized.

(d) CHAIRMANSHIP AND VOTING.—The Transfer Advisory Committee shall be co-chaired by the Inspector General of the United States Department of the Interior and any individual selected by the Governor of California from among the Transfer Advisory Committee members appointed by the Governor of California pursuant to paragraph (a)(1) of this section. The Committee shall operate with the objective of achieving consensus, but may provide recommendations based on a majority vote.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except as provided herein, the terms and provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended, (5 U.S.C. App. 2), shall apply to the Advisory Committee.

(f) ADMINISTRATION.—The Secretary, in cooperation with the State of California, shall provide the Transfer Advisory Committee with necessary administrative and technical support service, including information relevant to the functions of the Committee. The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions, and may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) EXPENSES.—While away from their homes or regular places of business in the performance of service for the Transfer Advisory Committee, members and their technical representatives shall be allowed travel expenses, including a per-diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this subsection.

(h) GOVERNMENT EMPLOYEES.—Members of the Transfer Advisory Committee and technical representatives who are full-time officers or employees of the United States or the State of California shall receive no additional pay, allowances, or benefits by reason of their services on the Committee.

(i) REGULAR MEETINGS REQUIRED.—The Transfer Advisory Committee shall meet at the call of the co-chairs and, in any event, not less than once every three months following enactment of this Act.

(j) DEADLINE FOR SUBMISSION OF REPORT.—The Transfer Advisory Committee shall submit the report as required by subsection (c) of this section not later than December 31, 1993. The report shall be submitted to the President of the United States, the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Appropriations of the House of Representatives.

(k) TERMINATION.—The Transfer Advisory Committee shall terminate 90 days after submission of such report.

SEC. 3411. SAN FRANCISCO BAY AND DELTA WETLAND RESTORATION PROGRAM.

(a) PROGRAM AUTHORIZED.—The Secretary, in cooperation with the Secretary of the Army, and in consultation with the State of California, San Francisco Bay area port authorities, fishery and waterfowl conservation interests, and the Fish and Wildlife Advisory Committee shall investigate and, if feasible, develop and implement a program using dredged material to restore, protect, and expand San Francisco Bay and Delta wetlands for the purposes of recruitment and survival of waterfowl, fish, and other wetland dependent species, flood control, water quality improvement, and sedimentation control.

(b) SPECIFIC CONSIDERATIONS.—The program developed under this section shall consider a broad range of upland disposal and give emphasis to restoration, protection, and expansion of wetlands supporting abundant and diverse wetland ecosystems, including, but not limited to—

(1) high primary productivity and functioning food chains;

(2) seasonal values for waterfowl breeding, nesting, staging, and wintering;

(3) habitat values for migrating anadromous fish; and

(4) protection from predation and disease.

(c) QUALITY OF DREDGE MATERIALS.—The program developed under this section shall ensure that dredge materials used for wetland restoration, protection, or expansion shall be of appropriate quality for such purposes.

SEC. 3412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Funds appropriated under this section shall remain available until expended.

SEC. 3413. SIPHON REPAIR AND REPLACEMENT.

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project Designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aqueduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsor.

(b) Notwithstanding any other provision of law of contract, costs incurred in the repair, modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable.

SEC. 3414. BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM, WYOMING.

There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill

Dam and Reservoir modifications and recreational facilities. Provided, That such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

SEC. 3415. DEMONSTRATION PROJECT.

The Secretary is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the title 22 standards of the California Water Code. "Advanced ecologically engineered technology" refers to a greenhouse-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One-half of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the other half shall be borne by the State of California and the City and County of San Francisco.

SEC. 3416. RECREATION

The first section of the Act of August 27, 1954 (16 U.S.C. 695d), is amended by inserting "and also for the use and enjoyment of the lands, waters, and related facilities thereof for recreation," after "fish and wildlife purposes.".

AMENDMENT NO. 2820

Mr. WIRTH. Mr. President, on behalf of Senator JOHNSTON and others, I move that the Senate concur in the amendment of the House, with an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. JOHNSTON, proposes an amendment numbered 2820.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. WALLOP. Mr. President, I support the amendment offered to H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1992. Adoption of the amendment will finally permit us to go to conference with the House. It was not my idea to engage in the hostage taking, which now runs to 40 titles. Hopefully, we will be able to sort through all these titles and enact some long overdue legislation.

The amendment incorporates the text of H.R. 429 as originally passed by the Senate with two additional titles. The first of the additions is the San Carlos Indian settlement legislation as passed earlier by the Senate. At the time of its passage, I entered into a colloquy with Senator MCCAIN. So that the legislative history of that title is complete, I would ask unanimous consent that the text of that colloquy appear in the record at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WALLOP. Mr. President, the second amendment incorporates the text of S. 684, the National Historic Preservation Act Amendments of 1992, as reported by the Committee on Energy and Natural Resources. There are a few modifications which were worked out to address some concerns which I had raised and I am grateful to Tom Williams and David Brooks of the committee's majority staff and Mary Stewart of Senator FOWLER's staff for their help in working out those amendments. I assume that we will still need to do some refinements in conference, and I must admit that I am not completely happy, but I do appreciate their efforts. I would ask unanimous consent that a copy of my minority views in the committee report be included in the RECORD at the close of my remarks.

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

(See exhibit 2.)

Mr. WALLOP. Mr. President, those views set forth my underlying concern with the effect which well intentioned Federal programs can have on an unsuspecting public.

Mr. President, the attitude of the House on this measure is perplexing at best. On the Energy legislation which the Senate has been considering, the staff from the Senate and the House has been working overtime since the House action to prepare for conference. Throughout the July recess, the staff has worked to prepare a side-by-side for the conferees and attempting to define and resolve issues so that the Senate and the House can proceed directly to conference. That indicates to me that both the Senate and the House intend to try to resolve the many differences prior to adjournment.

Contrast that with the attitude of the House on this major water legislation. Last Congress we were held hostage for a resolution of reclamation reform, where members of the Senate and the House insisted on an agreement on unrelated social policy as the price of enactment of otherwise agreed on legislation. When a resolution on that issue seemed to be possible, the ransom was raised to include a massive restructuring of the Central Valley Project in California. When an agreement seems to have been worked out between representatives of the environmental defense fund and the water users, which could have served as the basis of a compromise, the House went into a shell. The House has refused to meet with the Senate to do any of the preparatory work for a conference. Their staff has refused to meet to work out a side-by-side or list of issues.

Our counterparts on the House side understand full well what the loss of the July recess and the last month means to getting a final resolution which can be enacted prior to adjournment. Rather than rejecting the Senate amendments and proceeding to conference 2 months ago, they reamended the bill and sent it back with a request for conference. The papers did not arrive in the Senate until a week later, just prior to the Senate's recess. Their staff has refused to meet on the absurd basis that they need to know who the Senate conferees are before the staff can meet. That is simply ridiculous.

The House knows what the pressures will be on our committee resources during the energy conference and I am certain that was part of their decision to delay consideration of this legislation. I think we can rise to their challenge, but I do want my colleagues to understand that there has been no indication that they are serious about seeing this legislation enacted.

EXHIBIT 1

COLLOQUY ON S. 291, SAN CARLOS APACHE INDIAN WATER SETTLEMENT

Senator WALLOP: Mr. President, S. 291 as reported by the Select Committee on Indian Affairs includes several provisions involving matters that fall within the jurisdiction of the Committee on Energy and Natural Resources. Since the Select Committee's report was filed on July 31, I have had an opportunity to review these provisions and the explanations of them in the Select Committee's report and am persuaded that a further, formal review by the Energy Committee is not necessary. However, for the record, I would ask the junior Senator from Arizona, the Vice Chairman of the Select Committee, if he would respond to three questions about the legislation.

Senator MCCAIN: I will be happy to respond.

Senator WALLOP: Mr. President, Section 10(j) of the bill authorizes the Secretary of the Interior to acquire from the City of Scottsdale, Arizona, Planet Ranch on the Bill Williams River, including all appurtenant water rights and the city's pending application with the State of Department of Water Resources to appropriate additional water from the river, through a land exchange based on fair market value. If the lands the Secretary exchanges for Planet Ranch are lands previously purchased by the Bureau of Reclamation for the construction and use of the Central Arizona Project (CAP), how will this affect the repayment obligations of the Central Arizona Water Conservation District (CAWCD)?

Senator MCCAIN: There will be no change in the District's repayment obligation. Under the terms of CAWCD's repayment contract and Reclamation law, once repayment of the CAP begins, if the Bureau of Reclamation sells lands it purchased for CAP use, the CAWCD is entitled to receive credit against the annual payments due on its repayment obligation. Section 10(j) ensures that in the event these same lands are exchanged for Planet Ranch, the CAWCD will receive the same fair market value credit against its annual payments as it would if the lands were sold. The effect is to ensure that the CAWCD, as a third party, neither receives a windfall nor suffers a penalty as a result of a Planet Ranch exchange.

Senator WALLOP: I thank the Senator for his answer. Section 10(k) of S. 291 repeals section 304(c)(3) of the Colorado River Basin Project Act of 1968. Will the Senator from Arizona please explain why this provision is in the bill?

Senator MCCAIN: I will be happy to explain. First let me say that Section 304(c)(3) re-

quires the Secretary of the Interior to find that a surplus of ground water exists and that drainage is or was required as a precondition for permitting ground water to be pumped from within the exterior boundaries of a CAP contractor's service area for any use outside that contractor's service area. This provision, which was enacted twelve years before Arizona enacted a comprehensive groundwater management law and twenty-three years before Arizona enacted statewide comprehensive legislation governing the transportation of groundwater, has provided the only federal requirement with respect to the transfer of ground water within the State of Arizona and applies to no other State.

Although the Secretary to date has not invoked the provision, municipalities in Maricopa County, including the City of Phoenix, are concerned that Section 304(c)(3) might be interpreted as a bar to a variety of water management activities either under way or contemplated pursuant to the State's Groundwater Management Act or pursuant to Indian water rights settlements. Consequently, they sought its repeal as part of the Fort McDowell Indian water rights settlement in the 101st Congress. However, rural Arizona counties and municipalities opposed repeal until the Arizona legislature enacted statewide comprehensive legislation on groundwater transportation. The Arizona delegation agreed that, upon enactment of such legislation by the State, we would seek repeal of 304(c)(3).

In May of this year Arizona enacted comprehensive groundwater transportation legislation that included a declaration of the State's support for legislation in Congress to amend Section 304(c)(3). Accordingly, Section 10(k) was added to S. 291.

I would observe that this affirmative response to the State's request is entirely consistent with longstanding federal policy to defer to State law on matters concerning the management and use of a State's water within its boundaries.

Senator WALLOP: I thank the Senator for his explanation. My third question concerns section 8(f) of S. 291, which provides for a waiver of ownership and full cost pricing limitations of Reclamation law to CAP contractors who waive any claims to the so-called excess AK-Chin water. Would the Senator explain the basis for this provision?

Senator MCCAIN: I'm glad to explain. Mr. President, the waivers authorized by Section 8(f) constitute a compromise that eliminates opposition to a key provision of the San Carlos settlement that allocates to the San Carlos Apache Tribe 33,300 acre-feet of Colorado River water which is excess to the Secretary's requirements under the 1984 AK-Chin Indian water settlement. S. 291 provides for the Tribe to lease this water to various Arizona municipalities and thereby obtain a significant, long term source of revenue—estimated at more than $40,000,000 over the next forty years—with which to develop its water and other resources.

However, reallocation of the excess AK-Chin water to the San Carlos Tribe for lease to municipal users will effectively preclude CAP non-Indian agricultural contractors from having any access to that water. Because these contractors were intended to have such access pursuant to the 1984 Senate amendments to the AK-Chin settlement they, as well as the State and the Central Arizona Water Conservation District, strongly opposed the reallocation and the settlement without some offsetting consideration. The Select Committee adopted the view of the State, the CAWCD and the contractors that a waiver of the ownership and full cost pricing limitations of Reclamation law would be appropriate consideration primarily because these limitations operate to frustrate efficient and economical use of water in central Arizona, which is directly contrary to the purposes of the 1968 Colorado River Basin Project Act and Arizona's Groundwater Management Act.

Mr. President, because section 8(f) is such an important provision of the San Carlos settlement, I think it is appropriate to include at this point in the record those portions of the report of the Select Committee on Indian Affairs on S. 291 (S. Rept. 102-133), which detail the history of the 1984 AK-Chin amendments and further explain the basis for the Reclamation waiver:

"In 1983 the Secretary and the AK-Chin Indian Community renegotiated the terms of the 1978 AK-Chin settlement after it had become clear that problems associated with acquiring the water sources identified in that settlement made those sources not viable. As introduced and passed by the House in September, 1984, the settlement amendments required the Secretary to provide 75,000 AF annually to AK-Chin, with the first 50,000 AF to be Colorado River water acquired from the Yuma-Mesa Division of the Gila Project, and the balance to come from AK-Chin's 58,300 AF CAP Indian allocation.

"Arizona's governor and Department of Water Resources (DWR) objected to the allocation of the unused Yuma-Mesa water for AK-Chin. DWR, which had included the allocated but unused Yuma-Mesa water in its calculation of Central Arizona Project supplies available for ultimate allocation to non-Indian agricultural and municipal users, saw the allocation to AK-Chin as causing shortages for other allottees in future dry years. After the House passed the renegotiated settlement on September 17, 1984, the Governor and DWR director sought changes in the legislation in the Senate.

"Arizona Senators Goldwater and DeConcini declined to change the terms of the renegotiated settlement, but did agree to two amendments that addressed the State's concerns. One modified Section 2(k) of the House bill, which provides that:

"Whenever the aggregate water supply * * * exceeds the quantity necessary to meet the obligations of the Secretary under this Act, the Secretary shall have the authority to contract, on an interim basis, for the allocation of any of the water * * * which is not required for delivery to the AK-Chin Indian Reservation under this Act." The House Report (98-1026) was ambiguous as to the meaning of this provision. On page 5 it stated that "any water from these combined sources of water that is in excess of the Community's entitlement will be available for allocation to other water users in central Arizona", although the actual language in 2(k) did not specify central Arizona. On page 13, in the section-by-section analysis of section 2(K), the report states that "It is the intent of the Committee that any such excess water be allocated for use in Arizona."

"The State wanted to eliminate any doubt that the excess AK-Chin water would be used in central Arizona. Accordingly, Arizona's Senators agreed to amend subsection 2(K) to read "the Secretary shall allocate on an interim basis TO THE CENTRAL ARIZONA PROJECT any of the water * * * which is not required for delivery to the AK-Chin Indian Reservation under this Act."

"Relevant portions of both Senators' statements made during Senate consideration of H.R. 6206, as well as subsequent statements made in the House by Interior Committee Chairman Udall and Representative McCain concurring in the Senate amendments, describe the intent of requiring the Secretary to allocate the excess AK-Chin water to the Central Arizona Project so as to ensure that the water would be available to the Central Arizona Water Conservation District, the eventual operator of the CAP, for use by its non-Indian contractors.

"At the March 28, 1991 joint hearing on S. 291, Senator DeConcini and witnesses from the State of Arizona, the CAWCD, CAP agricultural contractors and Pinal County municipalities expressed support for the San Carlos settlement but strongly opposed S. 291's provisions allocating the excess AK-Chin water to the San Carlos Apache Tribe and authorizing its lease to municipal entities. The common base for their opposition is that these provisions, by effectively denying CAP agricultural contractors, who are not otherwise parties to the settlement, any opportunity to use the AK-Chin excess water, would frustrate the purpose and intent of the 1984 Senate amendments to the AK-Chin settlement. Only if the non-Indian CAP agricultural contractors received some consideration to offset their loss of all future access to the excess AK-Chin water would these parties support the settlement and S. 291.

"The Tribe and the Interior Department testified that the settlement would be unacceptable to them without the reallocated excess AK-Chin water and its lease revenues going to the Tribe. The Department has asserted that because the actual language of the 1984 amendments to the AK-Chin settlement arguably did not vest any legally enforceable right to the excess AK-Chin water in the State, CAWCD or its contractors, the purpose and intent of the Senate amendments in effect should be ignored and the water reallocated to San Carlos by the settlement legislation notwithstanding the understandings of the parties to those amendments.

"The Committee agrees with the Tribe and the Department that the use of the excess AK-Chin water as provided in S. 291 is essential if the Tribe's claims are to be fairly settled. However, the Committee also recognizes and gives great weight to the understandings of Arizona's Senators and the other parties supporting those amendments as to the purpose and intent of the amendments. The Committee also notes that the contributions of the State of Arizona and the cooperation of the CAWCD are essential to the implementation of the San Carlos settlement.

"Extensive discussions among the parties subsequent to the March hearing produced agreement that appropriate and acceptable consideration to the Central Arizona Project agricultural contractors for their loss of access to the excess AK-Chin water would be a waiver of the ownership limitations and full cost pricing provisions of Federal Reclamation law and the full cost pricing provisions of other Federal law. Accordingly, Section 8(f) of the Committee substitute provides for such a waiver in exchange for the contractors' waiver and release of any and all claims to the use of excess AK-Chin water.

"The appropriateness of the waiver is supported by information provided to the Committee by the State and the Central Arizona Water Conservation District that indicates that the ownership limitation and full cost pricing provisions of Federal reclamation law, fully applied to Central Arizona Project non-Indian agricultural contractors, operate

to produce results contrary to the purposes for which the Central Arizona Project was authorized and to the purposes of Arizona's 1980 Groundwater Management Act.

"As described in a 1967 Senate report on the Central Arizona Project (S. Rept. 90-408, p. 27), the project was "needed to (1) Reduce a dangerous overdraft upon ground water reserves. (2) Maintain as much as possible of the area's 1,250,000 acres of irrigated farm land. (3) Provide a source of additional water for municipal and industrial use that will be required during the next 30 years." To this end, the 1968 authorizing legislation barred the use of Central Arizona Project water directly or indirectly for irrigation of lands not having a recent history of irrigation (Indian lands and state and Federal Wildlife refuges were excepted from this bar).

"Arizona's 1980 Groundwater Management Act (GMA) was enacted in part as a condition for receiving the Federal funding necessary to complete the Central Arizona Project. The GMA's primary goals include controlling the severe overdraft occurring in many parts of the state and providing a means to allocate the state's limited groundwater resources. Among its provisions, the GMA required integration of water conservation programs with the Central Arizona Project.

"The GMA established four Active Management Areas (AMA), which include 80 percent of Arizona's population and 70 percent of the state's groundwater overdraft, to provide comprehensive groundwater management. In the Prescott, Phoenix and Tucson AMAs, which include the large urban areas of the state, the primary management goal is to achieve safe-yield, defined as a long-term balance between the annual amount of groundwater withdrawn in the AMA and the annual amount of natural and artificial recharge, by the year 2025. In the Pinal AMA, where a predominantly agricultural economy exists, the management goal is to preseve that economy for as long as feasible, while considering the need to preserve groundwater for future non-irrigation uses.

"Under conservation and management plans for Arizona's agricultural sector, which accounts for about 75 percent of total water use in the AMA's, each farm's water use is to be reduced by increasing irrigation efficiency. In addition, CAP agricultural contractors are required to reduce groundwater pumping by one acre-foot for each acre-foot of CAP water they receive. The combination of more efficient irrigation systems with new surface supplies from the Colorado River via the CAP, which reduces the need to pump groundwater, is therefore crucial to the success of the state's efforts to meet its goal of safe-yield in the AMA's by 2025.

"The GMA assumes that CAP agricultural contractors will be able to take deliveries of large amounts of Colorado River water in the early years of the project, which would slow the rate of groundwater depletion, and, as municipal and industrial uses increase and agricultural areas convert to urban uses, further reduce depletion. Consistent with this assumption, agricultural users took deliveries of 594,000 acre-feet of water in calendar year 1990 and municipal and industrial users took deliveries of 151,000 acre-feet of Colorado River water.

"Arizona's Department of Water Resources, the CAWCD and representatives of CAP agricultural contractors testified that a waiver of the ownership limitations of federal law would enable the contractors to achieve more economical and efficient use of their water supplies, and to take delivery of increased amounts of CAP water, with corresponding reductions of groundwater pumping, as envisioned by the 1968 CAP authorizing legislation and the GMA. Doing so would not result in increases in lands subject to irrigation, as such increases are restricted under both the 1968 CAP authorizing legislation and the GMA.

"Similarly, these witnesses testified that the application of full-cost pricing provisions of Reclamation law and of federal law to CAP agricultural contractors is contrary to the goals of the CAP and the GMA. When the CAP is declared complete (anticipated some time in 1993), the contract rate for CAP agricultural water, including operation, maintenance and repair charges, will be about $57 per acre-foot. The cost of pumping an acre-foot of groundwater will remain less than the amount, while the full cost of CAP water is estimated to be about $250 per acre-foot.

"The CAP's economics and the requirements of Reclamation law attendant to contracting for CAP water were major factors that caused 13 of the 23 Arizona agricultural entities that were offered contracts for CAP water to decline those contracts. Relying on the calculations of water delivery and construction costs provided by the Bureau of Reclamation, the ten agricultural districts that did sign long term water service contracts obligated themselves to repay the United States over $250,000,000 for the cost of constructing their distribution systems. Six of the ten incurred more than $70,000,000 in additional bonded indebtedness to private lenders in order to meet a federal requirement that they pay twenty percent of the cost of their distribution systems up-front.

"Given their reliance on the information provided by the United States and notwithstanding the rates that they would pay for CAP water would be less than full cost, as provided in their water service contracts, CAP agricultural contractors remain concerned that full-cost provisions of Reclamation law might be applied to their operations or that federal law might be amended to require payment of full cost for project water as a condition of their eligibility for participation in various federal programs."

Mr. President, I hope that this explanation of the compromise on the AK-Chin water makes clear that the circumstances that gave rise to section 8(f) of S. 291 are unique to Arizona and to the Central Arizona Project. The excess AK-Chin water is a crucial element of the San Carlos settlement. It represents a major source of future revenue for the impoverished San Carlos Apache Tribe—revenue from local, non-Indian entities rather than from federal appropriations. I would emphasize that without the excess AK-Chin water compromise, the entire San Carlos settlement and the benefits it would provide both the Tribe and non-Indians are likely to be lost.

I know the Senator from Wyoming understands all too well how difficult and complex are the problems and issues posed by unresolved federal and Indian claims to water on western watersheds. I appreciate his concerns about S. 291, and thank him for the opportunity to answer his questions.

Senator WALLOP: I thank the Senator from Arizona for his responses.

EXHIBIT 2

MALCOLM WALLOP, MINORITY VIEWS ON S. 684

Although I join the majority in support of the need to address the National Historic Preservation Act, I disagree that this legislation, as reported, is a proper answer to that need. I have concerns that little regard has been shown in this legislation for solving the problems of the people who would be most affected by this legislation, that the process of determining eligibility of properties for the National Register of Historic Places is flawed, that the effects of extending responsibilities under the Act will create costly, overlapping jurisdictions, and will create a veto power over projects.

It is apparent that considerable effort was expended while crafting this legislation to involve National, State, and local historic preservationists, tribal leaders, archaeologists, and architects. As far as I can tell, no one has discussed the effects of this legislation with the homebuilders and homeowners, the agricultural or ranching communities, or the business community in general. It appears that no attempt has been made to build consensus with anyone other than the preservation community.

Basic to the administration of a law such as the National Historic Preservation Act is the ability to sort the truly important sites from the merely interesting sites. The Act does not now contain a process to identify sites, nominate, and then not now contain a process to identify sites, nominate, and then list the important sites. The eligibility criteria found in the Code of Federal Regulations have been written without clear guidance from the law. The National Historic Preservation Act simply does not establish criteria for eligibility. S. 684 makes no attempt to fix this fundamental flaw in the Act.

Under the National Historic Preservation Act and the existing regulations many non-qualifying properties are found eligible and listed every year. The owners of these patently non-qualifying properties have no way to get their properties removed from the eligible list of historic places until they have been included on the Register.

An example of this problem is demonstrated by what recently occurred at Brandy Station in Culpeper County, Virginia, the site of the Civil War's largest cavalry battle. Simply stated, during 1989, lands were identified at Brandy Station that were of national significance. Five areas totaling 250 acres were identified, and proffered as a gift to the Nation.

However, as soon as the county approved the necessary rezoning, the Federal Keeper of the Register declared a 14,000 acre area eligible for the National Register. The designation includes an airport and other clearly inappropriate properties that have long since lost their historic integrity.

Once properties are listed on the National Register, little attention is paid to cost and value in choosing projects to receive Federal monies for restoration. Preservation of some properties defy logic. An example is the Wesleyan Chapel at Women's Rights National Historic Park in Seneca Falls, New York. At this site some three hundred women gathered in 1848 to her Elizabeth Cady Stanton present a "Declaration of Sentiments" stating the need for political and economic rights or equality for women. By anyone's standards, a site like this is worth saving.

But, for all practical purposes the building in Seneca Falls, New York, no longer exists. The original congregation moved to a larger building in 1871, the chapel was sequentially converted to an opera house, an automobile showroom, a movie theater, and most recently to a laundromat. Each of these changes took its toll. All that remained of the original structure were two beams, roof supports, portions of two walls, and part of

the brick foundation. There also were no records of what it had looked like in the 1800s.

The Park Service held a competition that brought in over 700 entries to "synthesize" the way the building might have looked in 1848. The winning design, an open-air pavilion partially built from the pitiful remnants of the original structure was ultimately incorporated into the Historic Landmark district.

This landmark rebuilds on the site of an important speech a totally fabricated interpretation of how the chapel might have looked. Federal money went to recreate something that we had already effectively lost, while at the same time other important historic landmarks were deteriorating and disappearing.

Part of this problem rests with the complicated overlapping jurisdictions. It is unclear who is responsible for the final decision on how to treat a property, particularly a Federal property. The present law requires the heads of all Federal agencies to assume responsibility for appropriate use and for the preservation of historic properties which are owned or controlled by the agency, and to approve Federal permits with respect to private actions.

This legislation has the potential effect of providing an historic preservation veto over any action, public or private, which involves any Federal action. Section 106 of the Act requires that an agency take into account the effect of any undertaking requiring Federal action on any property included in, or eligible for inclusion in, the National Register of Historic Places. The head of an agency is required to afford the Advisory Council on Historic Preservation an opportunity to comment on any such undertaking.

The amendment introduces new language requiring that an agency can go forward with the action only if an additional determination is made that implementing the recommendations of the Council is not "feasible and prudent". This is an unreasonable test.

It would seem to me to be an endless loop to require the agency to determine that the comments of the Council are not "feasible and prudent" when the Council has already found its comments to meet the same test. By the time a project gets to the stage at which the Council has made comments on a consultation, the agency has already evaluated the alternatives, examined all available options, spent budgeted dollars, and made appropriate findings.

What, after all, is "feasible" or "prudent" at this stage of a project? If the preferred agency action is not the best considered course of action at this late stage in a project, I don't know how anyone else will find it. Any other choice may well be overly expensive, be inconsistent with the charge of the agency, may preserve an historic resource that is already well represented by similar structures, or may simply not be the best use of scarce resources.

Further, if a Federal permit or other approval is required, the applicant has a need to reach resolution for the project. Undue delays, after all other steps have been taken, will in many cases make a project unfeasible. In most cases it is important to allow an applicant to know that additional steps will not be needed, and that the project can proceed because the agency has taken into account the effect of the proposed project.

Moreover, how does the "feasible and prudent" test apply to proposed private action that requires a Federal permit for some small part of the action? Is the "feasible and prudent" test the view of the Council, the agency, or the permit applicant? Where does expense to the private party get considered?

I am also concerned that this legislation will add to regulatory gridlock by creating overlapping authorities on many lands. While this legislation provides appropriate opportunities and responsibilities for Indian tribes and native Hawaiian organizations under the National Historic Preservation Act, it will exacerbate jurisdictional conflicts rather than relieve them.

The definition of tribal lands in this legislation includes, among other things, all lands within the exterior boundaries of any Indian reservations. The tribal historic preservation officer created by this legislation would have control over matters within the boundary of the reservation. The tribe thus could be responsible for approving or conditioning Federal actions affecting State lands or private lands, whether or not the owner wanted such representation.

As an example of how difficult this concept would be to administer for purposes of the National Historic Preservation Act, we need only consider the case of the Nez Perce Reservation in Idaho. According to the Bureau of Indian Affairs records office in Portland, this one reservation contains approximately 1366 parcels of State and fee lands as in holdings. These private lands total more than 95,000 acres. In addition, there are at least 170 acres of Forest Service land in three parcels, and about 18,000 acres of BLM lands in dozens of parcels within the exterior boundary of the reservation.

Finally, I am concerned with the lack of balance. This legislation seeks to go beyond fully considered agency action to a government by gridlock. By providing an effective veto for the Advisory Council, the head of a Federal agency would have to deal only with one interest group. I assume other interest groups such as fish and wildlife, outdoor recreation, and their various subgroups, would also like to have an effective veto rather than merely having their views fully considered.

For these reasons, I will offer an amendment on the floor to Senator Fowler's legislation, S. 684. My amendment will provide guidelines for establishing eligibility of a property for nomination to the Register, will redefine the term "tribal lands", and will remove the burden of making additional determinations by providing the head of an agency an opportunity to explain to the Council the agency's consideration of the Council comments.

SAN CARLOS INDIAN WATER SETTLEMENT AMENDMENT

Mr. DECONCINI. Mr. President, the amendment I am offering is legislation that has already passed the Senate which settles the water rights claims of the San Carlos Apache Tribe in Arizona. I am compelled to offer this legislation on this bill because of action taken by the House late last year relating to the use of the Ak-Chin surplus water in this settlement.

For the information of my colleagues, the water budget for the San Carlos settlement proposes using the 33,000 acre foot in excess of the amount needed to satisfy the Ak-Chin Indian settlement to complete the water budget for the San Carlos settlement. However, Senator Goldwater and I successfully offered an amendment to the 1984 Ak-Chin legislation which specifically stated that any water not utilized by the Ak-Chin community for this settlement would return to the central Arizona project to be reallocated by the State. Because of this, the State of Arizona, the Central Arizona Water Conservation District, along with myself, were opposed to using this water for the settlement.

To respond to this issue, the bill was modified to exempt irrigation districts receiving cap water from the ownership and full cost pricing limitations of Federal reclamation law. In return, these irrigation districts will drop their claims to the Ak-Chin surplus water. This agreement is reflected in both the San Carlos legislation which passed the Senate and my amendment.

The House, however, deleted the provision which provides for the reclamation law exemptions while continuing to use the surplus Ak-Chin water. The House action in this regard is totally unacceptable to a great many Arizonans, including this Senator.

Therefore, I ask that the Senate reaffirm its position on this matter by again passing the San Carlos Indian Water Settlement Act of 1991 as an amendment to this bill.

For a more complete statement on the San Carlos settlement, I would refer my colleagues to my statement in the CONGRESSIONAL RECORD of October 8, 1991, when this bill originally passed the Senate.

I yield the floor.

Mr. BROWN. I am pleased that the sponsors of H.R. 429 have agreed to include an amendment to title XXXX, the National Historic Preservation Act amendments. This amendment addresses a concern that this act might be used to limit or restrict the use, maintenance, and improvement of vitally important structures and facilities used to divert, store, and transport water.

My amendment confirms that the act does not allow any such limitations or restrictions. Accordingly, even if a water diversion or storage facility is eligible for, or perhaps even included on, the National Register of Historic Places, this status shall have no effect on the continued use and improvement of the facility or structure by its present or future owners.

The act does not authorize any Federal or State agency to impose any conditions upon, or require any authorization for or approval of, the use, operation, maintenance, repair, or improvement of such facilities, including modifications such as ditch lining, or facility rehabilitation or expansion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado.

The motion was agreed to.

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate insist on its amendment; agree to the

conference requested by the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate.

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

APPROPRIATIONS AUTHORIZATIONS ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 551, S. 2624, authorizing appropriations for the Interagency Council on the Homeless; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table and that any statements relating to the passage of this item appear at the appropriate place in the RECORD.

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

The bill (S. 2624), was deemed read the third time and passed, as follows:

S. 2624

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

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SECTION 101. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993, and $1,700,000 for fiscal year 1994.".

SEC. 102. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1994".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM.

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993, and $200,000,000 for fiscal year 1994.".

Mr. GLENN. Mr. President, today we have passed S. 2624, a bill which will reauthorize two programs in the Governmental Affairs Committee jurisdiction—the Interagency Council on the Homeless and the FEMA Emergency Food and Shelter Program. This legislation, which reauthorizes these two programs for 2 years each at slightly higher funding levels, is a critical part of Congress' effort to ensure the continued functioning of the omnibus KcKinney Act, a collection of programs that has proven to be very successful over the past 5 years.

S. 2624 would reauthorize the Emergency Food and Shelter National Board Program funding level at $180 million for the first year and $200 million for the second year. In addition, it would fund the Interagency Council on the Homeless at an authorization level of $1.5 million and $1.7 million in each of the next 2 years, respectively.

The first of these programs, the Emergency Food and Shelter National Board Program, is chaired by the Federal Emergency Management Agency [FEMA] and includes representatives of various national nonprofits. The National Board Program is intended to aid nonprofit organizations in thousands of counties around the country to purchase food, supply shelter, and to supplement and extend current available resources in order to meet emergency needs of homeless and hungry people. As chairman of the Committee on Governmental Affairs, I well know the importance of this program. The National Board brings Federal agencies, State entities, and local nonprofit groups together in a unique and highly successful effort to assist those most in need. This program's funds are distributed on a formula basis, straight to emergency shelters, soup kitchens, and other nonprofit groups in every State. And, unlike what happens in most programs, a negligible percentage of the National Board's funds are spent on administrative costs. Each nonprofit organization raises almost all of its own funds for administration.

For fiscal year 1993, the administration has requested $100 million for the Emergency Food and Shelter National Board Program, which is $34 million below the program's appropriation in 1991. The administration explains its request below this level as "a shift of resources away from emergency programs toward programs that provide longer-term and more comprehensive approaches to the problems faced by the homeless." Mr. President, I agree that we need to develop longer-term solutions which will help the homeless out of their plight. That is why I am proposing an increase in this and the Council's funding levels, so that we might buttress and improve current approaches that look like they ultimately will work in the long-term. but what about those who have just lost their jobs and their homes? What about those who stand on the brink of homelessness? Must they wait until they become homeless before they receive any help?

The simple fact is that not only do these programs actually address longer term concerns, they also are a necessity in facing the national emergency of homelessness now, an emergency which not only persists but has grown. In a 28-city survey, the U.S. Conference of Mayors found that as of December 1991, requests for emergency food assistance have increased by 26 percent. Requests for emergency shelter have grown by 17 percent over the year before. Since that survey, the recession has only worsened. Many States, including my own State of Ohio, have cut their general assistance programs. Thousands in Ohio have lost benefits, in many cases, their only benefits. Providers are pleading for our help. Members of the National Board have told my staff that even if this program's funding were tripled, it still would not be enough to meet the need. Perhaps this administration can simply dismiss the real emergency in our midst—we simply cannot afford to look the other way.

The second program my bill reauthorizes, the Interagency Council on the Homeless, was established to coordinate Federal homeless programs and provide information about these programs and homelessness generally on a national level. The Council brings together all Federal agencies to coordinate and direct Federal homelessness efforts, in addition to providing support to State, local, and private programs. Since its inception, the Council has made great improvements in its operations. Many local providers in my home State of Ohio have expressed praise for its programs and workshops.

Mr. President, my bill proposes modest increases in both of these very valuable programs. At a time when people are facing crises unimagined in their own lives and when the very services we have provided so far are, in some cases, the only hope they see for survival, we cannot and must not turn our backs and do nothing. Increased funding for these programs admits and attempts to address the desperate realities of this recession, while at the same time supporting some well-begun efforts to find long-term solutions to the daunting and persistent problems of chronic homelessness.

The homeless problem continues to be a festering sore on the social conscience of America. There is no escaping the hard facts—millions remain homeless or chronically vulnerable to the condition. Millions more teeter perilously on the edge of personal disaster leading directly to homelessness. Increasingly, the homeless are families, single mothers with children, rural Americans, many of whose relatives or friends are the only thing between them and the street. Studies and surveys all over the country are documenting a catastrophe of untold proportions—the birth of a permanent underclass, comprised of mothers and their children, sliding down the same hole of poverty into homelessness, from one generation to the next. Hopefully, the action we have taken tonight will make a real difference in these peoples' lives and move us down the road to ending this national disgrace.

I want to commend the Senate for the action it has taken. I look forward

to the speedy enactment of this most important measure.

SETTLEMENT AGREEMENT BETWEEN THE PUEBLO DE COCHITI AND THE U.S. ARMY CORPS OF ENGINEERS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4437, a bill to authorize funds for implementation of the settlement agreement between the Pueblo de Cochiti and the U.S. Army Corps of Engineers, just received from the House; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table.

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

The bill (H.R. 4437) was deemed read the third time and passed.

Mr. WIRTH. Mr. President, one final item of business.

EFFECTIVENESS OF UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 396, H.R. 2152, the High Seas Driftnet Fisheries Enforcement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2821

(Purpose: To make an amendment in the nature of a substitute)

Mrs. KASSEBAUM. Mr. President, I send to the desk a Packwood substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the substitute amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for Mr. PACKWOOD (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE), proposes an amendment numbered 2821.

Mrs. KASSEBAUM. 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:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(A) FUNDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in the United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(A)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—the term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the Untied States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federations are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such

service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V-FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(A) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. PACKWOOD. Mr. President, I rise to strongly support adoption of my substitute amendment to H.R. 2152. I strongly support this amendment, which places mandatory sanctions on countries that do not stop drift net fishing by the end of this year.

Every so often, Mr. President, we learn about an issue that just mobilizes people. People across your State write letters, search you out at county fairs, or call your offices. Drift nets is one of these issues.

The fish, particularly salmon and steelhead, and the marine mammals that swim in the waters of the Pacific, have an historic importance in the Northwest. Drift nets threaten them.

Tens of thousands of sharks, seabirds, whales, dolphins, and salmon are swept up by these nets. And it's no wonder. Drift nets are up to 60 feet in depth and stretch for more than 30 miles. That's about the distance between Capitol Hill and Dulles Airport. They are literally walls of death.

Our ocean environment isn't the only victim of drift nets. Northwest fisher-

men have also paid the price. Drift nets are trapping migrating immature fish that would otherwise return to our Pacific Northwest rivers.

It is estimated that from 10,000 to 30,000 metric tons of North American salmon and steelhead, or about 21 million fish, have been taken each year by Asian drift net fleets in the North Pacific.

We have solid proof of how drift netting is affecting our legitimate fishermen. The National Marine Fisheries Service has documented nearly 10 million pounds of illegally taken salmon that was smuggled through the United States and sold in Japan.

Millions more pounds of this illegal salmon have been sold around the world.

Mr. President, we have made much progress in our efforts to ban drift net fishing. Last August, the Senate unanimously passed the Drift Net Moratorium Enforcement Act—a bill I introduced—to place mandatory sanctions on drift netting countries.

This action got the attention of the major drift-netting countries who said they would voluntarily reduce their drift net fishing.

Also, this action got the attention of the United Nations, who, in December, 1991, approved a resolution calling for a 50-percent reduction in drift net fishing by June 30 and a complete halt to drift net fishing by the end of this year.

In February, the House passed its version of the drift net sanctions bill, which incorporated much of the Senate-passed bill. What we are considering today is hopefully the last chapter in a sordid sea story.

This amendment incorporates many provisions from the House and makes some other changes. It is satisfactory to our fishing industry and environmental groups alike.

Some may wonder why, if the United Nations has acted, we need to pursue legislation. The reason is this: To ensure that there is the hammer of mandatory sanctions to back up the U.N. resolution.

While my hope is that drift-netting countries indeed stop the practice at the end of the year, I have too often seen deadlines slip. That must not happen this time. This bill ensures that any country that chooses to ignore the U.N. resolution will pay a price.

I urge my colleagues to support this amendment to ensure we see the end of drift net fishing at the end of this year.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate approval of H.R. 2152, the High Seas Drift Net Fisheries Enforcement Act, as amended. In particular, I strongly support provisions repealing the Coast Guard recreational boat-user fee.

I have opposed this unjust tax on our Nation's boaters since President Reagan first proposed it back in 1981. Congress blocked it then and each subsequent year through the 1980's. Unfortunately, the boat-user fee was included 3 years ago in the budget summit agreement between President Bush and the congressional leaders, and was enacted as part of the Omnibus Budget Reconciliation Act of 1990.

My objection to the Coast Guard recreational boat-user fee is, and has always been, the fact that this is no true user fee. I have no objection to a user fee where an individual pays a specific amount for a specific service. However, that is just not the case here, as the facts demonstrate.

First, the administration has chosen to charge this fee, which ranges from $25 for boats 16 to 20 feet, to $100 for boats over 40 feet, in areas where there is no Coast Guard presence. For example, South Carolina boaters on Lakes Marion and Moultrie, the Santee-Cooper Lakes, have to pay the recreational fee despite having no Coast Guard coverage. The situation is similar for other inland waters in my State, including the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River, where boaters have to pay the fee.

Second, all the money collected by the user fee goes to the general revenue fund where it is spent on everything except services to boaters. In fact, the user fee decal sold by the Coast Guard says right on it that "boaters paying for the decal can expect no increase in the quantity, quality or variety of services provided by the Coast Guard."

Third, the Coast Guard is actually cutting back its services to boaters. The share of the Coast Guard's budget spent on search and rescue has decreased by 25 percent since 1981, in large part because the Coast Guard is no longer a towing service for recreational boaters. In nonemergency cases, the Coast Guard now routinely turns over cases to commercial towers whose fee ranges from $100 to $125 per hour.

We need to recognize that there has been a larger game afoot with this recreational user-fee caper. This thinly disguised tax is just one more gimmick that the administration has used to raise revenues while pretending—"read my lips"—that it is not levying new taxes. However, a boater user fee imposed where no services are provided is clearly no user fee. In fact, it looks like a tax, smells like a tax, and bites like a tax. The recreational boater user fee is bad economic policy, and it is unfair. We need to repeal it as expeditiously as possible.

The substitute amendment before the Senate today would do just that. The Senate substitute for H.R. 2152 provides for a phased repeal of the boater tax. Under these provisions, the Coast Guard user fee would be repealed on October 1, 1992, for boats 21 feet or less, 70 percent of the boaters that have to pay the fee; on October 1, 1993, for boats 37 feet or less; and on October 1, 1994, for all remaining recreational boats.

As a budget offset, the amendment establishes a user fee for electronic access to the Federal Maritime Commission's [FMC] new automated tariff filing and information [ATFI] system. Individuals who electronically retrieve ATFI data would be charged $0.46 per minute. The fee is for remote computer access to the ATFI system. Individuals may elect to purchase the service or not to purchase the service. The ATFI system will organize the tariffs, or shipping rates, that are required to be filed with the FMC into a rate-quoting system, similar to the existing system operated by airlines for flight rates. Both the Congressional Budget Office and the Office of Management and Budget have estimated that the ATFI fee would generate adequate funds to offset the budget loss from the repeal of the Coast Guard user fee.

In addition to eliminating an unfair tax, H.R. 2152 focuses on a pressing environmental threat and a longstanding concern of the Commerce Committee—drift net fishing on the high seas. The committee's involvement in the issue began in 1985, sparked by a U.S. outcry over the deployment of thousands of miles of drift nets by foreign fishermen in the international waters of the north Pacific Ocean. Evidence indicated that these nets caught and drowned enormous numbers of fish, marine mammals, seabirds, and other wildlife species. In addition, lost or abandoned drift nets became ghost nets, entangling and killing many more marine animals long after the boats returned to the dock. Finally, the illegal taking of American salmon and steelhead trout encouraged the development of international black markets and forced U.S. fishermen to take economic losses. Responding to these concerns, the committee was successful in securing for enactment of the Drift Net Impact Monitoring, Assessment, and Control Act of 1987.

The task since then has been to build a global consensus to ban this destructive fishing practice. Toward that goal, committee members were successful in pushing for U.S. introduction of U.N. General Assembly resolutions on high seas drift net fishing. The resolutions called for a moratorium on the use of drift nets in the South Pacific by June 30, 1991, and worldwide by December 31, 1992. In addition, the United States has become a signatory to the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific, also known as the "Wellington Convention." The convention calls for a ban on drift net for establishment of an international fishery management regime for the South Pacific.

The amendment before us today is based on S. 884, the Drift Net Moratorium Enforcement Act of 1991, which I

cosponsored. The drift net provisions call for tough new sanctions against countries that violate the U.N. drift net ban. The measures included complement and strengthen our international commitments on this issue, and represent a major step toward ending the drift net threat once and for all. I urge my colleagues to support passage of H.R. 2152 as amended.

REPEAL OF THE BOAT USER FEE

Mr. RIEGLE. Mr. President, I join in strong support of the effort to repeal the boat-user fee. Congress should move quickly to send this measure to the President so it can be signed into law.

The boat-user fee was contained in the Budget Act of 1990—a measure that I did not support. At that time, many believed that money collected from the boat-user fee would be used to benefit boaters. In other words, if it was a user fee, it should be used to pay for something that boaters used.

That has not been the case. The funds have not gone to the Coast Guard and boaters do not receive any additional services from the Federal Government. Boaters have found themselves in a situation in which they have been selected to pay an additional share of general Government expenses. There is no sound reason to ask boaters to pay more.

The boat-user fee has affected a great number of people in my State. There are more registered boaters in Michigan than there are in any other State. The vast majority of boatowners in Michigan are not extremely wealthy; they represent a broad cross section of the people in the State.

The proposal we have before us phases the tax out over a 3-year period. As of October 1, an estimated 70 percent of all boaters will not have to pay this tax. In 1994, it will be completely repealed. I would favor a faster elimination of this tax, but I believe that this is an important measure and I urge rapid action so boaters will not have to pay this unfair tax.

Mr. ADAMS. Mr. President, even as we act on the drift net bill, time is running out for endangered fish and marine mammals. The U.N. resolutions calling for a global moratorium on the use of large-scale drift nets beyond the exclusive economic zone [EEZ] by December 31, 1992, are not self-enforcing. This bill would force a ban on the importation of fish, fish products, sport fishing equipment, and deny port privileges to vessels from countries that allow drift net fishing.

As I have stated in the past, Japan, Korea, and Taiwan together allow more than 1,000 drift net vessels to sail freely in the north Pacific Ocean and the rest of the world's seas. They are driven by commercial greed. They share a collective disregard for the protection of endangered species. In the face of such arrogance, the United States is forced to adopt the aggressive position embodied in this bill.

This bill also has strong sanctions against unregulated fishing practices in the Donut Hole, which is an area of the Bering Sea beyond the exclusive economic zone of any nation. The Donut Hole had a large and healthy bottom-fish industry until it was plundered, mainly by foreign fishing vessels. Many of the companies that own these vessels also own fish processing facilities in this country and avail themselves to the rich bounty in the U.S. exclusive economic zone. This bill would prohibit these companies from benefiting from U.S. port privileges, the fishery in the U.S. EEZ if they continue to fish in the donut. The bill would also extend the same sanctions to our domestic fishing vessels.

If we are to judge the fishing practices of others, we must first put our own House in order. At my suggestion, another section has been added to this bill which would increase the domestic fishery observer fee in the north Pacific to up to 2 percent of the value of the unprocessed fish on most vessels. The purpose of this provision is to increase the level of fees that NMFS can levy on vessels in the north Pacific fleet. The current 1-percent limit in the Magnuson Act is not sufficient to fund a program with an adequate level of observer coverage. This provision will help ensure that there will be adequate research and monitoring of our largest domestic fishery, the north Pacific fishery.

Our concern cannot stop with the banning of drift nets. We must ensure sound management of our domestic fishery as well.

Mr. GORTON. Mr. President, for too long, our seas have been ravaged by foreign drift net vessels. These ships set out nets up to 30 miles long that capture and kill any sea creature in their enormous path. For the last several years, I have worked with my colleagues, Senator PACKWOOD and Senator STEVENS, in putting an end to this waste and destruction of our marine resources.

It is with pleasure that I lend my support to the bill before the Senate today. It is long overdue. Last August, the Senate passed S. 884, the Drift Net Moratorium Enforcement Act of 1991, a bill introduced by Senator Packwood which I cosponsored. The bill before the Senate today is based upon that legislation.

The High Seas Drift Net Enforcement Act put the necessary teeth into the U.N. General Assembly Resolutions numbered 44-225, 45-197 and 46-215. The latest of these resolutions calls for a worldwide moratorium on all high seas drift net fishing by December 31, 1992, in all the world's oceans. The bill before the Senate today requires the President to invoke expanded Pelly sanctions on any nation found to be drift net fishing after the end of this year. These sanctions would prohibit the importation of fish, fish products, and sport fishing equipment from any nation found to be drift net fishing next year. Most importantly, if Pelly sanctions alone do not work, it gives the President the authority to expand these sanctions to any product from the offending country. While all of the Nation's drift net fishing fleets have now indicated that they will stop this destructive practice after this year, this bill is important insurance for those pledges. It seems quite unlikely to me that drift netting nations would risk a ban on any of their valuable export products.

The bill also calls for strong measures to end all fishing in the Central Bering Sea area known as the donut hole. The State Department has undertaken multilateral efforts to end fishing in this area. It is important that the U.S. send a strong message to other nations that our fisherman will abide by our Nation's effort to impose a moratorium in the donut hole. This bill calls for the denial of U.S. port privileges to any vessel found fishing in the Central Bering Sea area. The bill includes further sanctions on vessels fishing in international waters of the Central Bering Sea. Specifically, vessels or companies operating vessels fishing in the donut hole, will lose their privilege to engage in U.S. fisheries, including fishing and fish processing activities.

Additionally, Mr. President, we have included a provision to phase out and repeal the unfair and misnamed Coast Guard boater user fee. This fee which is levied on all boats over 16 feet does not go to pay for the support of the Coast Guard, but rather is deposited into the General Treasury fund. The bill phases out the fee over the next 2 years by removing and reducing its first for the smallest boats and repealing it altogether by fiscal year 1995. Unfortunately, the budget offset for this measure is to charge for public access to the Federal Maritime Commission's planned Automated Tariff Filing and Information Systems. I do not agree with charging the U.S. shipping public for access to this information but I also know as members of the Senate Commerce Committee we have looked for a better alternative but have not been successful.

Mr. President, this is a very strong measure to protect our Nation's fisheries and other marine resources. It also addresses an unfair fee placed upon our Nation's recreational boaters. I urge the Senate's approval.

Mr. STEVENS. Mr. President, I am pleased to join several of my good friends, and in particular Senators PACKWOOD and KERRY, in cosponsoring this amendment in the nature of a substitute to H.R. 2152. The bill as amended by our substitute constitutes an-

other major step forward in our continuing battle to protect marine resources from destructive fishing practices on the high seas.

Titles I and II of the substitute are aimed at closing the door on high seas drift net fishing. These two titles are almost identical to the provisions contained in H.R. 2152, which the House passed in response to S. 884, the Drift Net Enforcement Act sponsored by Senator PACKWOOD that this body sent to the House almost 1 year ago. The House provisions follow the mandatory sanctions concept contained in S. 884, with the useful addition of the ban on port calls for which the House deserves credit. I would also note, Mr. President, that the House has finally seen fit to expand the Pelly amendment sanctions to include all products, a change which the Senate has approved twice in the past 6 years, only to have the House refuse to accept it.

The port ban and mandatory sanctions in this substitute are what we need to convince driftnetting nations that the United States remains committed to ridding the seas of these "curtains of death." It has been a long fight. Several of those who have joined in sponsoring this substitute—Senators PACKWOOD, MURKOWSKI, and GORTON—were with me in 1986, when I introduced S. 2611, the first drift net bill to be considered by Congress. That bill did not pass, and the next year we tried again. This time we were successful. Senators PACKWOOD and MURKOWSKI again joined me to sponsor S. 62, which became law on December 30, 1987, when the President signed the Drift Net Impact Monitoring, Enforcement and Control Act as part of legislation enacting a United States-Japan Governing International Fishery Agreement.

But the battle was far from over, and a number of us here in the Senate continued to search for ways to bring an end to high seas drift nets. After I spoke with Secretary of State Baker and then-Ambassador to the U.N. Thomas Pickering, 11 members of the Senate, including Senators HOLLINGS, PACKWOOD, KERRY, GORTON, HATFIELD, DANFORTH, and ADAMS, wrote to Ambassador Pickering to urge the United States to introduce a resolution in the United Nations to ban high seas drift net fishing. As a result of that letter, and a considerable behind-the-scenes lobbying effort, the United Nations unanimously approved on December 22, 1989, a resolution which called for a moratorium on large-scale drift net fishing on the high seas after June 30, 1992. Since then the United Nations has approved two other resolutions concerning drift nets, the latest of which calls for an unconditional end to high seas drift net fishing after December 31, 1992. It is this latest resolution which the legislation before us today will enforce.

While efforts to bring worldwide pressure to end drift net fishing were ongoing in the United Nations, the Congress did not rest. In 1990, both the House and Senate continued efforts to build on the 1987 Drift Net Act, which resulted in the Drift Net Act Amendments of 1990. These amendments made clear that it was the policy of the United States that large-scale drift net fishing on the high seas should be banned, and further strengthened the observation and monitoring requirements of the Drift Net Act. In addition, the Congress made it illegal for citizens and vessels of the United States to engage in large-scale drift net fishing, either inside or outside the U.S. exclusive economic zone.

Now it is 1992, and the Congress is hopefully playing out the final act in the drift net drama. Once these provisions pass the House, and are signed by the President, which I hope will occur in short order, the Congress will have completed the effort begun by this Senator over 6 years ago. We will still need to be vigilant, to see that the worldwide moratorium imposed by the United Nations is in fact obeyed, but I am optimistic that the Congress will not have to legislate on this issue again in the near future.

However, I would remind my colleagues that the campaign to save the fisheries of the world is not yet over. Drift nets are a scourge that may soon be eradicated, but unfortunately they are not the only destructive fishing practice in use today. A good example of another destructive fishing practice is the growing threat from factory trawlers. These vessels drag nets the size of a football field through the water, scooping up everything in their path. But the processing plant on board can only handle certain sizes and types of fish, so the rest goes back over the side dead, crushed by the 60 to 100 tons of other fish that were dragged up in the net. Two years ago off Alaska, factory trawlers in a profit-chasing frenzy wasted millions of usable fish when they stripped the lucrative roe from the fish and chucked the less valuable, but edible, flesh over the side. This practice was so offensive that the Congress specifically banned roe-stripping in the 1990 Magnuson Act amendments that also prohibited large-scale drift net fishing.

Factory trawlers are the vacuum cleaners of the seas. After drift nets, they are probably the most destructive fishing practice in the North Pacific. They operate both inside and outside our 200-mile zone. Inside the zone they are at least subject to some restrictions imposed by the Magnuson Act. Outside the exclusive economic zone, factory trawlers fish unrestrained by any law. In the waters of the Central Bering Sea, in an area known as the Donut, foreign factory trawlers have been conducting intensive fishing operations, including pirate raids into the U.S. zone.

It was in 1988 that I first brought this problem to the attention of the Senate, when this body unanimously passed Senate Resolution 396, which called for a moratorium on fishing on the Donut. Since that time negotiations have been ongoing between the United States and the Russian Federation—formerly the Soviet Union—on one hand, and the fishing nations of Japan, Korea, Poland, and the People's Republic of China. Unfortunately these negotiations have been unsuccessful, and fishing in the Donut remains unrestrained.

But that may soon change, Mr. President, with the passage by the Senate of title III of this substitute, which is entitled the Central Bering Sea Fisheries Enforcement Act of 1992. These provisions prohibit U.S. nationals and vessels from fishing in the Donut, and ban port calls by fishing vessels from nations that continue to fish in the Donut without an international agreement after December 31, 1992. In addition, U.S. vessels and processors who operate in the fisheries off Alaska would be denied that privilege if they also have a controlling interest in a vessel that fishes in the Donut. To encourage the ongoing international negotiations, all three of the prohibitions would not apply to fishing conducted in accordance with an international fishing agreement to which both the United States and Russian Federation are parties.

In enacting title III, the Senate has once again demonstrated its leadership on fisheries issues. We have taken another strong step to protect a threatened fishery on the high seas.

I would also mention one provision in title IV, which concerns a change to the language concerning fees that may be charged by the North Pacific Fishery Management Council for providing observer coverage in fisheries subject to their jurisdiction. The provision that has been included adopts in the statute the cap recently approved by the council, namely that the fee charged cannot exceed 2 percent of the exvessel value of the catch in an unprocessed state. I would observe that this new cap is exactly that—a cap; as before the council is free to choose that they will impose a fee that is less than 2 percent of the value. Under the remaining provisions of that section of the Magnuson Act, which are not changed by this legislation, the Council is under an obligation to only charge what is necessary to cover the actual costs of the observer program. Administrative overhead and diversion of funds raised by the fee to other projects, no matter how worthy, is still prohibited under the law.

In closing, Mr. President, I would like to say again that the fight to save our fisheries from destructive fishing practices is far from over. However, with the passage of this bill, as amended by the Senate substitute, we have

moved our battle lines forward. In fact, I am optimistic that we may one day soon be able to say that we actually have won the battle to end high seas drift net fishing.

The PRESIDING OFFICER. Are there amendments to the substitute?

If not, the question is on agreeing to the substitute amendment.

The amendment (No. 2821) was agreed to.

The PRESIDING OFFICER. Without objection, the bill as amended is deemed to have been read three times and passed.

So, the bill (H.R. 2152) was deemed read three times and passed.

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

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ENVIRONMENT

Mr. WIRTH. Mr. President, in the past several weeks, a great deal of discussion has occurred on the floor of the Senate, in the White House press room, and in the media about the junior Senator from Tennessee's environmental views.

I wanted to take a few minutes to discuss those views in the light of a recent memorandum which has come to my attention dated July 15 from the Environmental Protection Agency sent out to all EPA employees entitled "Reflections on the Earth Summit." No doubt, it is to be expected that as the Democratic nominee for Vice President, Senator GORE's record will be examined and discussed, and it should be. What I did not expect and cannot accept is the deliberate attempt that is going on to distort his record with a number of false assertions and inaccurate histories.

Last week, I spoke on the floor about the vicious and absolutely uncalled for attack by the President's spokesman, Marlin Fitzwater. The idea of Mr. Fitzwater questioning Senator GORE's patriotism—calling him "Mr. Sellout America" for his role at the Earth summit—is absurd in principle and wrong in fact.

Recently, some new information has come to light that gives a window on the true facts of why the United States image was so badly tarnished in Rio and why this foreign policy fiasco occurred.

I can assure you that it was not because of the junior Senator from Tennessee. In fact, Senator GORE was there trying to protect the reputation of the United States by pointing out to the thousands of reporters who were there that we in the United States have a proud legacy of environmental protection and that we will continue to be leaders in protecting the environment. He also, in contrast to the administration, the White House, and the President, was able to present a vision for what the United States might be able to contribute to a global effort to protect the Earth's fragile environment, something that can be done and must be done. That is what Rio was all about. We can all be thankful that Senator GORE was there to help our country get itself out of the very deep ditch being dug for it by this White House and administration.

But I say to my colleagues, do not take my word for it. Listen to what the President's top environmental official had to say about it upon his return from Rio. My colleagues will recall that the EPA Administrator, Mr. Bill Reilly, was the head of the U.S. delegation to the Earth summit. And he did the best job he could under very difficult circumstances—many of them created by an absurdly political and out of touch White House. This is the White House that leaked a confidential diplomatic cable from Mr. Reilly, embarrassing him, our country, and some of the other nations that we have been working with. And this was a bald effort to introduce domestic reaction politics into the Rio conference which ended up backfiring on the White House. And it is this same event that catalyzed the heavy and persistent stream of criticism that barraged the United States.

Mr. Reilly describes his experience as follows:

> For me personally, it was like a bungee jump. You dive into space secured by a line on your leg and trust it pulls you up before you smash to the ground. It doesn't typically occur to you that someone might cut your line.

Mr. President, the person who leaked Mr. Reilly's memo cut his line and opened the floodgates of criticism on the United States, not Senator GORE.

Senator GORE did neither push him off, cut the bungee line, or whatever. That was all done right out at 1600 Pennsylvania Avenue.

On our position related to the global climate change convention—the treaty other nations and Senator GORE wanted to contain binding commitments to halt the precipitous rise of greenhouse gas concentrations in the atmosphere—Mr. Reilly related a statement by the British Secretary of State, Michael Howard, who said: "Rarely have I seen a good brief so poorly argued."

That is what we all said all along. The United States had a good brief and rarely have any of us seen our brief so poorly argued as it was by the White House in Rio. We had some very good points to make with respect to covering all of the greenhouse gases in the treaty, rather than just carbon dioxide. We had a very robust and ambitious history on clean air from the Stockholm convention to the Clean Air Act itself, to our own commitment of billions of dollars to cleaning up our own atmosphere through catalytic converters.

We did not take advantage of that history. We did not tell the world about that history. Rather, we had a wonderfully comprehensive approach to take and did not do it. Our resistance to anything that could be construed as a binding commitment to stabilize our emissions made us the international whipping boy rather than the international hero which we could have been on this global political and environment issue.

And Mr. Reilly says in his memo:

> The United States stood alone in resisting commitment to targets and timetables for reducing CO_2 emissions. * * * I believe the United States will have little difficulty stabilizing greenhouse gases.

Why did we do it to begin with?

That is the rub, Mr. President. We in the United States, our administration, argued against the wishes of the rest of the world on something that we can achieve with little difficulty. Why? Because it is an election year and certain interests in this country did not want this administration to be seen as progressive in any way, and the White House made the political judgment not to be seen in any way, shape or form taking the issue of global climate change seriously. So the rest of the world laughed, we acted, and it was further embarrassing to us.

Mr. Reilly goes on in his memorandum in the following manner.

> Another key question, frankly, is why did the United States play such a low-key defensive game in preparing for Rio? We assigned a low priority to the negotiations of the biodiversity treaty, were slow to engage the climate issue, were last to commit our President to attend Rio. We put our delegation together late and we committed few resources. No doubt this contributed to the negative feelings toward the United States.

All of these are statements by Bill Reilly.

Another contributing factor was the substantial negative media coverage from a press corps greater in number, I remind my colleagues, than that gathered now in Barcelona for the Olympics. And I happen to agree with Mr. Reilly's assessment that some of the press coverage was unfair. But while it was unfair, it was absolutely undefended by this administration.

Some of us had to get up on behalf of the United States of America and defend our country as our negotiators were incapable of doing it.

Memos were leaked, compromising not just our policy negotiators but our policy position as well. This did not occur because of anything that Senator GORE, the Senate observer group or any others of us said or did in Rio. Instead, some of our problems resulted from the administration's obstructionist and posturing stance on several pressing global environmental challenges, all clearly outlined in Mr. Reilly's memo. As Mr. Reilly writes, "We experience a

public relations setback internationally counting on the notion that lonely defiance has its champions at home." The wrong political call.

That statement says it all. I hope that before anyone, Mr. Fitzwater or whoever it may be, makes another inaccurate statement about what happened at the Earth summit they ought to do their homework. They ought to understand why it was that our country and our President was so negatively portrayed, and why this was a sophomoric foreign policy disaster by a crowd that just does not understand what is going on in our country and around the world. They ought to ponder the statements of Bill Reilly.

And I am going to print this in the RECORD in a minute and they ought to read this memo. This memo says it all. It is not Senator GORE saying. It is not Senator WIRTH saying, not any Americans or observer group, nobody on the Senate floor. This is the memo coming from Bill Reilly, the President's lead environmentalist, the person the President turns to in an attempt to legitimatize our environmental record. It is this very record, Mr. President, this very memo written by Bill Reilly for all the EPA employees, dated July 15, that says it all.

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

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 15, 1992.

Memorandum to all EPA employees.

Subject: Reflections on the Earth Summit.

First, let me thank you very much for the warm welcome I received my first day back in the office. I was deeply moved by the declarations of confidence and support thousands of you signed. Not having had a lot of positive reinforcement in Rio it was all the more welcome to come home to some. And particularly satisfying that it came from my own EPA people. So thanks for that.

The United Nations Conference on Environment and Development, the Earth Summit, was a watershed event. In attendance at the Earth Summit were three times as many countries (180) than were present when the U.N. was organized, twice as many as signed the Montreal Protocol, 40,000 participants, 9,000 journalists, and over 100 heads of state. It was variously described: by Maurice Strong, Secretary General of UNCED, as "the most important conference in the history of humanity"; and as "a circus," by an anonymous White House staffer who briefed the New York Times on background!

For me personally, it was like a bungee jump. You dive into space secured by a line on your leg and trust it pulls you up before you smash to the ground. It doesn't typically occur to you that someone might cut your line!

The Rio Conference came 20 years after the first great international environmental meeting of recent times—the Stockholm meeting of 1972. The Stockholm Conference raised the profile of international environmental concerns, and many countries followed up by creating environment ministries. But environment in most countries did not become a priority issue, nor were the trade, economic and foreign policies of nations typically reformed to reflect environmental values. The purpose of the Rio conference was to elevate the environment as a priority, and promote better integration of nations' environmental goals with their economic aspirations.

Expectations for the Rio meeting were very high: for specific treaties on climate change and biodiversity; for a wide-ranging statement of principles on forest conservation and management; for an ambitious Agenda 21 with 900 pages of significant, new international commitments to better environmental behavior; and for new financial resources sought by developing countries—one speech by Maurice Strong indicated $125 billion estimated total annual need, of which he hoped $25 billion in new money annually would come from the conference. Inevitably, many of those expectations were not met. But what is extraordinary to me is how many were met, and how much the world did achieve. When I visited Brazil last winter to lay the groundwork for a possible visit by President Bush, neither the Brazilians nor I expected so much would ultimately be agreed to at the Conference.

Achievement: Framework Convention on Climate Change. 154 countries committed to decrease harmful levels of greenhouse gases, develop national action plans, and increase scientific research and monitoring. As you know, the United States stood alone in resisting a commitment to targets and timetables for reducing CO_2 emissions. The Treaty agreed to is a sound basis for addressing and periodically reviewing the problem, the science, economics and technology relevant to climate change. And I believe the United States will have little difficulty stabilizing greenhouse gases. In Rio, I proposed all signatories present their action plans by January 1. The European Community said they would need a year. In sum, on climate change, as the British Secretary of State Michael Howard, a barrister, put it to me, "Rarely have I seen a good brief so poorly argued."

Achievement: Convention on Biological Diversity. This treaty addressed the problem of species loss worldwide, with a commitment to national plans and conservation strategies. The United States decision not to sign was the subject of intense controversy and criticism. In public relations terms we never recovered from it. The decision was not based on opposition to the conservation elements of the agreement, which we support, but our financial and legal concerns related to a proposed regime to single out as especially unsafe biotechnology, and language suggesting that intellectual property rights are subordinate to other rights recognized in the Treaty. The financing provisions, leaving authority with the donee, are also unsound. The U.S. early on supported the need for a biodiversity convention so it was a perverse twist that we alone rejected it. In his speech to the Rio Conference, President Bush announced that the U.S. would exceed the conservation goals of the Convention on Biological Diversity and we will work to fulfill that pledge. Furthermore, I believe the Convention and instruments of implementation will likely be revised in the future and accommodate our concerns. Incidentally, I have begun to hear recently some claims that the biotechnology industry did not have fundamental objections to the Convention. Certainly elements of that industry convinced the State Department, Vice-President's office and White House that the Convention did threaten them; no companies communicated any contrary message, even privately.

Achievement: Forestry—the Declaration of Principles on Forestry and advancement of our "Forests for the Future Initiative," the President's proposal in lieu of a worldwide convention on forests. This Initiative promotes sustainable forest use and also carbon sequestering. The United States and Germany both made forests a priority and committed substantial funds for their protection. I personally negotiated on the Declaration of Principles and was struck by how offensive developing countries find some of the concepts—"global forest values," "carbon sinks," "international concern." The forest-owning developing countries genuinely fear as "globalization" of internationalization of their resources. Hence this implacable opposition to a Forestry Convention.

Achievement: Agenda 21—perhaps the most remarkable achievement of the conference. 900 pages of action plans—adopted by consensus by all 180 countries present—on addressing issues ranging from protecting the atmosphere and oceans, guidelines for Environmental Impact Statements, toxic release inventories, public participation, community right-to-know, safe drinking water. Many of these ideas, community right-to-know, TRI, EIS, were championed by the United States. Agenda 21 is an extraordinary new consensus on standards against which to measure the performance of governments. No doubt the press, non-governmental groups and environmental ministries will mine these documents for ideas, and will use them to hold governments and industry accountable for their actions for years to come. Just as in the field of human rights, these declarations will have the force of new expectations and will be a big stick with which to beat recalcitrant governments.

Achievement: The Rio Declaration or the Earth Charter. This declaration, a kind of "Stockholm Two" represents a compromise statement of principles with something for both the developed and developing nations. In a broad sense the Declaration embodies the general positive political emphasis UNCED put on environment and development needs. Its language is not all felicitous but it endorses economic instruments, a first for a U.N. document.

The Rio Conference had far-ranging impacts beyond the individual agreements negotiated:

It significantly heightened environmental concern worldwide, and in effect, was a 14 day crash course in environmental education. North and South America, Europe and Japan received saturating press coverage. I don't know about Africa, China or India.

It marked the arrival of the international environmental issue as one which will engage questions of trade, energy, technology transfer, bilateral funding, multilateral organizational commitments and structures. It launched the environment as a major new consideration in foreign policy. Prior to Rio, there was a tendency to limit or constrain environmental objectives to other forums, such as the GATT. Now developing nations are beginning to pursue trade and objectives in environmental treaties, where developed countries are finding it difficult to resist them.

It created a new and compelling rationale for engagement and cooperation between the North and the South, including funding commitments. Rio marked the arrival of a new basis for developing countries to make de-

mands on developed countries. As traditional security and strategic claims have waged after the Cold War, developing countries have begun to appreciate that they have a new rationale for demanding concessions from richer countries: how they use their forests and burn fossil fuels, or whether they conserve species all matter to people in developed countries who will pay to influence new policies. Europe and Japan will be more susceptible to these new claims by developing countries than the U.S., I suspect, and this increasingly will isolate us.

From the conference new and significant financial commitments were drawn from Germany and Japan, and to many marked the arrival by these countries as international environmental leaders. The precedent of a major international agreement being concluded without the United States, was also much commented on. As I mentioned, in my view, the biological diversity treaty will be altered to satisfy the main U.S. concerns. The European Community and Brazil promised as much in their signing statements. In my opinion, a transition is taking place: countries with enormous economic resources are beginning to acknowledge social and environmental obligations commensurate with their economic power. This, in fact, has long been a objective of the U.S. foreign policy and we welcome this shared leadership.

One key question that remains in my view is why was so little asked of the developing countries? The lessons of Eastern Europe—the importance of democracy and free markets—are clear. The lessons of Mexico's experience are also clear. In Mexico, a liberalized economy open to trade and investment has resulted in more than $25 billion in new inflows of capital over the past few years, an amount that dwarfs any conceivable foreign aid to which they might have aspired. And now Mexico is spending one percent of their GNP on the environment. We are in a new era where trade, not aid, will provide needed resources. I was virtually alone in pointing to these realities but because of the U.S. position on biodiversity I simply was not heard.

Another key question, frankly, is why did the United States play such a low-key defensive game in preparing for Rio? We assigned a low priority to the negotiations of the biodiversity treaty, were slow to engage the climate issue, were last to commit our President to attend Rio. We put our delegation together late and we committed few resources. No doubt this contributed to the negative feelings toward the United States.

I feel strongly that the press did not fairly portray the U.S. contribution to the conference, yet it is the impression many took away. The President's speech was well received in view of the fact that we considered the content of agreements a substantive success. We experienced a public relations set back internationally, counting on the notion that lonely defiance has its champions at home, and when it is principled it is often vindicated by history.

Where do we go from here? We will need to continue the momentum of international cooperation on the environment, especially with Europe and Japan, and work to articulate more clearly the real reforms needed in developing countries, where arguments about the conditions placed on assistance will inevitably ensue. I suspect all governments worldwide will need to adjust to the higher environmental expectations of our own people.

I'll close with a book recommendation I consider required reading: Changing Course by Stephen Schmidheimy. It lays out a path for the future of environmental leadership for industry, by someone who has championed that cause.

Finally, if the new world order does not result in a new, higher priority for planetary stabilization—the oceans, atmosphere and forests and the rest—it will be disappointing to many. If it does, it will demand a new sophistication and capacity to integrate our economic priorities with new international environmental priorities on the part of governments and their leaders.

WILIAM K. REILLY.

Mr. WIRTH. Mr. President, I would also note that I am going to today put in the mail and send this memorandum to Mr. Fitzwater to remind him exactly what the record really is from his own administration, not Senator GORE.

Mrs. KASSEBAUM. Mr. President, is the Senator from Colorado through with his statement?

Mr. WIRTH. I am indeed.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the submission of Senate Concurrent Resolution 132 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

THE ECONOMY

Mr. RIEGLE. Mr. President, I rise at this time to talk about the economic data that came before us today in terms of what is happening in our national economy, and also to take note of a really incredible statement attributed to President Bush today, in his travels out in California.

The President, in an AP news story, apparently in the midst of the speech to a service club, is quoted as saying to people on welfare: "Get a job, or get off the dole."

So it sounds as if, based on this account and the further elaboration on it, that he was out targeting the people today on welfare and telling them that it was time for them to get a job. Most of the people on welfare want a job, but there are no jobs to be had. And there are no jobs to be had, because this administration has not had an economic strategy to create jobs in this country.

Let us just look at what the morning headlines tell us from newspapers across America. Here is the Los Angeles Times, from California, dateline today, headline: "Economy's Pace Reduced by Half." The subheadline says: "Output, the poor quarterly figure," referring to the second quarter of this year, "only 1.4 percent, is another piece of bad news for Bush's reelection effort. Economists say the recovery looks much like a slump." That is the Los Angeles Times.

Here is the New York Times, the lead story on the right hand column: "Economy's Growth in Second Quarter Was a Slight 1.4 Percent" in that period. And then it goes on to say how damaging that is to the country.

Let us take a newspaper right here in Washington, DC. I think it is probably one much read at the White House. The Washington Times' headline story today: "U.S. Economy Stuck in a Rut; Pre-election Pickup Doubted."

Listen to this. I want to read a little bit of this Washington Times story today:

> The Nation's sputtering economy slowed from April to June after a stronger showing at the beginning of the year, and it's not likely to improve much before the November elections, the Government reported yesterday.
>
> Gross domestic product—the sum total of the Nation's goods and services—increased a slight 1.4 percent in the second quarter after posting a 2.9 percent jump in the first quarter, the Commerce Department reported.
>
> Slower consumer spending, defense cutbacks and a decline in exports pulled the economy back in the second quarter, government economists said.

Dropping down:

> The Government also unveiled new numbers yesterday showing that the recession was actually 3 months longer than originally predicted.

Jumping down again.

> The weaker numbers were a disappointment for the Bush administration, which has come under fire for failing to correct the economic downturn that began in 1990.

The economic downturn that began with this administration has reduced per capita income of people in this country during the course of this administration. You have to go back virtually to the time of the Depression to find a time when the living standard and the disposable income of people in this country has been dropping the way it has been.

We now have over 15 million people in this country who are unemployed, those who have lost their jobs or their jobs have been eliminated by companies all across America, and what are called discouraged workers who have been out looking for work and cannot find work. And if you add into that people who are only able to work part time because they cannot find full-time work, the number is well in excess of 15 million people today who want jobs; who want jobs and who cannot find them.

So for the President to say to people, "Go find a job," you wonder what planet he is living on. There are no jobs to be found. That is the problem. We need jobs. We need jobs and we need a jobs strategy.

Now, the problem is the administration has no jobs strategy, not for this country. Oh, yes, they have a jobs strategy for Mexico. It is called the United States-Mexico Free-Trade Agreement. They are working day and night right now to complete work on that free trade agreement with Mexico. And that is a jobs program for Mexico.

It means more and more plants will close in the United States and the jobs will move down south of the border where there are very minimal environmental standards, very low wage levels.

Just the other day, we had the chief executive officers of the Smith Corona Typewriter Co., come before the Senate Banking Committee and testify that they have just announced they are closing the last typewriter plant in America up in Cortland, NY, eliminating 885 jobs and taking those jobs down to Mexico where the wages are so much lower.

And the reason they are doing it is that they were the target of trade cheating by a Japanese company, and our Government refused to do anything about it. Even though Smith Corona brought a legal action and the finding was in their favor, the Bush administration refused to apply the penalties against the Japanese typewriter company and, as a result, Smith Corona has had to close its American operation and now take that operation and those jobs down to Mexico.

The Bush administration came in the other day asking for economic help for the old Soviet Union because they have problems. We all see that. He came in and asked for financial help to try to get their job picture improved over in the Soviet Union. They have a defense conversion problem over there. He wants us to help with that.

Just yesterday, in the Senate Finance Committee, the administration was in again asking for help—who for this time?—for Communist China. Communist China, run by the most ruthless Communists in the world today, repressing their people. They have all kind of dissidents and people who were freedom fighters in the slave labor camps. Communist China wants most-favored-nation trading status and President Bush insists that we give them most-favored-nation trading status.

So this year the Communist Chinese will have a $15 billion trade surplus with the United States, and that means they are sucking $15 billion out of America, taking jobs to China, taking the scarce capital along with those jobs, hurting this country, and helping China.

So people here in the United States who are searching for work and who cannot find it, they cannot move to China to get a job. They should not be asked to move to Mexico to get a job. They ought to be able to get a job right here in the United States.

So for the President to tell people to find work when he has no strategy to make sure there is enough work to go around, I think is just not proper. It is just not fair. It is just not right.

I say this: I have known the President for many years. I like the President, personally. But he is disconnected from the economic realities that are facing people in this country. There is a disconnection between this administration up at the top of the Bush administration and what is really going on down at the grass roots where people live.

I have asked myself the question: Why is that? I think part of the problem is that there is at the top of this administration, among his chief economic advisers, people of great personal wealth with trust fund assets, and these are people who are not touched by the recession. They are doing well. They have high incomes. Whether it is trust fund income or whatever, it rolls in every week, every 2 weeks, every month.

So they are not experiencing this problem. It is not their sons and daughters that are going without work out in this badly damaged economy. So when they are approached by the problem of the economy in this country, they say, "What problem? What problem are you talking about?" Because they do not feel the problem. The problem is not affecting them.

Oh, yes, they can see the problem if it is in another country. If it is a need for a program in Thailand, the President will be right in here for it. He is for helping there. Or if it is a jobs program or economic support for Kuwait, he will be right here asking for that. You name the country, the Bush administration has a program to help them, except for this country; there is no economic program for America.

Of course, now what they are attempting to do, because their record is so miserable in this area, is they are going to undertake to attack their political challengers in terms of the Clinton and Gore ticket and to try to change the focus, create some phony issue so they do not have to talk about the economy and be measured on their own failed policies in this area.

A few months ago, Treasury Secretary, Secretary Brady was asked or volunteered an answer in a meeting somewhere as to why the economy was doing so poorly, and when was the economy going to pick up steam, when were we going to see more jobs in the economy.

He advanced as an answer at that time what he called the light bulb theory—the light bulb theory. As he saw it, he had read somewhere where the inventory of unsold light bulbs in the country had gotten very high; that a lot of light bulbs had been produced, but they had not been sold. And so he theorized that one of these days there was going to be a great rush of consumers out to replace their old light bulbs which they were hanging onto and they were going to buy new light bulbs and that was going to give the economy a spurt and we were going to start to see economic growth again.

Now, people hearing that were wondering if they could believe their ears. And it was said with a straight face. It makes no sense. It makes no sense. And, of course, the economy has continued to languish since.

Well, the other day, in the Wall Street Journal, there was a report on a Cabinet meeting just last week and the Treasury Secretary came forward with a new theory. This theory is just like the old one. He said what was going to happen here was that the American basketball team at the Olympics, the Dream Team, was going to win the gold medal and, when they did, that was going to create so much excitement and enthusiasm here in the United States that it was going to kick off a surge in the economy; that people presumably were going to run out and buy a refrigerator, buy a new car, buy a house, become more optimistic about the economic future.

Well, people read that and wondered, you know, if a trip over to St. Elizabeth's was needed here for an examination, because it is so nonsensical.

That is not a policy. That is an illustration of no policy. And, of course, some months ago, other top administration officials were asked what needed to be done and they said, well, nothing needs to be done. Do nothing.

Well, that is what has happened. We have had a do-nothing policy and the problems have gotten worse.

Now let me read another item over the ticker today. I just took it off the wire service outside the door here. This has a dateline of AP today.

> Americans' income show no growth in June. Americans' personal income failed to grow in June, the Government said today.

Now, this is today's news; not yesterday's news that was in this morning's paper, but this just came across the wire.

> Americans' personal income failed to grow in June, the Government said today, underscoring the sluggishness of economic recovery and reflecting tough conditions in the job market.

Dropping down here, the story goes on to say:

> The problem has been the dismal job market.

Further down it says:

> Manufacturing wages and salaries were down five-tenths of a percent. Other categories showing declines were farm income and interest income.

So people have less real income. Because once you deduct out the inflation effect, people are falling behind. That is what the per capita data shows over the last 3 years: that most people in this country are sliding backward in terms of the disposable income they have to finance their standard of living for themselves and for their families.

That is why we need a change in policy. But the President today is in, of all places, California. Here is California, with the highest unemployment rate in the country; 9.5 percent. The State is broke. They cannot even pay

their bills and pay their employees. They are paying them with scrip, with IOU's. The banks have now said in California they are not going to continue even to honor the IOU's much longer, because there is no money coming through to redeem those IOU's.

In that situation, with that massive unemployment in California, the President says, "Get off welfare and get a job."

How do you get a job when there are not any jobs? How do you get a job when there are not any jobs, and when there is no job creation strategy?

Oh, yes, there is a strategy to create jobs in Mexico and to create jobs in the old Soviet Union and to create jobs in Communist China. The Bush administration has elaborate plans in each of those cases. They just do not happen to have a plan for this country.

So the people out there right now who are desperate for work, hunting for work, they do not need a lecture from the President. They need a job. And they want a job.

The other night on national television, one of the networks featured a story on two servicemen from the United States who fought in the Desert Storm war just over 1 year ago. When they came back from distinguished service in that war, they of course received the parades that they deserved. But now, all these months later, they are unemployed and homeless, living in cardboard boxes here in the District of Columbia.

They were interviewed on that TV show. They feel very bitter because they were important to this country several months ago, when they put on the uniform of America and put their lives on the line to go over and do our Nation's work. But now they have come back here, and they are forgotten. They are unemployed. They are looking for work; they cannot find it. They are homeless, living in cardboard boxes right here in the Nation's Capital.

Why can the administration not see this? We do not need more lectures about finding work. We need an administration that is going to create some jobs in America. The people will find the jobs and take the jobs. They are desperate for the jobs—desperate for the jobs.

I received a letter the other day from a man in Texas who had been watching one of the hearings on C-SPAN. This was a man who wrote a long letter to me. He had a college degree. He indicated how he had lost his job. He has been through three different job-retraining programs he still cannot find work. And he is desperate. He was writing to say he is desperate.

He does not want to be on welfare. He wants to work, but he cannot work if there is not enough work in this country and if the administration is out to lunch on this problem, as they are.

They are sleepwalking. The Bush administration is sleepwalking on these economic issues. I do not know who put that speech together for the President today, to send him out to Los Angeles to tell people to get off welfare and take a job, the very day that the Los Angeles Times is running a headline story that the economy's pace is reduced by half and unemployment is rising. In fact, it is the highest, in California, of any State in the Union.

What do you suppose the people in California who are unemployed and desperate, looking for work, must think when the President comes out and says, "Why do you not get a job?" They want him to do his job. They want him to do his job. But he will not do it; not on domestic policy.

It is the one-eyed President problem. He can see the foreign policy issues. You can talk about a foreign policy issue from Tahiti to Timbuktu—that he will see, and he will get interested in that. He will work on that. He will generate a program, and they will come up here and ask for help, and so forth and so on. Because with the one eye that can see, they can see all the foreign policy problems. But when it comes to domestic policy, that is the blind eye. They cannot see out of that eye.

If you talk about a jobless problem, homeless problem, AIDS problem, the need to revitalize our industry, to stop the trade cheating, all these things—they cannot see that. They cannot see it because they cannot see out of that eye.

So now we have a situation where the President is out in California, telling people to go out and find a job in a job market where 9.5 percent of the people are unemployed. I cannot believe it. I cannot believe it.

I mean, how can the administration hope to have any credibility in a situation like that? What needs to happen is they need to come back and craft a plan, an economic surge plan, that can get this country back to work.

Let me tell you what ought to be in it, because much of this has been laid out by Bill Clinton and AL GORE in terms of the platform of the Democratic Party. They have offered a strategy. Their strategy is to invest in this country, and to invest in the people of this country and the businesses of this country to get an investment-led growth strategy in place that can create jobs. That is what is going to take people off welfare: The fact that there is an opportunity to move into a job.

Right now, the Bush strategy, the economic strategy, has failed so miserably that people are being thrown out of jobs onto welfare. So we need a new strategy. We need one that concentrates on our human resources, that powers into education, powers into job training and retraining where it is needed, to make sure that people who need health services and health care are getting it.

If somebody is out there and they are sick and they cannot be made well, they are not going to be able to produce properly.

We need to invest in our technologies; we need a major surge in technology investment. We need to invest in our infrastructure. We all know we have terminal problems in that area. The Japanese are spending 6, 8, 10 times the amount on infrastructure investment that we are in transportation networks, information networks, and urban revitalization. This work is out there waiting to be done. You have all these unemployed workers. Let them go and do that work.

We need more investment in plants and equipment. We need the most modern equipment that money can buy to increase the productivity of our workers. And we have to incentivize the flow of capital into expansion in the economy and into job creation. And we need strategies that business and Government and labor can work out together on our critical industries.

We need strategies to strengthen the auto industry, the aerospace industry, the chemical industry, computers and software, pharmaceuticals, electrical components and equipment, machine tools, telecommunications. These are the industries that are critical for us. They provide hundreds of thousands—in the end, millions—of jobs in our economy.

And I am talking about good jobs. I am talking about jobs that pay for a middle-class standard of living and income. I am not talking about jobs at the minimum wage down at the fast-food place. I am talking about jobs that provide health care and a lifelong work career, and a decent retirement at the other end.

We also need some structural adjustment policies. All of these workers who are coming out of the defense industries—both workers who work on manufacturing lines and those who work in the Government laboratories—we have to make sure they have alternative work to do; help in the adjustment; help in the transition.

What the heck. I mean, they are in here asking for money to help the Soviet Union go through that transition. We ought to be spending some money constructively and wisely, and in a targeted way here, to help the adjustment process for our own workers in this country.

I have left for last the trade issue. Listen to these numbers. Since 1980, since Ronald Reagan came into the White House with George Bush as his partner, and now since that time, with Bush and QUAYLE, we have had a terrible performance in the international trading accounts. How much have we lost in our trade deficit since 1980? It is a number that is so astronomical that

people have a hard time even comprehending its size. Our trade deficit with the rest of the world since 1980 is $1.1 trillion.

You wonder why our economy is battered? Why it is hurt? Why industries are closing down and plants are closing down? A large part of it is the trade cheating that is going on.

Japan is the worst offender, but there are others right behind them, where they will not let our products be sold in their country and yet they flood their products, their surplus production, here into the United States below cost. They target major industries and, one by one, they destroy those industries in the United States.

We have seen it in consumer electronics. We have seen a lot of damage done in the auto industry. There was a little pickup in the first quarter of this year with the auto companies, but it is modest. And over the last—roughly—2 years, the three domestic auto companies in the United States have aggregate losses of about $10 billion. That is money that is now gone, and those companies are weakened as a result of it. And the number of jobs has gone way down, too, at the same time. So tremendous damage has been done there.

Has there been any trade strategy to deal with this? No; there has not. Take the case of Japan, the worst offender. The President went over to visit Japan a few months ago. They had talks on trade.

Do you know what has happened since? Our trade deficit with Japan is worse today than it was before the President took his trip. It is worse today. It is higher. It is running right now at the rate of about $44 billion for this year. So that means that Japan, every 30 days, is extracting over 3 billion dollars' worth of strength out of the American economy.

They are taking the jobs, taking the money, taking them to Japan. That is every month, over $3 billion every month.

What are we doing about it? Next to nothing. So the Japanese are laughing at us. They cannot understand the weakness of the Bush administration policy. They expected the Bush administration to crack down on the trade cheating. Unfortunately, the Bush administration will not do it.

The Europeans cracked down on the Japanese trade cheating and so has everybody else in the world. But no, we will not do it because there is no strength in our policy in that area.

Listen to this: Since 1980, Japan alone has taken out of the United States in trade surpluses in their favor $460 billion and they are adding to it between $3 and $4 billion every single month.

I say to people in this country wherever they may be, if your job prospects are diminishing, if your sons and daughters are having trouble finding good jobs, part of the problem is the trade cheating that is going on and the fact that nothing effective is being done about it. We have passed laws here, the Super 301 law which I helped write, and it is not being enforced effectively. Smith Corona, which has just closed its last typewriter plant in America, testified just last week that they have had to move their final plant out of America to Mexico because they have been the victim of trade cheating by Japan. They caught Japan red-handed and our administration now will not administer the penalties and enforce the law and stop that abuse. So those jobs are gone. And that ripples through our economy.

Here in America, every job is connected to every other job. That is why when we buy something that is made in this country and we keep the money in the country, it keeps moving around, it helps create the next person's job. If you have a job and you are spending money on things that come from America, you are helping to create the job for the fellow over on the next block or in the next county or across the State or in some other State across the country. We need more of that.

Mr. President, a few months ago in the Congress, we passed an economic growth strategy. It was a good package. We incorporated in that even a number of the suggestions that President Bush himself had made.

The package, in order to create jobs and new investment in the country, had to paid for. That is the requirement under the law that now exists. So in order to pay for it, we increased the taxes on the most wealthy people in the United States, the people at about the top 1 percent of the income category. It is referred to essentially as a millionaire's tax. That would have been kicking in and hitting people principally in that area.

The President did not like that package. That is the part of it he did not like, and so he vetoed that package. That is just one veto. There is a whole stack of those. If only we had all those, all of the things that have been vetoed, including, by the way, one of the extensions of unemployment benefits to try to help people through this seemingly never-ending recession that is out there—he was not willing to accept that either. Not once, but twice. We finally rammed it down the third time, but by that time, the unemployment was much higher and it was obvious that their ideas about the economy were so flimsy and irrelevant that people were demanding an extension of unemployment compensation benefits, and so he changed his mind and passed that.

He may do that now with this new program that we just brought through the Finance Committee. We will have to wait and see. Over at the Federal Reserve, we have had a situation. We had Alan Greenspan come in the other day to testify before the Banking Committee on what has been done with monetary policy. Money growth has been awfully slow and it has been awfully slow for a long, long time.

When the economic data would begin to turn sour, the Fed would make a little adjustment here and see what would hatch. When things got worse, then they would make another little adjustment. So they made a lot of small adjustments over a long period of time, but they never got in front of the problem and did enough to really take and put some strength into the economy in bold, strong shots. In fact, he said to us, I am paraphrasing, he said we have adjusted the monetary policy 23 times. Adjusted it 23 times. And I thought that is a lot like having your car, when it is not working properly and you take it down to the service garage to get it repaired and you take it in and the fellow makes the adjustments and you bring the car home and the first time you try it, you drive it, it stalls out in an intersection and it is obvious he did not get the job done, so you take it back to the repair shop a second time.

We have taken it back to the repair shop now 23 times and it is still not working properly. Now I think we are to the point where the Fed cannot do this job. They waited a long time, they did a small amount each time, they did not get in front of the problem and now we find ourselves in a situation where I do not think monetary policy at this point can put much of a dent in this problem any time soon.

We need more than that. We need the kind of strategy that I laid out here earlier and the kind of strategy that Governor Clinton and Senator GORE put forward. We need a change in direction. We need a change in economic strategy. You know who is saying that the loudest and the clearest? The people of the country are saying it. You look at the public opinion polls by every national organization. They ask a standard question now: Is America on the right track going into the future or the wrong track going into the future?

The numbers are at an all-time high; over 80 percent of the American people now in poll after poll after poll are saying that the American economy is on the wrong economic track going into the future and that we need big changes in economic strategy. That does not mean a free trade agreement with Mexico which is a jobs program for Mexico. It does not mean most-favored-nation trading status with Communist China, which is a jobs program for China. It does not mean special help for the old Soviet Union, which will help improve the employment situation there. It does not mean more help for Kuwait because they have problems over there.

We need some help in this country and not just a lecture out in California from the President today, telling unemployed people to go find a job when there are no jobs to be found. The highest unemployment of anyplace in the country, 9.5 percent is in California. The State is broke, it cannot pay its employees, giving them scrip. The banks are about to say they cannot accept it any longer.

And the advice of the President out there today is for people who lost their jobs and find themselves on welfare to go out and find a job. Maybe they are supposed to move to Mexico. There are going to be a lot of jobs in Mexico if they manage to ram this free-trade agreement with Mexico down our throats. We are going to try to prevent that from happening here. I hope that will succeed.

When all the cards are on the table on that issue, if we put that issue on a ballot in the country and let the public vote on it, I know what the vote would look like. People in this country know we do not have enough jobs to be able to ship millions more of our jobs down to Mexico where the rates are 50 cents an hour and they have virtually no environmental standards and the laws are not enforced properly down there. So people do not want that. They know that is not going to help us. That is why the Europeans did not take Turkey into the Common Market, the European Common Market, because there was too big a differential in the economies.

Mexico is a Third World economy. It is fundamentally different than the situation we faced with Canada, the economy of which is much more on an even plane with ours. But in the case of Mexico, clearly it is a Third World economy. And for the same reasons that Turkey was not taken into the European Common Market, we have to have a great caution about sending more of our jobs out of America, in this case to Mexico, or to Communist China or any other place.

So I think the record is clear. I assume, as I said earlier, that the administration reads this newspaper in this town, the Washington Times, with a headline today, "U.S. Economy Stuck in a Rut." U.S. economy stuck in a rut.

This crowd has been in power now for 12 years in the executive branch of Government, first Reagan-Bush, now Bush-QUAYLE. The plan we are following is their plan. It is their plan, and it has given us these results. So it is time for a change. It is time to make sure we have enough jobs to go around in this country. It is not enough to go out there and beat up on the people who are unemployed or who, because they cannot find work, are on welfare. People want to work. Oh, there may be a few who do not want to work. Most people in this country want to work. The 15 million people we can identify who want to work full time and cannot find full-time work want to work, but there is not any work for them because our concentration is elsewhere. This one-eyed administration has plans for all the other countries in the world, economic strategies, but none for this country.

So that is the record and the choice we face. People are not going to be fooled about it. Oh, I know they are gong to back the dump truck up and dump everything they can. As Senator WIRTH said, they are trying to discredit AL GORE now and trying to discredit Governor Clinton in any way they can, because if you cannot present the case on the central issue of the day, which is our economic situation, our economic future, if your record is poor in that area, and you have no meaningful strategy to do anything about it, what do you do? You change the subject.

To what do you change it? Well, it is pretty slim pickings there, too. There is not very much they can change it to, so they have to change it to beating up on the other guys.

That is not what the American people want. They want answers to this economic problem. They want the U.S. economy, which the Washington Times says is stuck in a rut, out of the rut, and that means new leadership, new thinking, new economic strategy.

I am happy to say there are proposals such as the one I have laid out today and which have been put forward by the candidates in my party which will address those issues right across the board, from the trade problems to the lack of economic growth, to the job creation needs in the United States and putting people first, investing in our people.

I conclude with this thought. It is so interesting because there are actually some people in the other party—I do not know that we will hear from any of them today, but there are some people in the other party who think it is also time to change economic strategy. There are some people right in the President's own Cabinet who think that. They do not have any influence, and I gather they get hooted down when they say this around the Cabinet table when Secretary Brady is floating either the light bulb theory of recovery or the Dream Team gold medal theory of recovery. But there are some Republicans around, at least a few, who think we need a new economic strategy. There are some even bold enough to say we need a new team leading it, that we need a new President, a new Vice President. Some of the Republicans would replace one and some would replace the other, but there are a lot of Republicans who would replace one or both in order to get a new economic strategy.

So there are plenty of voices on that side of the political debate that are just as concerned about the absence of an economic strategy and the pathetic performance our economy over the last 4 years as demonstrated by all the data that is there to see from the Federal Reserve, from the Commerce Department, and all the rest of the agencies that compile this information.

So we need a change. We need a new policy. We need new people in charge to make that policy happen.

I think that is what the American people are going to say. It is what they are indicating now in terms of their opinion when they are asked about it in the polls being taken. They want change. They want a new economic strategy. They do not want more of the same. They want to put the focus back on this country. And they want to have a situation where finally again we have an administration that does not just have an economic program for every other country around the globe but in fact has one for this country, one that is good for our people, and one that makes sure that there are enough jobs to go around.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 3117 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

BILL CLINTON AND PUBLIC TELEVISION FUNDING

Mr. DOLE. Mr. President, I know we have had a lot of political discussion on the floor today and probably will have more before the day is over. I have been critical of the Democratic nominee, but I wanted to indicate one area where I think he may be right. I finally found one.

I do not agree with Bill Clinton on too many issues, but it appears there may be one where we do agree. Just a few weeks ago this Senate voted to dig deep into Uncle Sam's pockets to spend $1.1 billion tax dollars over 3 years for the Corporation for Public Broadcasting, a nearly 50 percent increase above current funding levels.

I consider myself a supporter of public television. It seems to me that public broadcasting could get along with the President's generous request of $825 million, which amounts to more than CPB gets now. But it looks like Bill Clinton may agree with me, according to a transcript of a C-SPAN interview Sunday night. When asked: Should the American taxpayer spend more money on public television, Governor Clinton responded, "I don't know that we have to spend more money on it now. We have a pretty vital network of public

television." I understand he has a habit of wiggling out of these things but that is what he said last week.

I do not know what he may say next week when some liberal catches him and reminds him that he ought to be spending more.

But, before anyone gets too worked up over a CPB funding freeze in a Clinton White House, consider that such a position is out of step with every single Member of his own party in the Senate. Not one Democrat voted to support the President's reasonable $825 million request—not one Democrat voted for fiscal restraint, not even Bill Clinton's own running mate.

And before anyone starts calling Bill Clinton a "moderate" based on his apparent fiscally responsible position on this single issue, do not forget his proposed budget busting $220 billion in new spending on lots of other big money, big Government programs.

Mr. President, when I asked serious questions about how tax dollars were being spent on public broadcasting, what did I get? A shrill chorus calling me a "censor" who wanted to "kill Big Bird." If any of those folks, including the Democrat Vice-Presidential nominee, now want to direct their fire at Bill Clinton, be my guest. But their charges will be as wrong today as they were then.

I notice that none of the liberal media has taken up a cry that he is out to kill Big Bird or somehow get rid of "Sesame Street," because I assume they know he will change his position in a day or two in any event.

ARKANSAS AND THE BALANCED BUDGET

Mr. DOLE. Mr. President, I think the record should reflect on this Friday that politics has been initiated on the other side of the aisle. I am pleased the Senator from Mississippi is going to be here at least to set the record straight. He will not have time to set the entire record straight. Maybe he can start today and we can finish it up next week.

But the one thing I want to talk about is just one fact—no politics; nothing that this Senator is going to say is about politics; nothing to criticize. He is going to state the facts because I get a little tired hearing Governor Clinton say he has balanced the budget in Arkansas 11 times. I have heard the claims about the Arkansas balanced budget that has been used to show how fiscally responsible Bill Clinton is.

Let me tell you, the Governor does not have any choice in Arkansas. Unlike the Federal Government, the Arkansas law prevents appropriations in excess of revenues. We tried to pass the balance-the-budget amendment here about 30 days ago. Bill Clinton's running mate voted against us, as did many on the other side. Not many at all supported a balance budget amendment.

But in Arkansas, you have to balance the budget. The Arkansas code sets up a system much like the Gramm-Rudman system, except it permits no deficit at all. If there are not sufficient revenues to fund appropriations, then the appropriations are reduced to the level of available funds.

Not only does the President not have such a law to help him balance the budget, but he has Congress dominated by his political enemies. You would think that when you listen to the Clinton rhetoric, boy, this is tough, balancing that budget in Arkansas. First, you have a law that says you have to do it. If you do not do it, you are subject to all kinds of penalties.

Let us end all of this rhetoric. It is like the rhetoric of the Senator from Michigan, who just cannot help himself. Responsibility is not in his vocabulary. So he comes out and makes all these crazy charges about Bush. In fact, I think he does have the gold medal for attacking President Bush more on the Senate floor than any other liberal Democrat in the Senate. I think he is up to 36 times this year, going for the gold. I think he will probably get it.

But in any event, President Bush is running against odds. We have a Democratic House, where the House Democrats have a 102-vote margin. In the Senate, it is 57 to 43.

Let us take a look at Arkansas with this courageous Gov. Bill Clinton, who is now the Democratic nominee. What are his odds? In 1979, the Arkansas Senate had 34 Democrats and 1 Republican. Boy, that must have been tough for Governor Clinton, only 31-to-1 odds in the Senate. That was Governor Clinton's first term. By 1989, Republicans had soared in their contingent and increased to four. The Democrats only had 31. So it is 31 to 4, still a pretty good majority for that courageous Governor down there who was trying to balance the budget.

That was the Senate. Let us look at the House. In the Arkansas House, the party ratio in 1979 was 97 Democrats and three Republicans. Boy, that must have been tough for Governor Clinton to get his way when he only had 97 to 3—97 to 3 in favor of his party. By 1992, it had become 88 to 11 in favor of the Democrats with 1 Independent. So it was still 8 to 1. It must have been tough.

I just say to everybody who cares, if anybody cares, you give President Bush that kind of majority in the House and the Senate for 4 years, and we will straighten out this country. We will not add to the deficit. We will not spend more money. We will not do a lot of things that are being done now.

I listened to my colleague from Michigan talk about change. If you have a lot of old furniture in the house, you ought to get rid of the oldest first. Democrats have controlled the House for 38 years, controlled the Senate 32 out of 38. We have only had a Republican in the White House for 12 years. There ought to be a change in leadership in the House and in the Senate.

I listened earlier to the Senator from Colorado try to defend—he did not do it very well—the extreme, radical environmental views of Mr. Clinton's running mate, our colleague, Senator GORE. They are now backtracking from all these radical environmental statements by Senator GORE down in Rio, where he was sort of bashing America, bashing George Bush, as he did on the Senate floor, standing right back there in the back row day after day before the Rio conference, bashing President Bush for not going far enough.

It turns out, as the Democrats look at it now, what they had and what Senator GORE was advocating was an antijob, antigrowth, antibusiness, and, in effect, an antienvironmental policy where he is going to pick up the tab for every environmental problem in the world and put millions and millions of people out of work in Michigan, Ohio, Washington, Oregon, and other States where Gore had his sights trained before becoming the running mate.

So I am encouraged that my Democratic colleagues are now starting to defend their colleague in the Senate as well as their nominee for President of the United States.

I just suggest that these discussions, I hope, were useful. If we are going to set the record straight—and I know the distinguished Senator from Mississippi has been working very hard to get the facts. You are going to hear facts on this side of the aisle.

I just gave you facts about Arkansas. I did not dream this up. This is the law. These are the numbers.

So the next time anybody hears either the nominee, Mr. Clinton, or his running mate, Mr. GORE, talk about how he balanced the budget 11 straight years, remember, the law requires it in Arkansas, plus he had overwhelming majorities in both the House and the Senate in the State legislature.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator for Mississippi is recognized.

CHANGE THE CONGRESS

Mr. LOTT. Mr. President, it must be Friday because it is obvious we are wanting to have a little fun, have a little shouting and a little hollering. Every Friday afternoon it seems now our colleagues come over, the Senator from Michigan, and Senator from Maryland, and others, to spend a few hours bashing President Bush, putting the blame on President Bush.

I am glad to see the distinguished Republican leader come over and set the

record straight about Arkansas also. I am from Mississippi. Our State balances the budget every year, too. We have a constitutional amendment requiring we balance the budget. Our Governor also has line-item veto.

But I will say this for the Governor of Arkansas. He is for line-item veto. That is more than we get out of this body. We cannot get the Senate to vote for a line-item veto, but their nominee for President is for it.

So if we follow the example of Arkansas and Mississippi and 41 other States, we would have a line-item veto and give the President a chance to at least knock out a few bad lines in these monstrous bills they send over here.

So I say to the America people, if you want change, if you want real change, change the Congress. This where the problem is. We are it. Those who say President Bush has no domestic agenda, that he has not provided domestic leadership, I say you can lead a horse—or in this case a donkey—to water, but you cannot make him drink. The President has been trying. He has tried time and time again on a legislative agenda for the domestic economy.

He has presented bills. He has had them introduced. He sends them up here, and he speaks for them. He urges they be adopted. What does the Congress do? Nothing.

I say to the Democrats here on the floor of the Senate this: If they want to do something about the economy, they have a 57-to-43 majority; they control every committee. They control the Finance Committee; do something; do something about it.

We have not passed any economic growth bills in the Senate this year. The Finance Committee finally staggered to a bill on the urban aid problem a couple of days ago. It turns out it has a lot of the tax considerations we should have passed 6 months ago. Where have they been for 200 days?

As a matter of fact, in the Washington Post this morning the lead editorial says that even this is a terrible bill. But I remind the American people, and I remind my colleagues, if the Democrats want to do something to help the economy, if they want to pass some legislation, all they have to do is do it. They have an unbelievable majority in the House and majority in the Senate. I say to them: Get going, do something about it.

Let us look at the record. I am not interested in just saying that it is the President, or it is the Congress, or it is the Arkansas Governor. What is the record? I made these points yesterday, but for those who did not see or hear it, I have a chart that makes very clear where the problem is. These are way past due. President Bush has tried to get educational improvement. His legislation came to the Congress 1,210 days ago. That was as of July 28. So it is longer than that.

Savings and economic growth, a bill introduced by Senator PACKWOOD in 1990; for 908 days it has been pending. Crime control. Yesterday, when we had the D.C. appropriations bill, a very major amendment was offered and accepted to try to do something about the death penalty and about crime in the District of Columbia. It is not just the District of Columbia; it is nationwide. The President has made very good proposals. Senator THURMOND of South Carolina has pushed for those good proposals. Yet, the bills languish in the Congress.

The President asked for crime control and sent good legislation that would help the officers, reform habeas corpus, and have the death penalty included. We cannot move it here in the Senate. For 774 days it has been pending before the Congress.

Enterprise zone and job creation, something we have been talking about for years. We would like to have an opportunity to see if these enterprise zones will work. They will, but Congress will not act on it. This particular bill was introduced in 1991, well over 500 days ago.

Jobs creation initiatives. Congress will not act on it. In fact, every time Congress starts talking about economic growth, what do they do? They turn it into a tax increase bill. When the President proposed economic growth legislation earlier this year, introduced and supported by the Republican leader, Senator DOLE, and others, it was a good bill and had some things that would be helping the economy right now. What happened? The Congress raised $100 billion in taxes, forced the President to veto it, and it was sustained because it would have hurt the economy even more.

Finally, after about 518 days, we passed an energy bill yesterday. Hallelujah. No. 1, that is it—the first really broad-based bill that will help the economy move forward economically that we passed through the whole process this whole year.

One other bill that was good, although limited to a relatively small area, was the Higher Education Act. Here we are in the eighth month, and we passed two bills that amount to something for the year. It took us over 500 days on energy.

Line-item veto. We have had votes in the Senate. The Senate will not pass it. It has been pending 460 days plus.

The President's long-term economic growth proposal has been pending in the Senate over 200 days.

Let us talk about what we can do to help the economy. The President did not just send a bill up here that sounded good, that he would like to have for political reasons. It would really have helped the economy. It would have cut the capital gains tax rate; give the first-time homeowner tax relief, a $5,000 tax credit. That was in his proposal. But it was not in the bill that went back to the President earlier this year. I do not know why. Now the Finance Committee met Wednesday, and they have one in theirs. It is only $2,500, which is not enough. But that is why, in my opinion, you saw home building jump up in February and March of this year, in anticipation of having this first-time homeowner opportunity. And also the possible benefits from IRA's, and in fact the IRA's could be used for a home.

We had simplification of the alternative minimum tax. Individual retirement accounts; investment tax allowance, to encourage businesses and industry to get more equipment to improve their businesses, which would create all kinds of jobs.

We have had a tremendous slow-down in the real estate economy in America, because the Congress made a mistake in the passive loss laws. Now we should add that back. I understand the Finance Committee, on Wednesday, adopted some rule changes on these passive losses. But it took them 200 days to finally get out of the Finance Committee.

So there are a whole number of positive proposals that were made earlier this year that we supported, which got messed up in the House, and the final result was nothing but a tax increase. It would have hurt the economy.

It is just like back a couple of years ago when people said, "let us raise the luxury tax, that will get us more revenue." We raised the luxury taxes on boats, automobiles, and planes, and what did we get? Less revenue and less jobs, because when you raise taxes on people, they will alter their behavior to not have to pay those taxes. I am not saying that you just always spur the economy by giving tax breaks.

By the way, there is an interesting thing about so-called tax breaks. The liberals say a tax break is giving away something. Do you know what it is? It is letting the people who work keep their own money. That is the solution to the economy in America—for the Federal Government to stop taking the people's money and wasting it on regulations, regulators and bureaucrats, and spending programs which do not do their jobs.

So I say again to the Congress that you are in charge. If you want to do something about the economy, then do something. Instead of holding all of these bills hostage, let us do something to encourage economic growth.

The Senator from Michigan was being critical of President Bush because he told welfare people to get a job. Hey, I agree. We want to get people off of welfare. I think most people want to get off of welfare. They want to get a job. We have to give them an opportunity. We have to help them with better education. There has to be job training. There needs to be more

money for vocational education. We have to be concerned about child care, so that people can work.

There are a number of things we need to do. But more than anything else, we need to help them get off, and we need to do things that will help them find a job. How do you do that? You do it with this, and with other proposals that President Bush has proposed, that President Reagan proposed in the past, and President Carter even made good proposals when he was in the Presidency.

But the Congress would not act. For 30 of the last 36 years, the Democrats have had a majority here in this body, and yet they want to blame somebody else.

Here is the problem. It is the U.S. Congress. So I say I want to help the economy and the people. Let us pass some of these good bills in the time we have left.

Let us look a minute at what is really happening with the economy.

Mr. PRYOR. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, the Senator is talking about the so-called bogus majority in the Congress made up of Democrats. And the Senator is talking about blaming Congress all of these years that the Democrats have had control. First, we did not have control of the Senate for a period of years. Second, I have been here since President Reagan was the President. I have been here since President Bush was the President. I wonder if the Senator from Mississippi can point to me any one of those 8 years under President Reagan, or under the 3½ years of President Bush, if in any of those years President Reagan or President Bush submitted a balanced budget to the Congress?

Mr. LOTT. Mr. President, I appreciate the Senator from Arkansas coming over and engaging in the discussion.

First of all, I want to make sure he understands—I did point out—that in this body, the Democrats have controlled it 30 of the last 36 years. I acknowledge that it was 6 years, I guess, it was controlled here in this one body by the Republicans.

Let me respond to the Senator's question here. Today, we have not been talking about a balanced budget amendment. We have been talking about economic growth. That is what the President is being criticized for. Let me emphasize, I am for a balanced budget amendment. I would like for us to have a constitutional amendment to require one like the State of Arkansas does and my State of Mississippi does. It is no coincidence we have those requirements and have a balanced budget. I would like to have a line-item veto to help in that regard.

Let me say, I wish the President would have a balanced budget amendment. I regret we did not do more to give that to the President.

Let me remind the Senator, the Presidents submit budgets, but they do not pass anything. Every year, and I have been here 20 years, the President sends a budget up here, and the Congress does everything but spit on it and ignore it, kick it out in the street, damn it, criticize it, and go merrily on its way.

This body will not even pass legislation that makes the President be involved in getting to a reduced deficit. I would like to see that happen. I would like to force the President to have to be involved. The truth of the matter is the President sends a budget up here and that is the last you hear of it.

Congress passes the budget. In truth, the budget resolution is not worth the paper it is written on, anyway. Everything in this body, in Congress, is controlled by the appropriators. They do not even wait for authorization anymore. We pass the spending bills year after year.

I know the sincerity of the Senator from Arkansas. I will be glad to work with him. Let us make the Presidents be involved in the future, regardless of who is President—President Bush, or some other future President. They ought to be involved in this budget process, and not just send up a budget.

I also remind the Senator from Arkansas, for 150 years, Presidents did not even send budgets to the Congress—did not even send ones.

Right now, I think we need to focus on economic growth, what can we do to give the economy a boost. They come in here and say: Oh, it is the President. He is the one not involved in the problems with the economy.

Well, he deserves some of the blame. All of us do. But again, what I am saying here today is the Congress has the ability to go ahead and act on its own.

I want to talk about this economic problem. We heard about how bad it is, how sluggish it is. I would be depressed, too, if I were the American people. Every time something happens in the economy, even if it is good, the news media says: But it is not very good; it should be better.

The economy is growing—not fast enough. But, I mean, we completely forgot about some economic statistics. The growth continued up in the second quarter of 1992, at 1.4 percent annual rate of growth. That is the fifth consecutive quarter of growth, as a matter of fact.

We keep forgetting facts like interest rates and inflation are at the lowest levels in a generation, 30 or 40 years. The worst that can be said about the recent numbers that just came out in this quarter is that they are not as good as they were in the first quarter. One little statistic. And all the bad news. One good news that the media does not want to talk about, but at least the Wall Street Journal did was in homebuilding. As a matter of fact, we had a spurt in homebuilding. New homes surged 7.9 percent in June, and new claims for unemployment benefits fell.

You will not hear that on NBC, CBS, or ABC tonight. They will not mention that unemployment fell. Oh, no. They will find the bad news. The economy is slowly improving. Why do we not talk about new homes starting up; why do we not talk about unemployment claims dropping.

However, it should be doing better. If the Congress would have passed something other than a tax increase bill in March and April, if we passed this plan, the economy would be recovering right now.

I think you would find home starts, new home starts, would be running way up; probably a 15-percent increase instead of 7.9 percent.

So I think we need to look at the facts on the economy. I think a lot of the problem is we are being told it is bad, and people are worried that they are not going to get any change in the economic growth incentives from the Congress. They do not know what is going to happen in Presidential campaigns. I think a lot of it is that Congress need to give the people some encouragement and incentive. We could do this by passing the President's proposals which would do more for the good of the economy.

The reason I came to the floor today is not to attack the Democratic nominee for President; I did not come here just to defend President Bush, I came because I am not going to stand mute every Friday when we have a chart show on the other side of the aisle, and the whole time is spent blaming the President. What I want to do is talk about the truth, what is happening in the Congress. I will tell you what is happening in the Congress: Nothing.

So if you are going to have a blame game around here, let us put it where it belongs. I know where it belongs, because I have been looking right at it for 24 years as a staff member, as a House Member, and in the Senate.

So I just hope the American people will think about this, and that they will look at the real record. And if you want change, change this place. Then you will get some action.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, once again, we are here for the Friday afternoon matinee performance. And, once again, we hear from the other side of the aisle all of the bad things about Governor Clinton. And the distinguished minority leader, the Senator from Kansas, has now injected, once again, our colleague, Senator GORE, who is, of course, Governor Clinton's running mate for the Presidency.

Mr. President, there is one thing that I agree with the distinguished Senator from Kansas on, and I have a copy of his statement. I assume he said it. But this, I think, is his statement. He said, in the conclusion of his statement, and I quote:

It is divided Government that is driving the deficit upward.

Well, Mr. President, maybe we do not need a divided Government any longer. I agree with the distinguished Senator from Kansas. Maybe we need a Democratic President and Vice President, and a Democratic Congress.

The Senator also alludes to the fact that down in Arkansas, and it appears that most of the research here is not being done on the state of the Federal economy; but most of the research today is being done on the Arkansas economy. I do not know how many researchers the Republicans have detailed down to Little Rock.

And, by the way we appreciate the tourist boom that we are having. All the hotels are full, and people are looking for houses to buy and apartments to rent. The whole State is just humming with activity. Hope, AR, is about to have its Watermelon Festival in 2 or 3 weeks, and all of the motels are booked far and wide near Hope. We are just very excited about what is happening throughout my home State.

But in the State of Arkansas, according to Senator DOLE, the deficit was cured and the books were balanced and the budget was balanced. And he said that there is only one Republican in the State legislature; the rest of them are Democrats. That is not quite right. There are three or four Republicans, I think, in each House now. But at least we do not have a divided government. And the Democrats—I want to say to the Senator from Kansas—the Democrats in the governorship, in the Governor's office and in the legislature, balanced the budget of the State of Arkansas. That is who balanced the budget.

I do not know why there is all this attention right now on what is going on with the Arkansas budget. It seems there has been an inordinate amount of time and attention given to the Arkansas budget.

But let me, if I might, say one thing that I do not agree with Senator DOLE on, and I really do not. And I am not saying that I resent it, but I must say that I am a little surprised. The Senator from Kansas this afternoon, in my opinion, has made some very derogatory statements about our colleague, Senator ALBERT GORE of Tennessee.

I am here to ask him—he is not on the floor any longer. I am here to ask the Republican leader why, on yesterday, when the Senator from Tennessee was here on this floor, voting in the Chamber of the U.S. Senate, why did not the distinguished Republican leader at that time, while Senator GORE was here, make the accusations against him then that he has made today, so that our colleague, Senator GORE, could respond?

Let him leave town, and then the Senator jumps on him. I do not think that is a very good way to operate, Mr. President.

I would also like to encourage, in all the research that is being done over here on the Republican side of the aisle, I would like to challenge a little research to be made—I have not done this research, but I hope they can do a little additional research—and I hope that the research will be done going back 4 years. I would like to know what Democratic Senators on this side of the aisle said about the then Senator from Indiana, Senator QUAYLE, who became the nominee for Vice President on the Republican ticket.

Mr. President, as far as I know, nothing except complimentary things were said about our colleague from Indiana, then Senator DAN QUAYLE, now our distinguished Vice President.

But, yet, all of a sudden, we see Senators from this side of the aisle getting up and talking in very derogatory terms about the Senator from Tennessee, Senator ALBERT GORE, who, I think, has not only been a splendid choice on behalf of Governor Clinton to be his running mate, but I think has helped to unite our party and hopefully is going to help unite our country.

Mr. President, I do not know if the forum of the U.S. Senate is going to be used on a weekly or a daily basis, but once again I am making my plea that if we are going to do this every day or every other day, I think it would be courtesy, I think it would be comity, if we would at least inform each other and perhaps just set aside a certain time of the day, say 8 o'clock in the morning or 9 o'clock, where we will just have a political time here. That side will get 30 minutes and we will get 30 minutes to respond.

But to continue these types of attacks, especially when Senators cannot respond to the attacks, on their record, I do not think is fair. I do not think the American people perceive it to be fair. And I am very, very hopeful that we are going to see this sort of thing lessen, Mr. President, and not escalate.

Once again, I am sorry to have to come over and take the time of the Senate. But I want my colleagues over there to know that if these things are going to be said about the Governor of Arkansas, and if they are going to be said about Senator GORE, our colleague from Tennessee, we are going to respond to them.

But the real reason, once again, that all these accusations are being made and the reason that this forum is being used is to hide the fact that our economy in this country is in shambles, that the White House is in shambles, that the Bush campaign is in shambles. They are trying to cover all this up. They are trying to cover it up by making all these accusations against the Governor of Arkansas and against the Senator from Tennessee. And these accusations will not go unmet nor unchallenged.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to my friend from Arkansas, I am not going to speak on the issue he referred to. I have a completely different subject today. And if I do speak, I do not speak about the individuals, I speak about their platform or their programs. But in any event, Senator BYRD and I are going to speak on a completely different subject.

(Mr. PRYOR assumed the chair.)

COMMENDING CHARLTON HESTON

Mr. DOMENICI. Mr. President, as soon next week as is practical, Senator BYRD and I, joined by as many Senators as we can get, are going to introduce a resolution and we are going to speak to that resolution. Certainly we are not going to try to waste the time of the Senate. We have a schedule. But we have something we think is rather important.

Essentially, I would just summarize that we are going to ask the U.S. Senate to commend Charlton Heston for the speech he made and the position he took when he spoke before the stockholders of Time-Warner, Inc.

Now, we are going to do this because we do think it is appropriate that the floor of the U.S. Senate, in the parlance of the day, use its capacity as a pulpit to express concerns much the same as those expressed by Charlton Heston when he admonished the Time-Warner Corp., its president, and its board of directors.

And I might suggest that in the process of this discussion and the entering of this resolution early next week, we will make available—not in the RECORD but rather to individual Senators and individual members of the media, if they would like to see it—the actual total text of the speech that he made.

In fact, it will not be introduced in the RECORD because the distinguished former majority leader and the Senator from New Mexico think it is so vile, so disgraceful in content, only because he quotes literally from that rap musical that is at issue. He gave an eloquent speech and we would love to put in all of his words. But he went beyond the cop killer portion and took out the actual lyrics of some of the other rap contained therein. And Senators should read it. It is so bad, we do not want to put it in the RECORD of the U.S. Senate. Some might want to. We do not want to.

But Senators should read it and the media should read it.

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What we want to do is, we want to express on the floor of the Senate, in no uncertain words, that America is having some very, very serious problems with reference to our value system. We are having some very serious problems with reference to the behavior pattern of our young people, and not only of them, of all of our people.

We all know that there is an old saying that has to do with reading good books. And it is something like: How much good you get out of reading good books. That has been talked about forever. It happens to be a truism. The more good books you read, the more good ideas you have.

But there are people in this country who do not want to believe the opposite of that; that if you are reading books that are not good, that are evil, that are foul, that attack the very value system that causes us to exist, there are some who will say, "It doesn't matter. You don't learn anything from that."

Now I say to my good friend in the Chair, is it possible that we have such a marvelous system that young people will read a good book and get good things out of it, but they will watch six or eight movies or TV shows or rap words that are the absolute opposite of anything decent, good, moral, and they do not get anything out of that?

Well, it really is not true and everybody in America knows it. And we are all running around waiting for somebody else to do something about it.

What we have in this resolution—and I am going to read it because we have gone out and searched where institutions that are worried about our children are putting up a flag, saying, "You can't keep on dishing out, doling out to young people the trash you are dealing and not expect them to come out wondering about some of our basic institutions like marriage, like taking care of your children, like responsibility, like life."

So, we are going to praise Charlton Heston. He stood before this group and he said in no uncertain words, if you have to make money off trash like this you ought to be ashamed of yourself. I am paraphrasing. He said to them if all you live by is greed, you ought to be ashamed of yourself. In fact, he said, again paraphrasing, you ought to take that thing off the market, and you ought to figure out how much profit you made out of it, and you ought to give it away. You ought to give the profits, said he, to the widows of policemen who died in serving their cities, counties, or States, thus serving our people.

And then let me suggest, if you read beyond the "Cop Killer lyrics, you read some of the filthiest trash you will ever imagine. For our young people to hear about sex, about sodomy—it even mentions, I might say in his verbatim quoting of the words from that particular record—he even mentions the distinguished Senator ALBERT GORE's wife has a couple of nieces. Apparently—apparently because he is angry at her, he mentions what ought to be done to those two young ladies. And that is a song. A rap melody.

And here sits a great American corporation with a president who wants America, apparently, to live, succeed, prosper. And somehow, when somebody says, Why do you put that on the market, the response must be: "It is none of your business." Or something like: "I have constitutional rights." Or: "The person who recorded it has some kind of constitutional rights."

Is that not a joke? Is that not a joke? If Time-Warner did not publish that rap piece it would not go beyond the few little people he appeared before in person. What gives him constitutional rights to insist that Time-Warner give it to millions of people?

They are in business. And, as Mr. Heston said: "Do not hide behind that. Because you tell almost all artists," he said, "what you want of them. In fact you turn down things you do not want because you do not think they will make money. So why do you have to take this, if it is going to hurt American young people, day by day as they try to grow up?"

Or, I might ask for everyone you do like that, can you not think of doing one that is at least spreading a bit of decency? A bit of morality, a bit of the value system that keeps America afloat, without which we will sink?

Having said that, clearly next week when we get a chance, with the assistance of the leadership and certainly after we have gathered more cosponsors who want to commend this kind of forthright, upright citizenship on the part of this Mr. Charlton Heston, we are going to ask the Senate to vote on this. So everyone will know that, aside from all the other things we do, we want to say to American individuals, corporations, and institutions, if you do not help we cannot solve this problem of corruption, this problem of killings on our streets, this problem of illicit activities going on everywhere to the extent we wonder how much longer the great ship will stay afloat.

So we are going to say such things in our resolution. I am just going to take a few moments, Mr. President, and read them. They are not just invented words by the Senators from West Virginia and New Mexico. Here is one, I might say to the current occupant of the chair.

Your distinguished Senator ROCKEFELLER, who I know well, the junior Senator from West Virginia, serving with Senator BYRD, chaired a commission on children. They have a chapter in that commission report that received the unanimous vote of conservatives, liberals, middle-of-the-road people, women and men of all cultures, all creeds. They all voted "aye," when they spoke of what was going to happen to the children of America if we did not clean up what they are getting day by day in the media, in the movies, on the TV's, on cable, in books. And nobody is saying: Senate, you have to act. We cannot act.

What we are saying is people have to act.

This first one says:

Whereas the National Commission on Children report states that "The news and the entertainment media have tremendous potential to educate children and expose them to other cultures and new ideas" and recommends "that the recording industry continue and enhance its efforts to avoid the distribution of inappropriate materials to children;

Whereas the National Commission on Children report states that "In a free society, there will always be tension between freedom of expression and upholding common social values. Censorship is the antithesis of what we embrace. Forging common values will never depend solely on laws, but also on persuasion and example. Success will require thoughtful action and self-restraint by individuals and major institutions with the ability or potential to influence children's moral development. This makes the task of parents, public leaders, educators, media executives, entertainers, and advertisers more difficult, but no less important.";

Now, Mr. President, that is a broad-based commission of Americans, men and women, stating just what I said about the responsibility of executives, of entertainers, of media executives, and, yes, of advertisers. For I will depart from the text for a minute and say how would some of that get on the air if the American corporations as advertisers would not pay for it? How come the boards of directors who take such great pride in saying they are helping that president produce profits, why do they not take a little bit of pride in saying we know what we are paying for that is going on the airways of America. Why do they not tell their executives to review all of those before they pay for them?

Sometimes we could even say that about their advertisements. I think we have all seen advertisements that make us wonder whether there is any regard at all for our children as they put it on there to sell everything they can at Christmas. Sometimes it is such an irony, at the holy season of Christmas, to see to what ends advertisers will go to put their message on to sell the product without regard for any influence on the moral fiber of the young people who are trying to celebrate a very important kind of religious feast around Christmas.

Let me proceed with some of the other things we are telling the Senate are items that we postulate our resolve clauses on.

The Carnegie Council on Adolescent Development. Again, not Senators, not teachers, not parents talking to their own children, but a council on adolescent development.

Whereas the Carnegie Council on Adolescent Development, executive summary of its publication "Fateful Choices: Healthy Youth for the 21st Century" states that, "The news and entertainment media are significant influences on the attitudes and behavior of young adolescents. * * * Great efforts, short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence. * * *"

Let me read those last few words again, "of their orgy of mindless violence."

The news and entertainment media should be enlisted in efforts to promote health, to reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.

Whereas the Massmutual American Family Values Program 1991 study states "Parents are challenged by the entertainment industry. While three out of four respondents think parents should be the primary influences on children, 68% think television, movies, rock music and videos are the biggest influence on developing children's values. While parents understand their own responsibility in teaching family values, a significant number indicated that the entertainment media could help by providing better role models for both parents and children.";

Whereas in the June 1992 Journal of the American Medical Association article "Television and Violence," the author, Dr. Brandon S. Centerwall, states, "In a recent meta-analysis of randomized, case-control, short-term studies, exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.";

Mr. President, to depart again from the text now, those who practice medicine are scientifically telling us what we all know intuitively: If young people watch useless murders, carnage, all the kinds of acts that one human can perpetrate on another, sometimes the perpetrator is seen as a success for having killed as many as he could or did and on and on. We know that has an effect, just like reading good books has a good effect. The medical scientists are saying there is a relationship; we do not have to rely upon our good judgment and our intuition. They are telling us, if you show young people those kinds of things frequently enough, the urge, the spontaneity, the willingness to do those things is increased dramatically.

If we know that, what do we expect there is around to counter it unless those who are giving the children that seek to do either less of it or some counterbalancing of programs to give the opposite kind of strength of character to young people as they grow?

My next hypothesis or whereas clause is that—

* * * the Senate supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity;

Whereas, corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales, and publicity;

Let me depart for a moment. Mr. President, you know, having heard this Senator, that I am one who, on the floor of this Senate, advocates capitalism, perhaps at least in terms of my messages on the floor, second to none. I am unabashed in reminding people, sometimes from your side of the aisle, that business has to make a profit if they are going to hire people. And we are always talking about jobs.

Why do we not talk about profit? When we pass laws that take away profits, it is no wonder that we lose jobs. But, Mr. President, I believe, as certain as I am alive, that unless American business does what that sentence says, we are lost. If they are not concerned enough about what their money is buying on the mass media of the United States, concerned enough to worry about its adverse effect on our children, and if they are not worried and are not concerned because they are only concerned about profit, I submit to you, Mr. President, that they are planting the seeds for their own demise because this country will not continue indefinitely with the kinds of things that are occurring in the mass media of America, feeding the mind, changing the hearts and wills of our people the way it is happening now.

Whereas the exercise of citizenship encompasses individual and community actions to promote responsible behavior and values; Now, therefore, be it

Resolved, That the Senate applauds Mr. Charlton Heston for calling the attention of the general public and the shareholders of Time Warner Inc., to the responsibility of the corporate officials of Time Warner regarding the moral content of its products and services;

That the Senate strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the nation by hiding behind the faceless masks of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products and services;

That the Senate commends Charlton Heston for assuming his civic responsibilities, without concern over the possible adverse consequences to his own financial and public position; and

That the Senate strongly encourages the officers, employees, and shareholders of all American corporations and institutions to emulate the example set by Mr. Heston and insist upon the acceptance of personal responsibility for the moral flavor, content and repercussions of the activities, products and services of their corporations and institutions.

Mr. President, clearly anyone listening should know that this Senator does not say any of these things lightly, for those who know me, I understand young people. Some might say I am pretty far away from young people at 60 years of age, but I remind them and state for the record that I have eight of my own, eight children. They are all out of college now. They are all doing quite well. They all had a lot of these pressures, and far be it from me to tell this Senate and whoever is interested in what we said that they did not have problems because of just what I am talking about, and part of it might be because I did not do my personal parental responsibility, did not do it right.

But I submit I am starting to have grandchildren. I have five of them coming along. Frankly, when I get one to about 10 or 11, sometimes I close my eyes and say, "Boy, haven't they had a blissful, nice life. Don't they love their parents and don't they have a sense of righteousness and decency that is just marvelous." And then I stop and think, praise God that 10 years from now, after they have been beat upon—in spite of what their wonderful mother and father would do—by what we are throwing into the minds and eyes and ears of our young people day by day, hopefully, they can make it through one way or another.

So with this, that is enough today to remind the Senate that we are going to ask Senators to vote on this and that my good friend, the great Senator from West Virginia, and I are pretty serious about using the floor of the Senate for these kinds of things. We do it this Friday afternoon. So if anybody is wondering, the Senate does not have any urgent business this afternoon. Somebody would think we ought not be doing this and we have to pass some laws. We do not have anything this afternoon. We are keeping these lights on and imposing on you to sit here, Mr. President, because we think that is exactly what we ought to use this floor for, and never will we object when anybody takes this floor and wants to talk about these kind of things. We are not preachers; we are not ministers. We are not supposed to be. We are not prophets, but I tell you, we sense history pretty deeply, and my cosponsor reminds us frequently of history. We see history in the making in the United States.

What we are worried about is that this great country deserves to live as a leader with people happy and getting ahead and successful, not just for 200 years. If we do not mess it up, we ought to live with this kind of freedom for thousands of years. We have the ability to go beyond these other empires. But some of us are a bit worried. It is not the laws we pass or do not pass or the money we spend or do not spend, but just how our young people grow up and what they turn out to be because of what we give them or do not give them or sit around in a lazy kind of way and let others give to them in ways that all our common sense and every fiber of decency and positive intuition says have to be wrong.

With that, I see my friend on the floor. I have taken enough time.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The President pro tempore is recognized.

Mr. BYRD. Mr. President, I thank my friend from New Mexico, Senator DOMENICI, and I commend him for his thoughts and for the idea of submitting the resolution. I have not been able to be on the floor all the time during his remarks.

May I ask the Senator if he read his resolution into the RECORD?

Mr. DOMENICI. I did.

Mr. BYRD. Very well.

Mr. DOMENICI. From time to time I departed from it and came back to it, but I think I read every word of it.

WHERE DID THE TRAIN LEAVE THE TRACK?

Mr. BYRD. Mr. President, as the Senator from New Mexico stated, we do not have any business at the moment to transact, and so we are taking the floor to speak about this resolution and about the circumstances that bring us to the floor today.

I do not know of anything more important than the children of this country, more important than the family values, more important than the principles that the forefathers laid down and by which they lived—patriotism, respect for the law, respect for their parents, respect for the teachers, respect for the flag, honesty, frugality, the desire to work, the willingness to work and work hard, and a belief in a higher power, a God who rules the destinies of men and nations, a God who created man out of the dust of the ground, created man in His own image and breathed into his nostrils the breath of life.

How He created man is not something that I have to attempt to explain. I do not have to know that. The important thing is that God created man, if He wanted to do that through an evolutionary process, or whatever, but scientists are coming around more and more to an agreement with the first chapter of Genesis, which explains the creation of the universe, creation of man, male and female, creation of the fowls of the air and the beasts of the field. Our forefathers believed in that creator.

So if we are concerned about our young people today, I do not know of any business that is more important than that.

I took a piece of plastic clay,
And idly fashioned it one day.
And as my fingers pressed it still,
It moved and yielded to my will.
I came again when days were past,
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.
I took a piece of living clay,
And gently formed it day by day.
And molded with my power and art,
A young child's soft and yielding heart.
I came again when years were gone,
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

The bit of verse speaks for itself.

That is what the resolution is about. The resolution is about these pieces of clay, human clay, and what is happening to our young people in that impressionable stage in their lives when their attitudes and outlooks and beliefs are being formed, and those attitudes and beliefs, once formed, are going to remain with them throughout their lives.

Let me lay out the general picture, as it were, of some of the conditions that are facing the country today.

General statistics indicate that in 1950, 1.7 percent of white babies in this country were born to never-married mothers and 16.8 percent of black babies were born to never-married mothers.

In 1990, roughly 17 percent of white babies were born to never-married mothers and more than 60 percent of black babies were born to never-married mothers.

According to the Census Bureau, this country now has 10 million single-parent households, nearly three times the number of single-parent households in 1970.

A reported study by the National Association of Elementary School Principals of 18,000 students disclosed that children in 1-parent families achieved less in school and got into more trouble with the authorities than did children from 2-parent homes. The principals' study concluded that the missing parent was such a heavy factor in deciding these results that youngsters from low-income two-parent families actually outperform students from high-income single-parent homes.

At root, then, Mr. President, one can reasonably conclude that the breakdown, the dissolution, the destruction, the decline, the collapse, or the decay—whatever word one chooses to use—of the traditional American nuclear family is one of the primal causes of the alarming rise of crime, antisocial behavior, drug addiction, murder, assault, rape, and robbery that are turning so many of our center-cities into war zones.

Among the *au courant*—that is, the stylish and up-to-date; those who are supposed to be in or with the current—ridiculing the television family-world of "Ozzie and Harriet," of "Leave It to Beaver," and of "Father Knows Best" is considered fashionable. That kind of family, we are told, if it ever really existed, was a product of a smug and self-satisfied 1950's, and is too naive and politically incorrect for today's more knowing, hipper, and cynical society.

But, as imperfectly as those 50's family shows portrayed it, the traditional American nuclear family is the keystone on which our country has depended since the colonial era, and is the presupposition of every other institution of significance in our society.

Through the traditional nuclear family—father, mother, and offspring—and the extended family beyond that, values have been nurtured and passed from one generation to the next, personal and social responsibilities have been taught to children, a sense of self and the meaning of love have been developed, religious faith has been made real, the conscience of the young has been shaped, morality has been cultivated, initial character has been forged, and acceptable behavior has been defined for children as they encounter others outside the family or the neighborhood or the local community. In that nuclear family, generation after generation after generation, each new rising American generation has learned the meaning of selfhood, of being an American, of being a decent human being, and of being a person answerable both to God and the law.

But rising divorce rates, economics, popular culture, peer-group pressure, mass communications, and other circumstances are, layer by layer, undercutting, weakening, sapping, and sabotaging the traditional American family.

Mr. President, I do not mean to suggest by my remarks that millions of single parents and other caregivers are not exerting sometimes Promethean efforts to serve the needs of children under their supervision. In spite of those efforts, however, sociologist Amitai Etzioni summarizes the overwhelming bulk of research on the effects of contemporary family structures, saying, "The body of data leads to the inescapable conclusion that single parenting is harmful to children."

And the National Commission on Children has declared from its research:

> Rising rates of divorce, out-of-wedlock childbearing and absent parents are not just manifestations of alternative lifestyles; they are patterns of adult behavior that increase children's risk of negative consequences.

The presence of two parents and their availability to the children in a family are, however, no longer, in themselves, a guarantee that even a traditional nuclear family can assure the results in child development and adult maturity that such a structure once permitted.

At least since the end of World War II, and increasingly since the war in Vietnam, a number of other forces have exerted their influence on the youth of our country so strongly that they have often neutralized and even negated the positive effects offered by a child's being reared in an apparently solid, stable, and healthy traditional family.

Outside forces have so subverted the normal development of some children that they have become moral mutants.

Increasingly, those influences and others are insidiously infecting the minds, consciences, tastes, and souls of our children and youth to such a degree that the future foundations of functional, rational, and moral community in this country can be questioned.

Mr. President, one of those influences is rampant hedonism, most eloquently, evangelically, and consistently proclaimed since the 1950's in the so-called "Playboy philosophy."

According to this view of life, "anything goes"—particularly in regard to sex. Such philosophy prescribes, "If it feels good, do it." Regard not the conscience—that repository of neurotic hangups, outdated prejudices, and Victorian repressions. Do not count the cost of your behavior; it does not matter. Let the cards fall where they may. If a young woman gets pregnant through your exercise of your impulses, that is her problem, not yours. If children come into the world through your excesses, so what? It's a tough life. Let the State take care of them. Take no responsibility for your own acts; that is somebody else's problem.

Unfortunately, while sometimes disarmingly ridiculing the contemporary apostle of modern hedonism, Playboy magazine editor Hugh Hefner, the mass media—movies, television, magazines, books, drama, and music alike—have graphically saturated our culture with this philosophy.

In allegiance to this axiology, sex is used to sell toilet articles, mattresses, automobiles, soft drinks, beer, cigarettes, fur coats, shoes, vacations—name it, and Madison Avenue knows how to tie sex to it and move it off the shelf.

In allegiance to the Playboy ideology, television and the movie industry have stopped barely short of making pornography the norm by which dozens of movies and television programs are measured for commercial value.

Thirty years ago, the movie "The Moon Is Blue" was judged indecent and denied a showing in many movie houses because it used the word "virgin" in its dialog.

But according to the Center on Media and Public Affairs, on current television programs, 63 percent of the time adultery is portrayed without disapproval. Similarly, prior to 1969, the Center reports that television portrayed extramarital sex in 1 instance out of every 30 shows. Today, one television show in six touches on extramarital sex.

And hardly a peep is heard in reaction to these trends.

Where are the churches? Where are the community leaders? Where are the business leaders? Where are the academics? And where are the U.S. Senators, members of the State legislatures and Governors, and other high officials? Hardly a peep is heard.

Year in and year out, the children of this country are being proselytized with the message that sexual abandon, promiscuity, and irresponsibility are the norms for human behavior, and that for that behavior, no price should be expected or exacted.

Again and again, television action shows feature crooks with hearts of gold, murderers who are just misunderstood, and juvenile delinquents as victims of society. Daily in soap operas adultery is portrayed without the least signs of disapprobation from their fictional families and friends. Comedy shows mock parental authority and picture mothers and fathers as dolts and fools, to the accompanying roar of canned audience laughter and applause.

And even the children themselves, as portrayed on television, serve to undermine any sense of morality, with 6-year old's rolling their eyes knowingly at gutter innuendoes and mouthing vulgarities and profanities like grizzled sailors back from lifetimes at sea. Similarly, teenagers who are portrayed as being studious or responsible are made to look square and unfashionable at best, or secretly perverted and even psychopathic at worst.

Because they are studious; because they are responsible, they are working in the libraries in the schools, they are in the laboratories in the schools, and because they are reading and taking books home, and they are doing homework, they are looked upon to be square, unfashionable at best, or secretly perverted, and even psychopathic at worst.

How can any values taught to children in a family stand up against the power of the images and the proliferation of the pounding, pounding, pounding with which such irresponsibility is assaulting the eyes and ears of our children, day after day and night after night?

Since the early 1950's, our society has treated television as a friendly, electronic babysitter that can be depended upon to benignly amuse and even educate the millions of children who watch it daily.

Current findings suggest, however, that the television industry has betrayed the trust once placed in it.

A recent report released by the American Psychological Association [APA] calls into question television's benign influence on children, suggesting even that television may be a malignant force in the development of young children, exposing them to a gratuitous violence, while teaching them antisocial attitudes toward others.

In particular, the APA charges, television is bombarding children with images of death, injury, and human destruction at rates unparalleled in previous generations.

For instance, by the time an American child, watching the average of 3 hours of commercial television programming per day, has attained the 7th-grade level, he or she has already witnessed on average 8,000 television murders and been exposed to more than 100,000 other assorted acts of violence.

Any parent or teacher deliberately feeding children a similar intellectual diet in the home or classroom might be found guilty of child abuse.

Worse perhaps than the "anything goes" philosophy and the ubiquitous diet being served up by television to our children is much of the rock music that pours forth from the record industry onto the youth music market.

A 1990 report by the Council on Scientific Affairs of the American Medical Association—the AMA—states, "Since the 1950's, rock music has helped create and institutionalize a distinct 'youth culture' in American society. Over the past decade, however, the messages portrayed by certain types of rock music have deteriorated so that today they may present"—and I am quoting here—"they may present a real threat to the physical health and emotional well-being of especially vulnerable children and adolescents."

This AMA report proceeds by specifically pinpointing so-called "heavy metal," punk rock," and "rap" as the most potentially dangerous for unstable teenagers and children, featuring, as these music forms so often do, lyrics promoting drug and alcohol use, suicide, violence, satanic worship and demonology, sexual exploitation and rape of women.

In this same vein are the lyrics of the rapper Ice-T in the first pressing of his most recent record album, "Body Count." Regardless of the intention of the rap singer or the context in which the lyrics were offered, this particular album glamorized the killing of police officers—men and women upon whom members of every definable community in our country must depend for their safety and, on occasion, even for their lives. These police officers are also members of families—fathers and mothers, wives and husbands—of other Americans of all races. Yet, for the sake of sensationalism, shock, or whatever cause, this particular rap singer chose to make acceptable, through popularization, the unthinkable and the unconscionable: advocacy of murdering law enforcement personnel.

To the credit of Ice-T, he made a decision—admittedly under significant pressure—to withdraw the offending song from future copies of this album.

Further, to the credit of the album's record publishing company—a subsidiary of Time-Warner—the decision was made to recall all copies of the original "Body Count" album from record shops and distributors across the country.

For those efforts, both Ice-T and Time-Warner deserve congratulations.

But those congratulations must be somewhat tempered in view of the sub-

sequent decision to distribute single-record copies of the offending song at Ice-T's future concerts.

Whatever the current situation, however, the central complaint about the original decision to issue such a rap song still stands.

How utterly hypocritical that one of our largest, most profitable corporations—Time-Warner—chose not only to issue an album with such contents, but also refused for so long to withdraw it after the public outcry and had the gall and unmitigated temerity and effrontery to wrap this obscenity in first amendment defenses.

The bottom line here, Mr. President, is not the defense of freedom of speech, but the defense of freedom of profits, no matter that those profits were to be earned at the cost of advocating the murder of police, the further poisoning of the minds and dulling of the consciences of young people, and the irresponsible condoning of mindless violence.

No question of censorship arises here, Mr. President. Of course, within reason, anybody can advocate almost anything that he or she wishes. But in the name of all common sense, who has the "right" to publicly advocate the murder of anybody else, particularly under the guise of entertainment or artistry, and what kind of corporate mentality aims to make money through the advocacy of murder? Has decadence reached such a level that all sense of decency and lawfulness has fled the corporate boardrooms and headquarters of our major companies? Did Time-Warner lose its sanity as well as its conscience in the initial decision to issue a song on one of its albums with such repugnant, violent, and reprehensible lyrics?

Mr. President, I am proud to lend my support to this effort to commend Mr. Charlton Heston for the significant stand that he took in challenging the corporate leadership of Time-Warner on the issue of the rap album "Body Count."

For roughly four decades, Charlton Heston has been a successful motion picture actor, and is considered worldwide as one of America's most outstanding film, stage, and television personalities.

Moreover, from 1966 to 1971, Charlton Heston served as president of the Screen Actors Guild.

Mr. President, I rehearse Mr. Heston's pedigree not simply for puffery but as a means of outlining the stake that Charlton Heston has laid on the professional line in daring to challenge the powers controlling one of the world's largest, most influential, and not to be left unsaid, most profitable media conglomerates, Time-Warner. In effect, through his courage and his exercise of his rights as a stockholder in Time-Warner, Charlton Heston may have sacrificed his own career for the sake of a value that is more precious than personal fame or fortune.

Many of the executives who currently control the mammoth's share of America's communication media corporations and those wealthy stockholders who own most of the shares in those corporations apparently some time ago decided that no values or tastes were too esteemed to be ignored or mocked in the name of higher dividends. Such individuals do not appreciate anybody in our society who challenges their decisions, questions their judgments, or, above all, threatens their profits. By confronting that mentality in the executive suites of Hollywood and Manhattan, Charlton Heston has made himself a visible target for wrath and retribution.

But Charlton Heston has set an example that should become the paradigm of choice for millions of other Americans. And if more of those millions of Americans—fathers and mothers of children and teenagers especially—read some of the other lyrics to which Mr. Heston objected at the Time-Warner stockholders' meeting, the outrage of those Americans would undoubtedly exceed Charlton Heston's anger.

Mr. President, the lyrics of one song on the "Body Count" I have read from the text of Mr. Heston's speech at the stockholders' meeting. So vile, so perverted, and so evil are those lyrics that no one should ever repeat them here on the Senate floor or anywhere else. They are absolutely outrageous.

Mr. President, I am no prude. I have worked in the shipbuilding yards of this country. I have worked in gas stations, coal company stores, and butcher shops. I grew up in coal mining communities among some profoundly hard struggling, hardworking, hard speaking, hard fighting people, and having lived, now, 4 years longer than the Psalmist promised, three score years and 10, I probably have heard about every foul expression known in the English language.

In spite of that experience, however, some of the lyrics quoted from the album to which Charlton Heston addressed his complaints—some of those lyrics will turn any civilized, upright, thinking citizen's stomach.

That literate, civilized executives at Time-Warner or any other apparently reputable company would have allowed such vulgarity and filth to be pressed onto record albums or published with a record album, is beyond me.

When I reflect on the lyrics that I read from that album, when I reflect on the contents of so many television programs, and when I reflect on the contents of so many movies currently playing across our country, I tremble for the quality of life that we are going to bequeath to our children and grandchildren. And I say that the parents of children in this country simply do not know the content of those lyrics to which their children are listening. It is hard to understand the lyrics, but the children understand them, the children understand them.

Mr. President, we are developing a subculture within a culture, a nation within a nation.

No wonder murder rates are soaring. No wonder drug abuse is rampant. No wonder that children are shooting children in the streets of this city. No wonder children 12 years of age carry guns to school. No wonder that suicides among teenagers have reached such alarming levels. No wonder that the rates of AIDS infections and of venereal diseases among American teenagers and young people are climbing to startling levels.

We are all so concerned about the spread of AIDS in this country at a horrifying rate. It is spreading. And we talk about the need for appropriating more money, developing medicines, vaccines, or whatever. People should become aware of what is going on. They should become aware of the lyrics in rock music that are contributing to sexual promiscuity among teenagers. We are going to have more and more of AIDS, more and more illegitimate children born.

Has decadence reached such a level?

No wonder babies are having babies and the birth rolls are being crowded with newborns conceived out of wedlock—no wonder; young people listen to this vile trash and it puts ideas into their heads, and they think it is the in thing to do—newborns conceived out of wedlock, condemned to lives without fathers, and potentially doomed to futures of crime, confusion, and purposelessness. Day after day, young Americans are being bombarded by the entertainment industry of this country with pornography, vulgarity, tastelessness, promiscuity, violence, drug propaganda, profanity, barbarism, nihilism, and hedonism.

This is a variable flood of filth and garbage. The American people ought to be aware of it. The parents of this country ought to make it their business to learn what is on those records. Once the American people get riled, they will wake up the board rooms. They will rattle the teeth of the corporate executives who are making money from ruining the lives of young people in this country.

This flood of filth and garbage will only cease, Mr. President, when millions of Americans follow the witness of Charlton Heston and call the communications and entertainment media corporations to task—through their wallets and bank accounts—by refusing to collaborate passively in the degradation of American society and the trashing of American culture.

I applaud Charlton Heston for his courage and I call on the mighty communications companies of this country to come to their corporate sensibilities before the word America displaces

Sodom and Gommorah as a universal synonym for immorality and perversion, to the damnation of our names for centuries to come.

The hour is late for our country, for our culture, and for our heritage.

I hope that Senators will speak out. When I first came to the Senate 34 years ago, Senators took the floor and spoke out about the mores of this country. If those Senators were here today, they would be speaking out about what they see going on in this country. It is shameful, and it is going to ruin—ruin—the country.

A line comes to mind from "The Battle Hymn of the Republic": "We are trampling out the vintage where the grapes of wrath are stored." If we are today concerned about the murders and the muggings, the violence, the promiscuity, that are being promoted by the lyrics of rock music so nonchalantly looked upon by all too many people; if we are today shocked by the unwed births being recorded in unparalleled numbers nationwide; if we are today repelled and frightened by the burgeoning rate of AIDS infections among teenagers, heterosexual women, and other previously untouched groups; and if the rates of cocaine use and crack addiction have us alarmed now, I shudder to think of the volume of vintage that is being stored up among the grapes of wrath for next year and for 10 years from now and 20 years from now and 30 years from now as a result of the moral decay and irresponsibility rampant in our country today.

If we are to blunt the centrifugal forces that are corrupting our children and teenagers, and if we are to redeem the future before we pass the point of no return—and we are almost there—then I firmly believe that the traditional nuclear family must be strengthened and restored to its central place in American society.

And achieving this strengthening and restoration of the family will require more than simply talking about it.

I hope that mothers and fathers and grandparents will begin a serious reflection on the quality of life, on the means by which values are being taught, on relations with children, on the activities that include all of the family unit, and on any other aspects that might define life, within their own family circles.

I hope that churches, synagogues, mosques, and temple memberships will find real and lasting ways to reinforce family strength within their own communions, and ways to herald the family as it relates to the Bible, the Torah, or the holy writings of particular religions.

It is old fashioned these days to talk about the Bible. But it lays out the plan. It tells us how to live; and how to die. America had better get back to reading that great old book.

And above all, perhaps, I urge the executives and creative forces of the media—the press and entertainment alike—to critically assess their impact on our society as purveyors of values, particularly on children and teenagers.

Against the beating that it has taken and is taking, we can no longer take the nuclear family for granted. But the nuclear family—this matrix of value and character, this bulwark against mental illness and moral sickness, this source of community strength and national patriotism, this crucible of human decency and personal integrity—must be shored up as surely as America's physical infrastructure and our industrial base need refurbishing and restoration. In the past, the family was America's central resource and asset. Let us hope that in the future, we can still count on the family as the keystone to our national strength and stability.

I hope we can have more people who have the courage that Charlton Heston has demonstrated, to confront the corporate executives in their board rooms and, in so doing, confront their pocketbooks.

There is nothing more important, Mr. President, than our young people. As a matter of fact, there are not many other things as important as our young people. And we are selling them short when we fail to speak out about the trash, the junk that they watch daily and nightly on television—that marvelous electronic eye; what an instrument for good. And it does much good. It does much good.

But the American people had better wake up. If they do, they will awaken those who do the television programming and let them know that the public is tired of the filth and the trash that are coming into our living rooms all over this country, day and night. An alarmed public will also rise up and demand a higher standard in the record industry.

So I call on my friends here in this Chamber, my colleagues, to speak out. I commend Senator DOMENICI. There are other Senators who have seen the printed lyrics which Charlton Heston read to the executives of Time-Warner. Senators have been shocked by those lyrics. I hope other Senators will take a stand. Perhaps our voices will somehow at least be heard before it is too late.

J.G. Holland wrote a bit of verse which the Chaplain quoted in his prayer one day this week, and it is appropriate here. God give us men.

God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking;
For while the rabble, with their thumbworn creeds,
Their large professions and their little deeds,
Mingle in selfish selfish, lo!
Freedom weeps, wrong rules the land,
And waiting justice sleeps.

God give us men!

Horace Greeley said, "Fame is a vapor; popularity an accident; riches take wings; those who cheer today may curse tomorrow. Only one thing endures: character."

Let not the Nation's character be destroyed by those who seek profits at the expense of the lives and futures of our young people.

Mr. President, I yield the floor.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,995,311,832,756.31, as of the close of business on Wednesday, July 29, 1992.

On a per capita basis, every man, woman, and child owes $15,554.49—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

THE PRESSLER AMENDMENT AND PAKISTAN'S NUCLEAR WEAPONS PROGRAM

Mr. PRESSLER. Mr. President, yesterday the Foreign Relations Committee held an extremely enlightening hearing on interpretation of the Pressler amendment.

During the hearing, it was my great pleasure to listen to the testimony of Senator JOHN GLENN. My first experience with the senior Senator from Ohio occurred when I was a student at the University of South Dakota. I wrote him a letter congratulating him on being the first American to orbit the Earth on the *Friendship 7* mission. I received a very kind response and am pleased to count Senator GLENN as one of my very good friends today.

Few Members of the Senate, indeed of Congress, understand the issue of nuclear nonproliferation better than Senator GLENN. At the Wehrkunde

Conference in Munich last winter, which I attended, Senator GLENN gave an excellent speech on nonproliferation issues. He is the leading expert on nonproliferation in the U.S. Senate today. I was pleased he was with us yesterday to share his experience and knowledge on this subject. Senator GLENN's testimony was one of the most complete and best recitations of the history surrounding Pakistan's nuclear weapons program I have ever seen or heard. I commend Senator GLENN's comments to all Senators and will ask unanimous consent that Senator GLENN's testimony before the Foreign Relations Committee on July 30, 1992 be included in the RECORD immediately following my remarks.

Yesterday's Foreign Relations Committee hearing explored the State Department's view that the Pressler amendment allows for the continued licensing of private sales of arms and technology to Pakistan notwithstanding what many consider very clear statutory language prohibiting such sales. To quote from the amendment, "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act. * * *"

The language is quite clear. By licensing the export of arms and military technology to the government of Pakistan under the terms of the Arms Export Control Act, it seems to this Senator that the administration is in violation of both the letter and spirit of the Pressler amendment.

Mr. President, my concern is not just that the State Department is misinterpreting a statute passed by Congress. I am also very concerned that the purpose of the Pressler amendment—to stop nuclear weapons proliferation and ensure U.S. taxpayers are not asked to subsidize indirectly the building of a nuclear weapons program in Pakistan—is not being achieved because while we have penalized Pakistan by cutting off most assistance to that country, arms continue to flow through the back door of private sales.

I recently returned from a trip to nine former Soviet republics and Latvia. Just prior to that trip the Foreign Relations Committee considered the START Treaty and the full Senate passed the Freedom Support Act. Under the terms of the Lisbon protocol to the START Treaty, Belarus, Kazakhstan, and Ukraine each agreed to sign the Nuclear Non-Proliferation Treaty as nonnuclear state parties.

I believe that such assurances would be equally valuable from the other nations emerging from the former Soviet Union that do not currently have a nuclear weapons capability. During this committee's hearings on START, I questioned administration witnesses regarding this issue and will continue to push this idea at every opportunity.

My point is that I came away from my recent trip convinced that we should apply the terms of the Pressler amendment to other developing nations which do not have a nuclear weapons capability, but which receive aid from the United States. We should use economic means to encourage nonnuclear countries to remain nonnuclear. We must make it clear that should they decide to pursue a nuclear weapons program, it will be without the help of the United States.

Mr. President, let me conclude by saying that I intend to continue working with Senator GLENN and others to ensure that at this unique time in world history—a time when the United States remains the world's sole superpower and, together with Russia, works to reduce the nuclear threat—developing nations follow that lead and resist the temptation to acquire their own nuclear weapons capability.

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

TESTIMONY OF SENATOR JOHN GLENN—U.S./PAKISTAN NUCLEAR ISSUES

(Before the Committee on Foreign Relations, U.S. Senate, July 30, 1992)

Thank you, Mr. Chairman, for this opportunity to testify on U.S. responses to nuclear developments in Pakistan. I was tempted also to address my many concerns about India's large unsafeguarded nuclear program, but given time limitations and the focus of this hearing, I will address these concerns in another forum. Besides, your Committee has every reason to focus today on Pakistan. After all, American taxpayers shelled out billions of hard-earned tax dollars in aid that was explicitly justified as necessary to curb Pakistan's bomb program. This aid was provided only after repeated waivers of our nuclear nonproliferation laws. Congress has both the right and the duty to see what happened to these funds.

A review of this evidence will also encourage us to reexamine some old policy assumptions—like the faith some of our leaders have put in transfers of arms and high technology as tools of nuclear nonproliferation—and to appreciate the importance of some old fundamentals, like the duty of the Executive to "faithfully execute the laws," the need for a working relationship between Congress and the Executive, and the public's right to know.

My testimony will address five questions: First, what were Congress and the American taxpayers told about the relationship between U.S. military aid and Pakistan's bomb? Second, how have these claims stood up over time? Third, why did Congress impose nuclear conditions on aid only to Pakistan? Fourth, did the Reagan and Bush administrations implement these conditions as Congress had intended? And finally, where do we go from here?

THE PROMISE OF THE POLICY

Between 1982 and 1990, America provided over $4 billion in assistance to Pakistan, about half of which was military. Some people think this aid was solely intended to get the Soviets out of Afghanistan, a goal we shared with Pakistan. My staff, however, has identified 20 official administration statements claiming since 1981 that military assistance would address Pakistan's security concerns and thereby keep Pakistan from acquiring the bomb. I will submit with my testimony some relevant excerpts. [Attachment]

Given these many claims, the answer to my first question is crystal clear: the military transfers and other assistance were explicitly justified to Congress as instruments of a nuclear nonproliferation policy. Yet since this aid was only provided following waiver upon waiver of our nuclear nonproliferation laws, the administration had a heavy burden of proof to demonstrate that the aid was producing the promised results.

Unfortunately, the much-heralded nonproliferation benefits never materialized, which simplifies the job of answering my second question about the effects of the policy. It is well known that Pakistan was acquiring a nuclear weapons capability throughout the 1980's. I will attach to my statement a table listing 50 events that show without a doubt that Pakistan was continuing and even accelerating its pursuit of the bomb despite all of our aid. [Attachment] Mr. Chairman, if you judge by the evidence and not by the promises, there was a direct—not an inverse—relationship between the level of our aid and Pakistan's progress toward the bomb.

This leads to the answer to my third question about why Congress decided to impose new conditions on aid provided only to Pakistan. In the face of sensational daily headlines from around the world attesting to the failure of the administration's arms-for-nuclear-restraint policy, Congress went to work in the mid-1980's to strengthen conditions on further aid to Pakistan. It was no more "discriminatory" for Congress to single out Pakistan for special aid conditions than it was for the Executive to issue waiver after waiver of our nonproliferation laws just on Pakistan's behalf.

ORIGINS OF THE PRESSLER AMENDMENT

On March 28, 1984, this Committee adopted an amendment offered by Sen. Cranston and myself providing that no assistance shall be furnished and "no military equipment or technology shall be sold or transferred to Pakistan" unless the President could first certify that Pakistan does not possess a nuclear explosive device, is not developing a nuclear device, and is not acquiring goods to make such a device. On April 3, 1984, the Committee narrowly voted to reconsider this amendment and adopted instead a substitute offered by Senator Pressler, Mathias and Percy, which tied the continuation of aid and military sales to two certification conditions: (1) that Pakistan not possess a nuclear explosive device; and (2) that new aid "will reduce significantly the risk" that Pakistan will possess such a device. This text, which was enacted on another bill in August 1985, has come to be called the "Pressler amendment."

In summary, the amendment made binding what had been an official policy, namely that our aid would reduce the risk of nuclear proliferation. It also clarified—by its broad prohibition on all arms transfers under any U.S. law—that a failure to meet these standards would lead to a cutoff of not only assistance but of military sales as well.

Let me just add at this point that neither the legislative history nor the text of the amendment itself contains any written or implied exclusion of commercial arms sales from the scope of these sanctions. Indeed, it is useful to recall that in past testimony at least one State Department witness has also dismissed this peculiar argument for allowing commercial arms sales to continue in the

event of a nuclear violation. At a hearing of this Committee on November 12, 1981, I asked Undersecretary of State James Buckley to describe how a nuclear detonation by Pakistan would affect our transfers of F-16 aircraft and he replied that such an event would, in his words:

* * * dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale.

Yet as the evidence kept flowing in about new Pakistan advances toward the bomb, new rationalizations kept flowing out from Foggy Bottom for continuing our transfers of arms and aid in the service of nonproliferation—which brings me to my fourth question addressing how the Pressler amendment and other relevant laws were implemented.

IMPLEMENTATION OF THE PRESSLER AMENDMENT

I have long believed that continued arms experts to Pakistan was no way to halt its bomb program. But when you consider that of the 50 nuclear weapon-related events I cited in my submission to the Committee, three-quarters of them occurred after the Pressler amendment was enacted, it becomes glaringly apparent that the Reagan and Bush administrations willfully violated not only the Pressler amendment but several other nuclear nonproliferation laws as well. I believe that the Pressler amendment was violated almost immediately after it was enacted, when U.S. assistance and arms were transferred even though our government knew Pakistan was continuing its pursuit of the bomb.

There are three specific violations I would like to discuss today. First, I believe that the President's conclusion in October 1989 that Pakistan does not possess a nuclear explosive device conflicts with widely available information indicating that Pakistan was a de facto nuclear-weapon state. Indeed, Pakistan may well have attained that capability even before 1989, when would cast doubt on the accuracy of non-possession certifications by the Reagan administration as well.

Five years ago, a London newspaper published excerpts from an interview with no greater authority than Dr. Abdul Qadeer Khan, the father of Pakistan's bomb; in Dr. Khan words, "what the CIA has been saying about our possessing the bomb is correct." Later, in February 1992, the Pakistan foreign secretary publicly conceded that his government had "inherited" a nuclear capability. He told a U.N. audience on February 7th that "there was a capability in 1989," but he denied that the program was "moved forward" and maintained that "we froze the program." In an interview reported in the Washington Post the same day, the foreign secretary state that Pakistan possesses "elements which, if put together, would become a device. He referred to specifically to weapons "cores."

The foreign secretary's statements raise some thorny problems for both the administration and the Pakistani government:

1. If Pakistan possessed these "elements" back in 1989, then how could the President have certified that Pakistan did not possess a nuclear explosive device? By the State Department's own interpretation of the Pressler amendment, if Pakistan possessed the bomb in pieces, it possessed the bomb.

2. If Pakistan did not possess these "elements" back in 1989, but acquired them after President Bush made his certification of nonpossession in October 1989, then the foreign secretary's statement that the program was "frozen" when his government came to power in November 1990 is hardly reassuring. The foreign secretary is saying that Pakistan has frozen its status as a de factor nuclear weapon state. He is also admitting that Pakistan has violated its solemn commitment to the United States in 1984 that it would not enrich uranium beyond the 5% level needed for civilian uses.

The foreign secretary's candid remarks about the existence of a nuclear capability in 1989—combined with his remarks about weapons "cores" that he claims were produced before his government came to power—raises the real possibility of a violation of the non-possession standard in that year or even earlier.

The second violation also occurred in 1989—actually it was just a repeat of 4 prior violations by President Reagan—when President Bush certified that the provision of new assistance would "reduce significantly" the risk that Pakistan would possess a nuclear explosive device. In contrast to voluminous evidence indicating that Pakistan's program to develop nuclear weapons was advancing throughout the late 1980's, there were just no credible grounds for concluding that the provision of new foreign aid was reducing the risk of Pakistan possessing the bomb.

In fact, I believe there is considerable evidence that America's aid and high technology undoubtedly contributed to Pakistan's nuclear and missile capabilities. The F-16 aircraft we provided along with the dual-use goods we transferred to nuclear and missile facilities in Pakistan provide sufficient grounds for this conclusion.

The third violation—and I do indeed call this a violation—occurred in 1992, when it was officially confirmed that the United States government was continuing to license arms sales to Pakistan despite the clear requirement of the Pressler amendment that "no military equipment or technology shall be sold or transferred to Pakistan" if it has not received the required Presidential certifications.

Evidently, this is what we are now down to: elements of our bureaucracy are grasping at straws to perpetuate the myths that additional military transfers will buy us influence over Pakistan's bomb program, and that such transfers are perfectly legal. The rationale that our government is somehow justified in licensing sales of munitions to maintain current military capabilities (which the Pakistani foreign secretary now tells us includes nuclear weapons) flies in the face of the black-and-white words of the Pressler amendment.

Commercial arms sales do indeed contravene both the spirit and the letter of the Pressler amendment. All the more so, given that the equipment we are evidently continuing to supply includes spare parts for F-16 aircraft, a known delivery vehicle for nuclear weapons. Mr. Chairman, I would like to submit a list of official statements from the Reagan and Bush administrations taking mutually contradictory positions on the issue of whether the F-16 can be used by Pakistan to deliver nuclear weapons. Clearly somebody—and not just in Pakistan—has not been telling the truth to the people, which raises the possibility of yet another violation of the law.

In summary, the administration's position on commercial arms sales not only lacks a solid foundation in law, it seems almost contrived to subvert and frustrate the very purposes of sanctions, which are to impose a cost for noncompliance with legitimate nonproliferation standards, to offer an incentive to correct the policies to noncompliance, and to signal the priority of nuclear nonproliferation on America's foreign policy agenda.

OTHER LAWS INFRINGED

I would like to add to this testimony that I believe at least four additional laws were either willfully misinterpreted or simply ignored by zealous Executive officials who were driven by a policy they could not admit was bankrupt. I believe this shady record applies not just to nonproliferation laws directed at Pakistan and my list is by no means exhaustive.

Under the Glenn/Symington amendment, U.S. aid is supposed to be halted to any nation that delivers unsafeguarded nuclear enrichment equipment, materials, or technology to any other country that does not have full-scope safeguards. In December 1981, I delivered a floor statement that cited an AP story claiming that the State Department believed Pakistan was receiving nuclear technology through Turkey. Turkish press reports through mid-1988 were commenting about U.S. concerns relating to such sales. Yet the aid ban was never invoked against Turkey and no waiver was sought.

Another law, Section 309c of the Nuclear Non-Proliferation Act, requires special licensing controls over "all export items * * * which could be * * * of significance for nuclear explosive purposes." The $2 billion in dual-use goods that were approved for sale to Pakistan and Iraq (including goods going to nuclear and missile facilities), coupled with the almost complete failure of our government to verify the ultimate end uses of our exports—suggest a serious breakdown in the implementation of this law.

A third law, Section 602 of the Nuclear Non-Proliferation Act requires that three committees will be kept "fully and currently informed" about dangerous foreign nuclear activities and the work of our own federal agencies on behalf of nonproliferation goals. I do not believe that the standards of "fully," "currently," or "informed" were satisfied. We surely were not consulted about continuing commercial arms sales to Pakistan.

And finally, Section 601 of the Nuclear Non-Proliferation Act requires the Executive to send an annual report to Congress on nuclear proliferation. The evidence reviewed in our Committee's newsletter, Proliferation Watch of November-December 1991 shows a clear pattern of noncompliance with that reporting requirement.

PAKISTAN AND IRAQ

Mr. Chairman, I am convinced that this dismal record has much in common with our past experiences in dealing with Iraq's bomb as well.

Let me start with high-tech trade: before Saddam invaded Kuwait in August 1990, our policymakers sought to restrain Iraq by means that included licensing some $1.5 billion in commercial sales of U.S. high technology. Between 1985 and 1990, the Commerce Department also licensed just under $800 million in comparable goods to facilities in Pakistan, including certain destinations widely known to be associated with nuclear and missile programs. There are a lot better ways to redress our balance of trade than by peddling arms or dual-use goods to countries with lousy nonproliferation credentials. This policy did not work with Iraq. It is a continuing failure with respect to China. And it surely never worked with Pakistan.

Then there were the now infamous "Detonation symposiums." The Reagan and Bush administrations did nothing to stop scientists from Pakistan, Iraq, and several other proliferation-sensitive countries from attending symposiums on "Detonation" hosted by our three nuclear weapon labs. Other scientists from these countries were also allowed to visit and to conduct research at these labs and to meet with some of our bomb designers. What kind of message does that send of our commitment to nuclear nonproliferation?

But there are other indicators of the second-class status of nonproliferation as a policy priority in the 1980's. Both Pakistan and Iraq sought to acquire nuclear weapons triggers. Both illicitly obtained centrifuges based on a European Urenco design. Both have produced or sought some 19 nuclear-related goods, as documented in a recent issue of the Governmental Affairs Committee's newsletter, Proliferation Watch. Both established elaborate secret procurement networks. Both claimed their nuclear programs were entirely peaceful. Yet in both cases, U.S. officials treated nonproliferation as a secondary goal of policy. I find these parallels too close for comfort.

Our Pakistan and Iraq policies have also soaked American taxpayers to the tune of some $2 billion in Iraq's defaulted loans that were guaranteed by Uncle Sam, and some $4 billion in total U.S. foreign aid to Pakistan throughout the 1980's that was supposed to entice Pakistan away from acquiring the bomb and enhance the welfare of Pakistan's citizens.

Also, administration spokesmen routinely opposed congressional efforts to impose sanctions against both Iraq and Pakistan. The imposition of sanctions would at least have clarified for the world where America stood on two key nonproliferation issues; at best, the sanctions may well have helped to impede both programs. What is known, however, is that the "aid-and-trade" and "waivers-for-favors" policies for restraining bomb programs in both Iraq and Pakistan were complete failures.

NEXT STEPS AND REFORMS

Mr. Chairman, I have covered a lot of ground today and would like to answer my final question with a few recommendations on where we should be going from here.

Congress cannot legislate away another nation's bomb program. However, America is under no obligation to make it any easier for a nation to acquire or enhance such a capability and, in fact, we have a moral and a legal duty to make such pursuits quite costly. If Pakistan ultimately decides that its bomb is worth the hardships of acquiring and possessing it, then that is Pakistan's choice to make and we must respond accordingly. For now, we need to firm up our sanctions policy.

First, we must halt all commercial arms exports to Pakistan. The time has come to turn out the lights of a policy that failed to deliver on its promises. The party is over.

Second, we must notify our friends and allies—particularly France and Russia because of their expressed interest in selling nuclear-capable aircraft to Pakistan—about this decision and urge them to support and not to undercut our sanctions policy. We should publicly expose all efforts to frustrate our nonproliferation diplomacy and advise all nations of additional consequences they will face if they continue to pursue such efforts.

Third, we must remind Pakistan's leaders that America expects Pakistan to comply with its pledge in 1984 that it would not enrich uranium over the 5% level needed for peaceful uses of nuclear energy. We can discuss resumption of aid when that promise has been kept and when Pakistan has satisfied our government that it is willing to bring its nuclear program fully into line with the Pakistani government's own peaceful policy statements.

And finally, we should notify Pakistan that we intend to enforce our export licensing standards with respect to sales of dual-use goods. We should undertake a review of our licensing policy with respect to other nations as well that do not satisfy those licensing standards. We should also work closely with other countries that export dual-use goods to ensure that they do not undercut our policies—and caution them of the consequences if our concerns are not heeded.

Mr. Chairman, although the administration is not without its accomplishments in developing international regimes, the record shows that much more needs to be done just to get our own government's house in order. I look forward to working with you—and with the new administration next year regardless of who wins the presidential election—to repair the damage that has been done over the last 10 years to our nuclear nonproliferation laws and policies.

In closing, I hope that as we evaluate our record, Pakistan—one of the world's poorest nations—will also evaluate the full implications of its bomb program for the welfare of its 100 million citizens. I will submit today a fact sheet describing Pakistan's economic and social conditions, and its lop-sided defense budget. The longer that Pakistan's bomb and huge military establishment drain off resources needed to meet these needs, the greater will be the real national security threat that Pakistan will face in the years ahead.

U.S. AID POLICIES AND PAKISTAN'S BOMB: WHAT WERE WE TRYING TO ACCOMPLISH?

(Materials Compiled by Senate Committee on Governmental Affairs)

Letters to Congress from Presidents Reagan & Bush, 1985-1989, required under sec. 620E(e) of Foreign Assistance Act (Pressler Amendment)—

"The proposed United States assistance program for Pakistan remains extremely important in reducing the risk that Pakistan will develop and ultimately possess such a device. I am convinced that our security relationship and assistance program are the most effective means available for us to dissuade Pakistan from acquiring nuclear explosive devices. Our assistance program is designed to help Pakistan address its substantial and legitimate security needs, thereby both reducing incentives and creating disincentives for Pakistani acquisition of nuclear explosives."—President Bush, 10/5/89; President Ronald Reagan, 11/18/88; 12/17/87; 10/27/86; & 11/25/85.

President George Bush, letter to Congress (addressed to J. Danforth Quayle as President of the Senate), 12 April 1991, urging abandonment of Pressler certification requirement:

"* * * my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law."

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House subcommittee, 2 August 1989:

"None of the F-16's Pakistan already owns or is about to purchase is configured for nuclear delivery * * * a Pakistan with a credible conventional deterrent will be less motivated to purchase a nuclear weapons capability."

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House subcommittee, 2 August 1989:

"Finally, we believe that past and continued American support for Pakistan's conventional defense reduces the likelihood that Pakistan will feel compelled to cross the nuclear threshold."

Deputy Assistant Secretary of State Robert Peck, testimony before House subcommittee, 17 February 1988:

"We believe that the improvements in Pakistan's conventional military forces made possible by U.S. assistance and the U.S. security commitment our aid program symbolizes have had a significant influence on Pakistan's decision to forego the acquisition of nuclear weapons."

Special Ambassador at large Richard Kennedy, testimony before two House subcommittees, 22 October 1987:

"We have made it clear that Pakistan must show restraint in its nuclear program if it expects us to continue providing security assistance."

Assistant Secretary of State Richard Murphy, testimony before Senate subcommittee, 18 March 1987:

"Our assistance relationship is designed to advance both our non-proliferation and our strategic objectives relating to Afghanistan. Development of a close and reliable security partnership with Pakistan gives Pakistan an alternative to nuclear weapons to meet its legitimate security needs and strengthens our influence on Pakistan's nuclear decision making. Shifting to a policy of threats and public ultimata would in our view decrease, not increase our ability to continue to make a contribution to preventing a nuclear arms race in South Asia. Undermining the credibility of the security relationship with the U.S. would itself create incentives for Pakistan to ignore our concerns and push forward in the direction of nuclear weapons acquisition."

Deputy Assistant Secretary of State Howard Schaffer, testimony before House subcommittee 6 February 1984:

The assistance program also contributes to U.S. nuclear non-proliferation goals. We believe strongly that a program of support which enhances Pakistan's sense of security helps remove the principal underlying incentive for the acquisition of a nuclear weapons capability. The government of Pakistan understands our deep concern over this issue. We have made clear that the relationship between our two countries, and the program of military and economic assistance on which it rests, are ultimately inconsistent with Pakistan's development of a nuclear explosive device. President Zia has stated publicly that Pakistan will not manufacture a nuclear explosives device."

Special Ambassador at large Richard Kennedy, testimony before two House subcommittees, 1 November 1983:

"By helping friendly nations to address legitimate security concerns, we seek to reduce incentives for the acquisition of nuclear weapons. The provision of security assistance and the sale of military equipment can be major components of efforts along these lines. Development of security ties to the U.S. can strengthen a country's confidence

in its ability to defend itself without nuclear weapons. At the same time, the existence of such a relationship enhances our credibility when we seek to persuade that country to forego [sic] nuclear arms . . . We believe that strengthening Pakistan's conventional military capability serves a number of important U.S. interests, including non-proliferation. At the same time, we have made clear to the government of Pakistan that efforts to acquire nuclear explosives would jeopardize our security assistance program."

Statement by Deputy Assistant Secretary of State Harry Marshall, 12 September 1983, before International Nuclear Law Association, San Francisco:

"U.S. assistance has permitted Pakistan to strengthen its conventional defensive capability. This serves to bolster its stability and thus reduce its motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 report"), for calendar year 1982:

"Steps were taken to strengthen the U.S. security relationship with Pakistan with the objective of addressing that country's security needs and thereby reducing any motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 report"), for calendar year 1981:

"Military assistance by the United States and the establishment of a new security relationship with Pakistan should help to counteract its possible motivations toward acquiring nuclear weapons . . . Moreover, help from the United States in strengthening Pakistan's conventional military capabilities would offer the best available means for counteracting possible motivations toward acquiring nuclear weapons."

Assistant Secretary of State James Malone, address before Atomic Industrial Forum, San Francisco, 1 December 1981:

"We believe that this assistance—which is in the strategic interest of the United States—will make a significant contribution to the well-being and security of Pakistan and that it will be recognized as such by that government. We also believe that, for this reason, it offers the best prospect of deterring the Pakistanis from proceeding with the testing or acquisition of nuclear explosives.

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

"We believe that a program of support which provides Pakistan with a continuing relationship with a significant security partner and enhances its sense of security may help remove the principal underlying incentive for the acquisition of a nuclear weapons capability. With such a relationship in place we are hopeful that over time we will be able to persuade Pakistan that the pursuant of a weapons capability is neither necessary to its security nor in its broader interest as an important member of the world community."

Testimony of Undersecretary of State James Buckley, in response to question from Sen. Glenn, Senate Foreign Relations Committee, 12 November 1981, on Effects of a Nuclear Detonation on Continuation of Cash Sales of F-16's:

"[Sen. Glenn] * * * so if Pakistan detonates a nuclear device before completion of the F-16 sale, will the administration cut off future deliveries?

"[Buckley] Again, Senator, we have underscored the fact that this would dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale."

Undersecretary of State James Buckley, Letter to NY Times, 25 July 1981:

"In place of the ineffective sanctions on Pakistan's nuclear program imposed by the past Administration, we hope to address through conventional means the sources of insecurity that prompt a nation like Pakistan to seek a nuclear capability in the first place."

FROM MYTH TO REALITY: EVIDENCE OF PAKISTAN'S "NUCLEAR RESTRAINT"

Early 1980's—Multiple reports that Pakistan obtained a pre-tested, atomic bomb design from China.

Early 1980's—Multiple reports that Pakistan obtained bomb-grade enriched uranium from China.

1980—U.S. Nuclear Export Control Violation: Reexport via Canada (components of inverters used in gas centrifuge enrichment activities).

1981—U.S. Nuclear Export Control Violation: New York, zirconium (nuclear fuel cladding material).

1981—AP story cites contents of reported US State Department cable stating "We have strong reason to believe that Pakistan is seeking to develop a nuclear explosives capability * * * Pakistan is conducting a program for the design and development of a triggering package for nuclear explosive devices."

1981—Publication of book, Islamic Bomb, citing recent Pakistani efforts to construct a nuclear test site.

1982/3—Several European press reports indicate that Pakistan was using Middle Eastern intermediaries to acquire bomb parts (13-inch "steel spheres" and "steel petal shapes").

1983—Recently declassified US government assessment concludes that "There is unambiguous evidence that Pakistan is actively pursuing a nuclear weapons development program * * * We believe the ultimate application of the enriched uranium produced at Kahuta, which is unsafeguarded, is clearly nuclear weapons."

1984—President Zia states that Pakistan has acquired a "very modest" uranium enrichment capability for "nothing but peaceful purposes."

1984—President Reagan reportedly warns Pakistan of "grave consequences" if it enriches uranium above 5%.

1985—ABC News reports that US believes Pakistan has "successfully tested" a "firing mechanism" of an atomic bomb by means of a non-nuclear explosion, and that US krytrons "have been acquired" by Pakistan.

1985—U.S. Nuclear Export Control Violation: Texas, krytrons (nuclear weapon triggers).

1985—U.S. Nuclear Export Control Violation: US cancelled license for export of flash x-ray camera to Pakistan (nuclear weapon diagnostic uses) because of proliferation concerns.

1985/6—Media cites production of highly enriched, bomb-grade uranium in violation of a commitment to the US.

1986—Bob Woodward article in Washington Post cites alleged DIA report saying Pakistan "detonated a high explosive test device between Sept. 18 and Sept. 21 as part of its continuing efforts to build an implosion-type nuclear weapon;" says Pakistan has produced uranium enriched to a 93.5% level.

1986—Press reports cite U.S. "Special National Intelligence Estimate" concluding that Pakistan had produced weapons-grade material.

1986—Commenting on Pakistan's nuclear capability, General Zia tells interviewer, "It is our right to obtain the technology. And when we acquire this technology, the Islamic world will possess it with us."

1986—Recently declassified memo to then-Secretary of State Henry Kissinger states, "Despite strong U.S. concern, Pakistan continues to pursue a nuclear explosive capability * * * If operated at its nominal capacity, the Kahuta uranium enrichment plant could produce enough weapons-grade material to build several nuclear devices per year."

1987—U.S. Nuclear Export Control Violation: Pennsylvania, maraging steel & beryllium (used in centrifuge manufacture and bomb components).

1987—London Financial Times reports US spy satellites have observed construction of second uranium enrichment plant in Pakistan.

1987—Pakistan's leading nuclear scientist states in published interview that "what the CIA has been saying about our possessing the bomb is correct."

1987—West German official confirms that nuclear equipment recently seized on way to Pakistan was suitable for "at least 93% enrichment" of uranium; blueprints of uranium enrichment plant also seized in Switzerland.

1987—U.S. Nuclear Export Control Violation: California, oscilloscopes, computer equipment (useful in nuclear weapon R&D).

1987—According to photocopy of a reported German foreign ministry memo published in Paris in 1990, UK government official tells German counterpart on European nonproliferation working group that he was "convinced that Pakistan had 'a few small' nuclear weapons."

1988—President Reagan waives an aid cutoff for Pakistan due to an export control violation; in his formal certification, he confirmed that "material, equipment, or technology covered by that provision was to be used by Pakistan in the manufacture of a nuclear explosive device."

1988—Hedrick Smith article in New York Times reports US government sources believe Pakistan has produced enough highly enriched uranium for 4-6 bombs.

1988—President Zia tells Carnegie Endowment delegation in interview that Pakistan has attained a nuclear capability "that is good enough to create an impression of deterrence."

1989—Multiple reports of Pakistan modifying US-supplied F-16 aircraft for nuclear delivery purposes; wind tunnel tests cited in document reportedly from West German intelligence service.

1989—Test launch of Hatf-2 missile: Payload (500 kilograms) and range (300 kilometers) meets "nuclear-capable" standard under Missile Technology Control Regime.

1989—CIA Director Webster tells Senate Governmental Affairs Committee hearing that "Clearly Pakistan is engaged in developing a nuclear capability."

1989—Media claims that Pakistan acquired tritium gas and tritium facility from West Germany in mid-1980's.

1989—ACDA unclassified report cites Chinese assistance to missile program in Pakistan.

1989—UK press cites nuclear cooperation between Pakistan and Iraq.

1989—Article in Nuclear Fuel states that the United States has issued "about 100 spe-

cific communiques to the West German Government related to planned exports to the Pakistan Atomic Energy Commission and its affiliated organizations;" exports reportedly included tritium and a tritium recovery facility.

1989—Article in Defense & Foreign Affairs Weekly states "sources close to the Pakistani nuclear program have revealed that Pakistani scientists have now perfected detonation mechanisms for a nuclear device."

1989—Reporting on a recent customs investigation, West German magazine Stern reports, "since the beginning of the eighties over 70 [West German] enterprises have supplied sensitive goods to enterprises which for years have been buying equipment for Pakistan's ambitious nuclear weapons program."

1989—Gerard Smith, former US diplomat and senior arms control authority, claims US has turned a "blind eye" to proliferation developments Pakistan in and Israel.

1989—Senator Glenn delivers two lengthy statements addressing Pakistan's violations of its uranium enrichment commitment to the United States and the lack of progress on nonproliferation issues from Prime Minister Bhutto's democratically elected government after a year in office; Glenn concluded, "There simply must be a cost to non-compliance—when a solemn nuclear pledge is violated, the solution surely does not lie in voiding the pledge."

1989-1990—reports of secret construction of unsafeguard nuclear research reactor; components from Europe.

1990—US News cites "western intelligence sources" claiming Pakistan recently "cold-tested" a nuclear device and is now building a plutonium production reactor; article says Pakistan is engaged in nuclear cooperation with Iran.

1990—French magazine publishes photo of West German government document citing claim by UK official that British government believes Pakistan already possesses "a few small" nuclear weapons; cites Ambassador Richard Kennedy claim to UK diplomat that Pakistan has broken its pledge to the US not to enrich uranium over 5%.

1990—London Sunday Times cites growing U.S. and Soviet concerns about Pakistani nuclear program; paper claims F-16 aircraft are being modified for nuclear delivery purposes; claims US spy satellites have observed "heavily armed convoys" leaving Pakistan uranium enrichment complex at Kahuta and heading for military airfields.

1990—Pakistani biography of top nuclear scientist (Dr. Abdul Qadeer Khan and the Islamic Bomb), claims US showed "model" of Pakistani bomb to visiting Pakistani diplomat as part of unsuccessful nonproliferation effort.

1990—Defense & Foreign Affairs Weekly reports "US officials now believe that Pakistan has quite sufficient computing power in country to run all the modeling necessary to adequately verify the viability of the country's nuclear weapons technology."

1990—Dr. A.Q. Khan, father of Pakistan's bomb, receives "Man of the Nation Award."

1990—Washington Post documents 3 recent efforts by Pakistan to acquire special arc-melting furnaces with nuclear and missile applications.

1991—Wall Street Journal says Pakistan is buying nuclear-capable M-11 missile from China.

1991—Sen. Moynihan says in television interview, "Last July [1990] the Pakistanis machined 6 nuclear Pakistan warheads. And they've still got them."

1991—Time quotes businessman, "BCCI is functioning as the owners' representative for Pakistan's nuclear-bomb project."

1992—Pakistani foreign secretary publicly discusses Pakistan's possession of "cores" of nuclear devices.

ARE PAKISTAN'S F-16'S "NUCLEAR-CAPABLE"? IT DEPENDS ON WHO YOU ASK

[Sen. Glenn]—"How about delivery systems? Is there any evidence that Pakistan converted F-16s for possible nuclear delivery use?

[Gates]—"We know that they are—or we have information that suggests that they're clearly interested in enhancing the ability of the F-16 to delivery weapons safely. But we don't really have—they don't require those changes, I don't think, to deliver a weapon. We could perhaps provide some additional detail in a classified manner."

"Assessing ballistic missile proliferation and its control," report of Center for International Security and Arms Control, Stanford University, November 1991:

"Pakistani F-16 aircraft could be effective nuclear-delivery vehicles even if Pakistan's nuclear warheads are large and heavy."

"Western intelligence sources" cited in U.S. News & World Report, 12 February 1990:

"The sources say Pakistan, in violation of agreements with Washington, is busily converting U.S.-supplied F-16 fighter planes—60 more are scheduled to be sent this year—into potential nuclear-weapons carriers by outfitting them with special structures attached to the plane's underwing carriage. The structure allows the mounting of a dummy under one wing of the F-16 to balance the weight of the bomb under the other wing."

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House Subcommittee, 2 August 1989:

"In order to deliver a nuclear device with any reasonable degree of accuracy and safety, it first would be necessary to replace the entire wiring package in the aircraft. In addition to building a weapons carriage mount, one would also have to re-do the fire control computer, the stores management system, and mission computer software to allow the weapon to be dropped accurately and to redistribute weight and balance after release. We believe this capability far exceeds the state of the art in Pakistan and could only be accomplished with a major release of data and industrial equipment from the U.S."

[Rep. Solarz]—Now, in your testimony, Mr. Hughes, I gather you've said that the F-16s which we have already sold them are not nuclear capable?

[Hughes]—That's right, sir.

[Rep. Solarz]—And the planes we're planning to sell will not be configured in such a way that they could deliver nuclear ordnance?

[Hughes]—That's right, Mr. Chairman.

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House Subcommittee, 2 August 1989:

"None of the F-16s Pakistan already owns or is about to purchase is configured for nuclear delivery. Pakistan, moreover, will be obligated by contract not to modify its new acquisitions without the approval of the United States."

Views attributed to German Intelligence Agency (BND), in Der Spiegel, 24 July 1989:

"The Pakistanis have secretly planned to use the fighter aircraft as a delivery system for their bomb. According to a report by the Federal Intelligence Service (BND), relevant tests have already been successfully concluded. The BND has reported to the Chancellor's Office that, using an F-16 model, the Pakistanis have made wind tunnel tests and have designed the shell of the bomb in a way that allows them to install it underneath the wings. At the same time, the detonating mechanism has been improved, so that the weapon can now be used. According to the BND report, the Pakistanis long ago found out how to program the F-16 on-board computer to carry out the relevant flight maneuvers in dropping the bomb. According to the report from Pullach [BND headquarters], they also know how to make the electronic contact between the aircraft and the bomb."

Sen. John Glenn, letter to President Ronald Reagan, 5 March 1987:

"And I believe we should continue to try to provide assistance to the Afghans. But if the price that must now be paid is acceptance of Pakistani nuclear weapons production along with the continued provision of a 'made in the U.S.A.' delivery system (F-16s), a combination certain to ultimately erode the national security of the United States and some of its closest allies, then the price is too high."

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

[Sen. Hayakawa]—"Do the F-16's provide Pakistan with a delivery system for nuclear device?"

[Bukcley]—"Yes they would. But by the same token, that is not the only aircraft that would have that capability. My understanding is that the Mirage III currently possessed by Pakistan, would have the capability of delivering a small nuclear device."

E.F. Von Marbod, Director of Defense Security Assistance Agency, testimony before two House subcommittees, 16 September 1981:

[Solarz]—"I gather the F-16's are technically capable of carrying nuclear weapons. Will the F-16's supplied Pakistan be able to carry nuclear weapons?"

[Von Marbod]—"Mr. Solarz, all nuclear capabilities will be deleted from these F-16's. All wiring to the pylons, all computer software programs that manage the hardware stores and all cockpit controls that are nuclear-related."

THE BOMB VS. BUTTER: PAKISTAN'S ULTIMATE CHOICE

From the New Book of World Rankings, third edition, 1991:

"Pakistan displays all the negative characteristics of an underdeveloped economy: a rigid, highly stratified and largely illiterate society; overdependence on agriculture; and limited infrastructure and natural resources."

Some basic facts from the United Nations Development Programme Human Development Report 1992:

Pakistan is listed as only 120th out of 160 nations in terms of human development. The nation's Human Development Index is only 0.305 (out of 1).

Pakistan's GNP per capita was a mere $370 in U.S. dollars. 30%, or 36.7 million Pakistanis live below the U.N. poverty line.

Life expectancy at birth is a mere 57.7 years.

Out of 1000 Pakistani infants born, 104 of them (over 10%) will die within a year; 6 out of 1000 mothers will die in childbirth. 158 out of 1000 Pakistani children (over 15%) will die before they are 5 years of age—860,000 in the past year alone. 12,000,000 children (52% of all Pakistani children) are malnourished; 42% of the children are malnourished badly enough to cause stunted growth.

55 million Pakistanis (45%), have no access to either health services or safe drinking

water. Over 100 million Pakistanis (82%) have no access to sanitation.

43.5 million Pakistani adults (65%) are illiterate. Divided by sexes, 53% of Pakistani males (17.2 million) are illiterate; 79% of Pakistani females (26.3 million) are illiterate. The average Pakistani receives only 1.9 years of schooling; males receive an average of 3 years, while females receive only 0.7 years of schooling. The latter figure is the same amount of schooling received by women in Ethiopia.

Some basic rankings from the New Book of World Rankings, third edition, 1991:

Pakistan ranks only 144th out of 170 nations on the Physical Quality of Life Index, below nations such as Bangladesh and Haiti.

Pakistan ranks 148th among nations in terms of literacy.

The country is 14th from the bottom in terms of access to sanitation.

The nation is currently 8th from the bottom in terms of primary school enrollment, and 18th from the bottom in school population-teacher ratios.

Pakistan's spending priorities, as reported by the United Nations Development Programme Human Development Report 1992:

Pakistan spends a mere 0.2% of its GNP on health care and public health programs.

Pakistan spends a mere 2.6% of its GNP on education.

6.7% of Pakistan's GNP is devoted to the military. Overall, national military expenditure is 2.4 times that of health and education expenditures combined. In 1990 alone, Pakistan imported $2.693 billion worth of arms; more than 19 times that of "social development" imports. Pakistani soldiers outnumber teachers by 1.5 to 1; they outnumber physicians by 10 to 1.

World rankings of these priorities, as reported by the New Book of World Rankings, third edition, 1991;

Pakistan's public health expenditures per capita are the eighth lowest in the world (an "astoundingly low" $0.70 per person annually).

Pakistan ranks only 126th in terms of educational spending per capita (a mere $7 per person).

Recent trends in defense expenditures according to Finance Minister Sartaj Aziz, press conference covered by Agence France Press, 17 May 1992:

In 1992, Pakistan has raised its defense budget by 8.4% to 82 billion rupees ($3.44 billion).

In 1992, Pakistan's defense spending amounts to 8% of GDP and nearly 27% of total federal government expenditure, according to official figures.

Minister Aziz: "I would be the first man to ask for reducing defence expenditure and diverting funds to the neglected social sectors."

[From the Herald Tribune, June 26, 1992]

ON PROLIFERATION LAW, A DISGRACEFUL FAILURE

(By John Glenn)

WASHINGTON.—It is no secret that I have been at odds with the Reagan and Bush administrations over their record in preventing the spread of nuclear weapons.

I have stated publicly my dismay over the direction taken first by President Ronald Reagan and then by President George Bush in providing aid and arms to Pakistan without requiring concrete actions to stop the Pakistani bomb program, and in building up Saddam Hussein's ability to mount a nuclear and missile threat.

But an examination of the record suggests that there is more than a political or policy dimension to our disagreement. I now believe that actions taken and not taken by the Reagan and Bush administrations in the area of nuclear nonproliferation amount to a pattern of willful misinterpretation of U.S. laws.

Some years ago, Senator STUART SYMINGTON and I amended the Foreign Assistance Act to require a cutoff of economic and military assistance to any country that, after 1977, imported or exported unsafeguarded nuclear enrichment or reprocessing materials, equipment or technology.

Since then only one nation, Pakistan, has been found by a U.S. president to be in violation of this law. America first cut off aid to Pakistan in September 1977, for a reprocessing-related violation. It did so again in April 1979 for a violation of the enrichment provision.

But after the Reagan administration took office in 1981, the law was changed to permit the flow of assistance to Pakistan during the war between the Soviet Union and the Afghan rebels. Over the next decade, aid to Pakistan amounted to more than $4 billion, including the delivery of 40 F-16 fighter planes—an excellent nuclear weapons delivery system—with no assurances that Pakistan would end or reverse its nuclear weapons program.

Indeed, the Reagan administration at one point, publicly parroting the Pakistanis' claim that their nuclear program was peaceful, pressured Congress to change the law—in effect, simply to repeal it—so that aid could be provided to Pakistan. Congress refused, instead moving to suspend the law for a limited time while drawing a new line (no nuclear testing) that Pakistan could not cross without suffering an aid cutoff.

In 1985, following reports that the Pakistani program was progressing, Congress drew a tighter line, the Pressler amendment, that required the president to certify that Pakistan did not possess a nuclear explosive device and that the provision of U.S. aid would reduce significantly the risk of its getting one. The Pressler amendment also stated that such a cutoff would mean "no military equipment or technology shall be sold or transferred to Pakistan."

What does the record show about the Bush and Reagan commitment to nonproliferation in this case?

In 1981, when U.S. aid began to flow, Pakistan had not produced bomb-grade nuclear material, nor had it manufactured bomb components or repeatedly violated U.S. nuclear export control laws and those of U.S allies. All these provocations occurred at the time of maximum U.S. assistance and continued after enactment of the Pressler amendment.

Did Pakistan suffer an aid cutoff as required by the amendment? No. The deliveries of F-16s and other equipment continued. President Reagan continued to certify annually that Pakistan did not "possess" a nuclear device and (despite all the evidence to the contrary) that continued U.S. assistance would reduce the risk of such possession—this although India had concluded by 1987 that Pakistan had the ability to assemble such a device easily and quickly.

Four years ago, reports were circulating that high-level analysts in U.S. intelligence agencies could not support another presidential certification of aid for Pakistan. Yet in October 1989, President Bush again certified that Pakistan did not possess a nuclear explosive device and that U.S. aid was "reducing incentives and creating disincentives" for acquisition of nuclear explosives.

This disgraceful policy failure appeared to have ended in October 1990, when Mr. Bush finally admitted what had become evident: The president could not certify that the Pakistanis did not have the bomb, and that was tantamount to saying they had it. And nine years of U.S. assistance had helped Pakistan release funds for its nuclear weapons program and given it the means for delivering the weapons.

Shockingly, testimony by Secretary of State James Baker this year revealed that the administration has continued to allow Pakistan to purchase munitions through commercial transactions, despite the explicit, unambiguous intent of Congress that "no military equipment or technology shall be sold or transferred to Pakistan." These sales may have included spare parts for F-16 aircraft.

These facts alone would be enough to destroy any credibility possessed by this administration and the previous one on the issue of nuclear nonproliferation. Unfortunately, there is more (the details are beyond the scope of this article), including a failure to apply the Glenn-Symington amendment to Turkey despite that country's involvement in helping Pakistan acquire sensitive equipment for enriching uranium.

The Reagan and Bush administrations have practiced a nuclear nonproliferation policy bordering on lawlessness. They have undermined the respect of other countries for U.S. law and have done great damage to the nuclear nonproliferation effort.

Keep this in mind the next time someone in the administration extols the need for military action to deal with some power-hungry dictator seeking to acquire nuclear weapons.

PROCLAMATION OF RETIREMENT

Mr. BUMPERS. Mr. President, today I extend my appreciation to Sam Hindsman who, after many years of working hard for the State of Arkansas, has earned the right to enjoy his retirement.

Sam Hindsman has made many important leadership contributions to the State of Arkansas in his 45 years as a resident. He served as head basketball coach and instructor of physical education at the University of Central Arkansas from 1944 to 1947. In 1947, Sam joined the faculty of Arkansas Tech University in Russellville, where he became head coach of the department of health, physical education and recreation. He achieved the rank of full professor, and was also head basketball coach from 1947 to 1966. During this term, Sam Hindsman won many championships, awards, and honors and received the first NAIA "Coach of the Year" award in 1954 and was inducted into the Arkansas Sports Hall of Fame in 1981.

For 19 years, Sam has overseen the activities of the weights and measures division and the laboratory standards division for the State of Arkansas. In 1977, 1979, and 1981, he was selected by the Office of Weights and Measures, National Bureau of Standards, as a delegate from the United States to the OIML meetings in Paris, France. In ad-

dition, Sam was elected chairman of the National Conference on Weights and Measures in 1984 and played a vital role in producing and developing a petroleum testing program and laboratory facility that is highly acclaimed in the United States. Despite all these responsibilities, Sam and his wife, Marylou, still found the time to raise five children and numerous grandchildren.

Today I am honored to recognize Sam Hindsman for his many years of valuable service to the great State of Arkansas and wish him and his family a very happy and fulfilling future.

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill:

H.R. 3243. An act to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas.

ENROLLED BILLS SIGNED

At 4:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4026. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 131. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the House of Representatives has passed the following bill:

S. 12. An act to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times, and referred as indicated:

H.R. 3243. An act to direct the Administrator of the Federal Aviation Administration to publish routes on flight charts to safely guide pilots operating under visual flight rules through and in close proximity to terminal control areas and airport radar service areas; to the Committee on Commerce, Science and Transportation.

The following bills were referred on July 30, 1992:

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations; and

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1581. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance technology transfers for works prepared under certain cooperative research and development.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 3114. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 102-352).

By Mr. DECONCINI, from the Committee on Appropriations, with amendments:

H.R. 5488. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-353).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2766. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes (Rept. No. 102-354).

By Mr. SASSER, from the Committee on Appropriations, with amendments:

H.R. 5428. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-355).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 3114. An original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. FOWLER:

S. 3115. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands through the implementation of a legal minimum bid, to require site-specific identification of national forest lands that are economically unsuitable for timber harvesting, to remove those lands from the base of suitable timber and make associated adjustments in the allowable sale quantity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR (for himself and Mr. FOWLER):

S. 3116. A bill to amend the Egg Amend Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this Act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. GRASSLEY, Mr. NICKLES, Mr. BOND, Mrs. KASSEBAUM, Mr. MCCONNELL, and Mr. DURENBERGER):

S. 3117. A bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. MURKOWSKI, Mr. AKAKA, and Mr. BURDICK):

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CONRAD (for himself, Mr. HEFLIN, Mr. DASCHLE, Mr. WELLSTONE, Mr. KERREY, Mr. BUMPERS, and Mr. HARKIN):

S. 3119. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. KENNEDY, Mr. DOLE, Mr. MITCHELL, Mr. PELL, Mr. HELMS, Mr. LUGAR, Mr. WOFFORD, Mr. MCCONNELL, Mr. LEAHY, Mr. DURENBERGER, Mr. LEVIN, Mr. GORE, Mr. COCHRAN, Mr. SANFORD, Mr. WELLSTONE, Mr. CHAFEE, Mr. DODD, Mr. DECONCINI, Mr. HARKIN, Mr. KERRY, Mr. RIEGLE, Mr. BIDEN, Mr. CRANSTON, Mr. LIEBERMAN, Mr. HATFIELD, Mr. ROBB, Ms. MIKULSKI, Mr. MOYNIHAN, and Mr. DANFORTH):

S. Con. Res. 132. A concurrent resolution expressing the sense of the Congress regard-

ing the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FOWLER:

S. 3115. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands through the implementation of a legal minimum bid, to require site-specific identification of national forest lands that are economically unsuitable for timber harvesting, to remove those lands from the base of suitable timber and make associated adjustments in the allowable sale quantity, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOREST TIMBER SALES COST RECOVERY ACT OF 1992

Mr. FOWLER. Mr. President, I rise again today to introduce legislation to restore sound economic and ecological management of our National Forest System.

Our citizens are more concerned than ever about our dwindling natural heritage. They are demanding better stewardship of our natural resources. At the same time, they are crying out for fiscal responsibility in Government.

This legislation addresses all these goals.

The political leadership of the U.S. Forest Service, on the other hand, has grudgingly resisted every reform demanded by the American people. If the Forest Service had its way, it would expand its timber programs, add to its 360,000 miles of forest roads, turn forests into tree farms and sell off our natural birthright at a loss to the taxpayers.

This is exactly the sort of short-sighted management and special interest giveaway the American people are so tired of.

The Forest Service admits that more than half of our national forests lose money on the Forest Service-administered timber sales—meaning that woodland resources and wildlife habitats disappear, along with taxpayer funds from the Treasury.

When the total costs of roadbuilding and bureaucratic overhead are figured in, many more of these timber sales come up losers for the American people, economically and ecologically. One study challenging Forest Service figures claims that timber sales in 101 of our National Forests generate $350 million in losses every year for the American taxpayer.

The American people pay more, and end up with less.

For too long, the Forest Service has obscured this reality by counting increased runoff from logging sites as an economic benefit—when the real results are increased erosion, stream siltation and the decimation of salmon and other fish populations.

The Forest Service has factored in wildlife benefits from increased numbers of blue jays and squirrels—when the rare and endangered species that require the deepest woodland habitats and the greatest protection are the most threatened by Forest Service logging operations.

The truth is—no matter how many fictional benefits we add in, or how many negative consequences we ignore, most sales in our National Forest do not cover the Government's cost of producing the timber.

It is time for an honest accounting, and responsible management of the public trust our national forests represent. That means no more ecological destruction at taxpayer expense. That means timber sales conducted according to sound business practices that do not depend on taxpayer subsidies. That means weaning the Government off of this wasteful giveway.

This legislation will establish a minimum bid price for timber sales in our National Forests. That minimum must cover all the costs associated with the timber sale, including roadbuilding and stand management.

In fiscal years 1993, 1994, and 1995, the Forest Service would not be allowed to sell more than 75 percent of the previous year's sales below the minimum bid price. In fiscal year 1996, that figure would drop to 65 percent. By the end of fiscal year 1997, all timber sold in our country's national forests would have to meet the minimum bid requirement.

This will force the Forest Service to consider the real costs of selling off our public forestlands. It should steer the Forest Service toward sounder management practices. It will get us on the road to eliminating timber sales that cannot be supported by the bottom line in these days of budget deficits. And it will force the Forest Service to start making the most of the taxpayers' investment in these forest resources.

Ideally, we will see the U.S. Forest Service at the forefront of the fight to protect our forests from excessive timbering and roadbuilding, to ensure wildlife diversity and the survival of threatened woodland species, and to preserve some semblance of the scenic grandeur and natural wonder of our forests for our children.

By Mr. PRYOR (for himself and Mr. FOWLER):

S. 3116. A bill to amend the Egg Research and Consumer Information Act, to accomplish an expansion of exemption eligibility from assessments under this act and to authorize increased assessment rates if approved by producers; to the Committee on Agriculture, Nutrition and Forestry.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1992

Mr. PRYOR. Mr. President, I rise today to introduce a bill to amend the Egg Research and Consumer Information Act, a statute that authorizes research, food safety and consumer education programs to be conducted by the American Egg Board.

If enacted, my bill would do two things: first, it would raise the exemption level on egg producers' assessment from those having 30,000 laying hens to those who have 50,000. Second, it would enable producers to vote on an increased assessment for the American Egg Board, which could never exceed 30 cents per case.

The American Egg Board has allocated over $1 million this year for research at respected institutions, like Columbia University and the University of Washington at Seattle, to learn more about the relationship between egg consumption and blood cholesterol levels.

In addition to research activity, AEB has created and established education programs to teach egg safety and handling procedures to foodservice operators to help reduce the risk of illness from food contamination in hospitals, nursing homes and other institutions. Consumers also receive positive and truthful egg information through distribution of thousands of leaflets and media publicity campaigns.

Mr. President, in the past, I have supported the Egg Research and Promotion Program and other similar commodity programs because they represent an excellent example of producers of agricultural commodities helping themselves. Rather than seeking assistance from the Federal Government, producers collectively assess themselves to help maintain and expand the market for their products, educate and inform consumers, and conduct vital research. All of these activities are important for market stability and future growth. They enable hundreds of small producers of agriculture commodities to accomplish cooperatively that which they would never be able to do individually. These programs provide agriculture producers with the opportunity to compete more effectively with major food companies in expanding the market for their commodity.

Mr. President, I ask that this bill and a detailed description of this bill be printed in the RECORD.

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

S. 3116

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 "Egg Research and Consumer Information Act Amendments of 1992".

SEC. 2. AMENDMENTS RELATING TO RATE OF ASSESSMENT.

(a) AMENDMENTS TO SECTION 8.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended by—

(1) designating the first and second sentences as paragraph (1);

(2) designating the fifth and sixth sentences as paragraph (3); and

(3) striking out the third and fourth sentences and inserting in lieu thereof the following new paragraph:

"(2) The rate of assessments shall be prescribed by the order, and shall not exceed 30 cents per case of commercial eggs or the equivalent thereof. The order may be amended to change the rate of assessment if recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b)."

(b) AMENDMENTS TO SECTION 9.—Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended by—

(1) designating the first two sentences as subsection (a);

(2) designating the last sentence as subsection (c); and

(3) inserting after subsection (a), as designated under paragraph (1), the following new subsection;

"(b)(1) Whenever the Egg Board determines, based on scientific studies, marketing analysis, or other similar competent evidence, that an increase in assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the declared policy of this Act, the Egg Board may request that the Secretary conduct a referendum, as provided in paragraph (2).

"(2) When requested by the Egg Board under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt hereunder who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether such producers approve the change in the assessment rate proposed by the Egg Board. The change in the assessment rate shall take effect if approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of all the commercial eggs produced by those voting during a representative period defined by the Secretary.

"(3) With respect to the order in effect on the date of the enactment of this subsection, the Egg Board shall undertake to determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2). If the Egg Board makes such a request on competent evidence, as provided in paragraph (1), the Secretary shall conduct such referendum as soon as practicable, but not later than 3 months after receipt of such request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, whenever an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum under this subsection, the Secretary shall amend the order as appropriate to reflect such vote of producers; and such amendment to the order shall become effective on the date it is issued.".

SEC. 3. AMENDMENT RELATING TO EXEMPT PRODUCERS.

Section 12(a)(2) of the Egg Research and Consumer Information Act (7 U.S.C. 2711) is amended by striking out "30,000 laying hens" and inserting in lieu thereof "50,000 laying hens."

SEC. 4 AMENDMENT TO EGG PROMOTION AND RESEARCH ORDER.

Notwithstanding any other provision of law:

(a) AMENDMENT.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. Such amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to such order not later than 30 days after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by subsection (a) shall become effective no later than 90 days after the date of the enactment of this Act, and shall not be subject to a referendum under the Egg Research and Consumer Information Act.

SHORT SUMMARY

This legislation to amend the Egg Research and Consumer Information Act will accomplish two primary goals: It will expand eligibility for exemption from assessments under the Act and authorize increased assessment rates if approved by egg producers.

Specifically, the bill will do the following:

(1) It will increase the trigger level for exemption from assessments under the egg promotion and research order. Currently, the Act provides that any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date of assessment has not exceeded 30,000 laying hens will be exempt from specific provisions of the Act (such as assessment requirements). The bill will increase that exception trigger level from 30,000 laying hens to 50,000 laying hens.

(2) It will authorize the Egg Board to request increases in assessment rates, and provide for a referendum of producers on any such request, as follows:

(a) The Board could request a change in assessment rates if it determines (based on scientific studies, marketing analyses or other competent evidence) that a change in assessment rates is necessary to achieve the policy goals of the Act.

(b) The Board can request a change in the assessment rate under the order of any amount, increase or decrease, except that in no case could the assessment rate ever exceed 30 cents per case.

(c) The Secretary would be required to conduct a referendum on any change requested by the Board and the change would go into effect only if approved by two-thirds of the producers voting in the referendum or a majority of those voting if they produced not less than two-thirds of the commercial eggs produced during a representative period (this requirement remains unchanged from current law).

(d) Specifically, the Board would be required to determine, as soon as practicable after enactment of the bill, whether a change in the assessment rate is needed. If the Egg Board requests this initial change in assessments the Secretary would have to conduct the referendum within three months. (Sec. 2.)

(3) The Secretary would be required to implement these changes in the egg promotion and research program by an amendment to the order (without a referendum) effective not later than 90 days after enactment of the bill. (Sec. 4)

By Mr. DOLE (for himself, Mr. GRASSLEY, Mr. NICKLES, Mr. BOND, Mrs. KASSEBAUM, Mr. MCCONNELL, and Mr. DURENBERGER):

S. 3117. A bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals; to the Committee on Finance.

SMALL RURAL HOSPITALS AMENDMENTS

Mr. DOLE. Mr. President, this year the topic of health care is dominating many of our political debates and campaign rhetoric. Just about everyone is running around talking about expanding talking about expanding access to health care in the United States. I, too, share in this concern, as I have throughout my career in public life. But, today, Mr. President, I am introducing a bill, the intention of which is not the expansion of access, but the preservation of access to health care in rural areas.

In 1989, Congress was responsive to the disproportionate financial hardship which many rural hospitals were facing by enacting legislation that provided an opportunity for small rural hospitals to have a special adjustment in the way they are reimbursed by Medicare. Since its enactment in 1989, over 500 rural hospitals in 40 States have been eligible for a higher payment rate under the Medicare-dependent hospital provision. This benefit has enabled hospitals to provide outreach services to rural populations and to continue to offer vital diagnostic, medical, and surgical facilities and services to the residents of these rural areas. Unfortunately, in March 1993, the medicare dependent hospital provision will expire.

Mr. President, if, because of budgetary restraints, these rural hospitals are forced to reconsider the degree and level of services offered to area residents—or in some cases—to close their doors altogether—citizens in these areas would be forced to travel great distances to obtain critical health care services or be compelled to sacrifice services entirely in some instances. Traveling may be an option which represents a significant hardship for our elderly and disabled populations and their families. Furthermore, to create a situation where individuals must forego services is, frankly, poor health policy.

The bill that I am offering today, along with Senators GRASSLEY and DANFORTH will allow Medicare dependent hospitals to benefit from the provision for 3 full years and will then be phased down until such time as the urban-rural payment differential expires.

Mr. President, it is my belief that the extension of the Medicare dependent

hospital provision is vital to the continued supply of health care services in rural areas. I urge my colleagues to support this effort and vote in favor of this bill.

Mr. President, I ask that the following tables be printed in the RECORD.

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

TABLE 1.—OPTION FOR MEDICARE-DEPENDENT HOSPITALS [1]

[Increase in PPS payments in millions of dollars]

	Fiscal year—						
	1992	1993	1994	1995	1996	1997	Total 1992–1997
Incurred	12	75	48	0	0	0	135
Outlays	6	75	50	6	0	0	135

[1] OPTION: NOW provisions extended through September 30, 1994. For cost-reporting periods ending on or before March 31, 1994, payment equals full NOW amount, for discharges after that, payment equals the regular PPS amount plus one-half the differences between the full amount and the regular PPS amount.

Source: Preliminary estimate by the Congressional Budget Office.

TABLE 2.—ILLUSTRATION OF HOW THE OPTION FOR MEDICARE-DEPENDENT HOSPITALS WORKS FOR HOSPITALS WITH DIFFERENT COST-REPORTING FLORIDA

Fiscal year, month and year	Hospital's cost-reporting period beginning month											
	April	May	June	July	August	September	October	November	December	January	February	March
1990:												
April 1990	X											
May 1990	X	X										
June 1990	X	X	X									
July 1990	X	X	X	X								
August 1990	X	X	X	X	X							
September 1990	X	X	X	X	X	X						
1991:												
October 1990	X	X	X	X	X	X	X					
November 1990	X	X	X	X	X	X	X	X				
December 1990	X	X	X	X	X	X	X	X	X			
January 1991	X	X	X	X	X	X	X	X	X	X		
February 1991	X	X	X	X	X	X	X	X	X	X	X	
March 1991	X	X	X	X	X	X	X	X	X	X	X	X
April 1991	XX	X	X	X	X	X	X	X	X	X	X	X
May 1991	XX	XX	X	X	X	X	X	X	X	X	X	X
June 1991	XX	XX	XX	X	X	X	X	X	X	X	X	X
July 1991	XX	XX	XX	XX	X	X	X	X	X	X	X	X
August 1991	XX	XX	XX	XX	XX	X	X	X	X	X	X	X
September 1991	XX	XX	XX	XX	XX	XX	X	X	X	X	X	X
1992:												
October 1991	XX	XX	XX	XX	XX	XX	XX	X	X	X	X	X
November 1991	XX	XX	XX	XX	XX	XX	XX	XX	X	X	X	X
December 1991	XX	XX	XX	XX	XX	XX	XX	XX	XX	X	X	X
January 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	X	X
February 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	X
March 1992	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
April 1992	XXX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
May 1992	XXX	100%	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
June 1992	XXX	100%	100%	XX	XX	XX	XX	XX	XX	XX	XX	XX
July 1992	XXX	100%	100%	100%	XX	XX	XX	XX	XX	XX	XX	XX
August 1992	XXX	100%	100%	100%	100%	XX	XX	XX	XX	XX	XX	XX
September 1992	XXX	100%	100%	100%	100%	100%	XX	XX	XX	XX	XX	XX
1993:												
October 1992	XXX	100%	100%	100%	100%	100%	100%	XX	XX	XX	XX	XX
November 1992	XXX	100%	100%	100%	100%	100%	100%	100%	XX	XX	XX	XX
December 1992	XXX	100%	100%	100%	100%	100%	100%	100%	100%	XX	XX	XX
January 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	XX	XX
February 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	XX
March 1993	XXX	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
April 1993	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
May 1993	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
June 1993	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%	100%
July 1993	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%	100%
August 1993	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%	100%
September 1993	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%	100%
1994:												
October 1993	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%	100%
November 1993	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%	100%
December 1993	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%	100%
January 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%	100%
February 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	100%
March 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
April 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
May 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
June 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
July 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
August 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
September 1994	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%

Notes.—Table applies to hospitals with 12-month cost-reporting periods that begin on the first day of the month. "X" "XX" and "XXX" indicate that Medicare-dependent hospital (MDH) payments apply under current law. "100%" indicates that, under the option, an MDH would receive the full MDH payment amount. "50%" indicates that, under the option, an MDH would receive a payment equal to the regular PPS amount plus ½ of the difference between the full MDH amount and the regular PPS amount.

Mr. MCCONNELL. Mr. President, I am pleased to be a cosponsor of the bill introduced by the minority leader. Once again, Senator DOLE has demonstrated his commitment to providing health care to all Americans—particularly those in rural areas.

In 1989, Congress passed the Medicare dependent hospital provision, which allowed over 500 hospitals in 40 States to receive special adjustment in Medicare reimbursement rates. In Kentucky, 10 hospitals have benefited from this provision, including the Allen County War Memorial Hospital in Scottsville and the Cumberland County Hospital in Burkesville.

I think everyone in this Chamber appreciates the special needs associated with rural medical care. Two weeks ago, I participated in a health care forum in eastern Kentucky where the importance of rural care was echoed by educators, doctors, hospital administrators, and concerned citizens. There is no doubt in my mind health care reform is a top priority to rural America.

The Medicare dependent hospital provision is set to expire in March 1993. The bill introduced by my colleague from Kansas will provide the funding for 3 full years, after which it will be phased down until the urban-rural payment differential expires.

Mr. President, I commend Senator DOLE for introducing this legislation which is of great importance to rural

hospitals, and I urge my colleagues to support this bill.

By Mr. CONRAD (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. MURKOWSKI, Mr. AKAKA, and Mr. BURDICK):

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN BUSINESS OPPORTUNITIES ENHANCEMENT ACT

• Mr. CONRAD. Mr. President, today I am pleased to be joined by the chairman and vice chairman of the Select Committee on Indian Affairs, Senator INOUYE and Senator MCCAIN, as well as Senators SIMON, MURKOWSKI, AKAKA, and BURDICK in introducing the Indian Business Opportunities Enhancement Act.

Mr. President, the proposal we are introducing makes much-needed changes in the Buy Indian Act, which was enacted in 1910. That act provides a contracting preference for Indian-owned business enterprises that wish to compete for bidding opportunities. The preference is authorized, but not required, on contracts let by the Bureau of Indian Affairs and the Indian Health Service where moneys are appropriated "for the benefit of Indians."

During the 101st Congress, the need for significant amendments to the Buy Indian Act became apparent during hearings by the Special Committee on Investigations. The special committee, which was established by the Select Committee on Indian Affairs, conducted an investigation of fraud, corruption and mismanagement in American Indian affairs. The investigation revealed that a number of unscrupulous front companies were taking improper advantage of Indian entrepreneurs and Federal contracting preferences. Over the years, it has also become clear that the Buy Indian Act is not geared sufficiently to providing real economic development opportunities on Indian reservations.

Therefore, the committee passed S. 321, the Buy Indian Act Amendments of 1989, to reform, update, and improve the two laws involved—the Buy Indian Act and section 7(b) of the Indian Self-Determination Act.

The legislation that we are introducing today continues the effort at change that began in the 101st Congress. Although S. 321 passed the Congress, it was ultimately vetoed by the President. Since that time, staff of the Select Committee on Indian Affairs, Bureau of Indian Affairs representatives, House Interior Committee staff and other interested parties have held numerous discussions and drafting sessions to fashion an acceptable compromise.

The bill is extensive, so I will highlight only a few of its most notable provisions.

First, the bill focuses the Buy Indian Act on reservation economic development. It helps ensure that Buy Indian contract dollars will be spent in a way that not only provides opportunities for business entrepreneurs, but also provides an economic benefit to impoverished reservations.

Second, the bill sets aside for small businesses all Buy Indian contracts below $1 million. According to the BIA, one large Buy Indian contractor consistently receives nearly 50 percent of the dollar value of all BIA construction contracts in most years. In fiscal year 1992, that contractor received nearly 80 percent. This provision will prevent a single contractor from monopolizing Buy Indian Act opportunities.

Third, the bill addresses the prompt payment concerns of Buy Indian contractors by directing contracting agencies to adhere to the requirements of the Federal Prompt Payment Act. The bill also provides for the creation of an alternative dispute resolution framework to ensure that conflicts can be resolved before contractors are brought to the edge of bankruptcy.

Fourth, the bill creates a bonding demonstration project within the BIA and, as a last resort, authorizes contracting officers to waive the Miller Act on low-dollar contracts.

Fifth, the bill creates an Office of Indian Business Utilization within the Department of the Interior as the primary Federal entity responsible for administering the act. The office would, among other things, conduct periodic random investigations of self-certified Buy Indian contractors, investigate complaints that Buy Indian requirements are being ignored or improperly applied, and certify joint venture arrangements.

Finally, in an effort to compromise with the Bush administration, the bill abandons the formal certification requirements of S. 321. In its place is an enhanced self-certification process using spot checks to investigate the eligibility of individual Indian preference enterprises, criminal penalties, and weighted preferences for Indian preference enterprises that provide tangible benefits to reservation communities. Furthermore, the bill authorizes interested parties such as Indian tribes to challenge the self-certification of questionable Indian preference enterprises.

I, along with many of my colleagues on the committee, hope to move expeditiously to pass this bill. We still await the administration's position, but understand that it is forthcoming. We hope that the administration will act quickly so that this important legislation can be enacted this year.•

By Mr. CONRAD (for himself, Mr. HEFLIN, Mr. DASCHLE, Mr. WELLSTONE, Mr. KERREY, Mr. BUMPERS, and Mr. HARKIN):

S. 3119. A bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

USDA NATIONAL APPEALS DIVISION ACT OF 1992

• Mr. CONRAD. Mr. President, I am introducing a bill, cosponsored by Senators HEFLIN, DASCHLE, WELLSTONE, KERREY, BUMPERS, and HARKIN to establish a fair, objective, streamlined appeals process for five USDA agencies. The bill is entitled the USDA National Appeals Division [NAD] Act of 1992.

This bill will consolidate appeals systems of the Agricultural Stabilization and Conservation Service [ASCS], the Commodity Credit Corporation [CCC], the Farmers Home Administration [FmHA], the Rural Development Administration [RDA], previously part of FmHA, and the Soil Conservation Service [SCS]. Congressman ESPY is introducing companion legislation in the House today.

Many Members are familiar with the serious problems their constituents have with the appeals systems of these agencies, particularly FmHA, RDA, and ASCS. This legislation would resolve those problems. It would establish a fair, objective appeals process in which the public could have confidence. It would improve the quality of ASCS, CCC, FmHA, and SCS decisions. It would streamline the appeals process for farmers and consolidate the administrative costs of three appeals systems into one.

NAD would be very similar in structure and purpose to the current FmHA-NAS, and have many of the same authorities as the ASCS-NAD. Here's how it would work. Appellants of ASCS, SCS, and CCC adverse decisions would first have informal hearings before the relevant county or State committees, or other ASCS or SCS employees—when applicable. This bill would make no change in the current county or State committee appeals process. Appellants of FmHA and RDA adverse decisions would have an informal meeting with the FmHA of RDA decisionmaker after requesting a NAD appeal hearing, but prior to that hearing.

If appellants are not satisfied with the decisions under the informal hearing or meeting process, they could proceed to the NAD appeals process. The NAD appeals process would consist of a hearing before a NAD hearing officer in the State, which could be conducted over the telephone, and an optional review of the hearing officer's determination by the NAD Director if requested by the appellant. Appellants who are appealing multiple agencies' adverse decisions could appeal them all at once, at one hearing.

If the head of the agency which issued the original adverse decision as-

serted that the NAD determination on that adverse decision violated law or regulations, he or she could also request a review of that determination by the NAD Director. The NAD's final determination would be administratively final, conclusive, and binding on the relevant agency, and would have to be implemented within 30 days.

While NAD would be very similar to the current FmHA-NAD and ASCS-NAD, it would have some essential differences. It would be independent of program officials and employees who make and implement policy. Thus, it would eliminate the inherent conflict of interest that currently exists when an agency head both runs a program and can issue final determinations on appeals of adverse decisions of the agency. This conflict of interest is deepened by the fact that currently the head of each of these agencies controls the regulation process for their respective appeals systems, determines which adverse decisions are appealable, and evaluates the job performance of the directors of the ASCS and FmHA appeals system. In addition, as I learned last year in my hearing on the FmHA-NAS, the appeals system directors cannot testify independently before Congress, but must have their testimony cleared by the agency head.

Mr. President, there is no independence for these appeals systems. Under my bill, there would be clear independence. NAD staff would be free to make determinations based on the law and regulations, without pressure from agency officials and employees. These decisions will be administratively final.

Giving an appeals system this independence and authority to issue administratively final decisions is not a new concept. There are numerous other Federal appeals systems which have such independence and authority. Examples of such systems include the administrative review staff of the USDA Food and Nutrition Service, the State Food Stamp Appeals Board, the Financial Assistance Appeals Board of the Department of Energy, the Social Security Appeals Council, and the Benefits Review Board of the Department of Labor.

This bill would improve the appeals process in other ways. It would provide one-stop shopping for appellants who are appealing multiple agencies' adverse decisions, because they may appeal them all at one hearing.

It would make the NAD determinations administratively final, and require their implementation, so that an agency cannot delay implementation or overturn a decision months, or more than a year, after an appeals determination is made.

It would stop the revolving door where an appellant wins an appeal, but then is denied by an agency again for the same reasons, and must appeal again.

It would clearly spell out accountability, by requiring that job performance criteria for agency employees include their responsibility for causing unnecessary appeals or failing to implement decisions, and requires sanctions against employees who perform poorly.

ASCA, SCS, FmHA, and RDA have over 7,700 county offices, as well as numerous State and district offices. Officials, employees, and committee members in these offices issue hundreds of thousands of decisions annually. SCS decisions will become increasingly important as farmers try to comply with conservation laws, and as the penalties for violations become increasingly harsh. Ensuring that quality decisions are issued is a continuous challenge.

Because NAD's staff would review agencies' program decisions daily, NAD would be an ideal resource for identifying problems with the implementation of the law and regulations by the agencies. This bill would allow NAD to issue reports on such problems to be used to improve program quality in all these agencies. This kind of objective review of field decisions will improve the quality of the agencies' decisions and is crucial to ensure that participants are treated fairly, equitably and consistently around the country.

Current statutes prohibit courts from reviewing ASCS findings of facts and determinations. That is, if ASCS finds that the Earth is flat, the courts cannot overturn that finding. These archaic statutes were enacted prior to the Administrative Procedures Act [APA], which generally makes all executive agency decisions reviewable to courts. This bill would bring the ASCS up to the APA age, by making its findings of fact and determinations reviewable by courts.

This bill would also allow USDA State-certified mediation programs to mediate disputes involving wetland determinations, farm program compliance, farm creditors, rural water loans, grazing on national forest lands, and pesticides. It would also allow a Federal match of up to 70 percent of the cost of the programs, to help States unable to meet the current 50 percent match requirement. These programs are very successful, and their expanded use will result in cost effective resolutions of a variety of agricultural disputes.

Mr. President, some will say that this legislation is not needed. They will say that the current appeals systems are working fine. They will say if appellants feel they have not received fair, objective reviews of adverse decisions, they already have a remedy. They can sue the Government.

Mr. President, I do not believe that is a responsible answer to a very serious problem. That is not the way Government should operate. Many of the farm program participants, particularly FmHA and RDA borrowers, do not have the money to sue the Government. In fact, FmHA controls the annual crop income of many FmHA borrowers, and can deny the release of funds for attorneys fees. Such borrowers, and many other farm program participants have no recourse in reality if the Government fails to implement the law. Government is here to serve the people fairly, and to implement the law and regulations correctly. It is not to run unimpeded by the law and regulations because the public it serves cannot afford to appeal to the courts to correct wrongful Government actions.

Mr. President, the Government and the public will both benefit from the establishment of a fair, rational, objective appeals process. We urge our colleagues to support this badly needed legislation. I ask unanimous consent that the text of the bill, a short summary, and a section-by-section summary be included after my statement.

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

S. 3119

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "USDA National Appeals Division Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. National Appeals Division.
Sec. 4. Notice and opportunity for hearing.
Sec. 5. Informal hearings and meetings; appealable decisions.
Sec. 6. Access to materials.
Sec. 7. Hearings.
Sec. 8. Administrative appeal review.
Sec. 9. Judicial review.
Sec. 10. Implementation of final determinations of Division.
Sec. 11. Evaluation of employees.
Sec. 12. Prohibition on adverse action while appeal pending.
Sec. 13. Relationship to other laws.
Sec. 14. Authorization of appropriations.
Sec. 15. State mediation programs.
Sec. 16. Conforming amendments.
Sec. 17. Effective date.

SEC. 2. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by a decisionmaker that is adverse to an appellant, including a denial of equitable relief.

(2) AGENCY.—The term "agency" means

(A) the Agricultural Stabilization and Conservation Service;

(B) the Commodity Credit Corporation;

(C) the Farmers Home Administration;

(D) the Rural Development Administration;

(E) the Soil Conservation Service;

(F) a State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); or

(G) a successor to an agency referred to in subparagraphs (A) through (F).

(3) APPELLANT.—The term "appellant" means any person—

(A) whose right to participate in, or receive payments, loans, or other benefits in accordance with, any of the programs administered by an agency is affected by an adverse decision made by a decisionmaker; and

(B) who appeals the adverse decision in accordance with this Act.

(4) DECISIONMAKER.—The term "decisionmaker" means—

(A) an officer or employee of an agency; or

(B) in the case of a State or county committee referred to in paragraph (2)(F), the State or county committee,

who makes an adverse decision that is appealed by an appellant.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this Act.

(7) FINAL DETERMINATION.—The term "final determination" means a determination of an appeal by the Division regarding an appeal that is administratively final, conclusive, and binding.

(8) FINAL DETERMINATION LETTER.—The term "final determination letter" means a written determination on an appeal sent to an appellant under paragraph (1) or (2) of section 7(b) or subsection (d) or (e)(3) of section 8.

(9) HEARING RECORD.—The term "hearing record" means the transcript of a hearing, any audio tape or similar recording of a hearing, and all documents and other evidence presented to a hearing officer.

(10) IMPLEMENT.—The term "implement" means to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination specified in section 7(h)(2).

(11) PARTICIPANT.—The term "participant" means any person whose right to participate in, or receive payments, loans, or other benefits in accordance with, any of the programs administered by an agency is affected by an adverse decision made by a decisionmaker.

(12) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(13) STATE DIRECTOR.—The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

SEC. 3. NATIONAL APPEALS DIVISION.

(a) ESTABLISHMENT.—The Secretary shall establish and maintain a National Appeals Division, within the Office of the Secretary, to carry out this Act.

(b) DIRECTOR.—

(1) IN GENERAL.—The Division shall be headed by a Director, appointed by the Secretary from among individuals with substantial experience in practicing administrative law. The position of the Director shall be a Senior Executive Service position (as defined in section 3132(a)(2) of title 5, United States Code) that shall be filled by a career appointee (as defined in section 3132(a)(4) of such title).

(2) POWERS.—To carry out this Act, the Director shall promulgate procedural regulations and policies governing the conduct of the business of the Division, including the conduct of appeals, the standard of review, the conduct of reviews of appeals, the appeals process, and other actions affecting the procedural rights of appellants, consistent with this Act. The Director shall have the exclusive authority to promulgate the regulations.

(3) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of, and shall not receive administrative support (except on a reimbursable basis) from, any person other than the Secretary.

(4) LEVEL V OF EXECUTIVE SCHEDULE.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, National Appeals Division, Department of Agriculture.".

(c) LEGAL COUNSEL.—The Director may retain legal counsel to advise the Director and hearing officers of the Division with respect to such legal questions as the Director considers appropriate, and otherwise act as an advocate for the agency. Legal counsel shall not serve as counsel to any other division or agency of the Department of Agriculture.

(d) HEARING OFFICERS AND OTHER EMPLOYEES.—

(1) IN GENERAL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division.

(2) POWERS OF HEARING OFFICERS.—To carry out this Act, a hearing officer—

(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this Act from any Federal, State, or local governmental agency or unit of the agency;

(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals; and

(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out this Act.

(3) EXCLUSIVE EMPLOYMENT.—An employee of the Division may have no duties other than those that are necessary to carry out this Act.

(4) DIRECTION AND CONTROL.—All employees of the Division shall report to the Director and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the Division.

(e) RESOURCES AND PERSONNEL.—The Secretary shall ensure that—

(1) the Division has resources and personnel that are adequate to hear and determine all initial appeals in the State of residence of an appellant on a timely basis and to otherwise carry out this Act; and

(2) hearing officers receive training and retraining adequate for the duties of hearing officers on initial employment and at regular intervals after initial employment.

(f) DELEGATION AND REVIEW.—The Secretary may not delegate to any other person (other than the Director) the authority of the Secretary with respect to the Division.

(g) REPORTS AND STUDIES.—

(1) IN GENERAL.—The Director shall issue such reports, and conduct and provide such studies, to the Secretary and the head of an agency as the Director determines are necessary to identify and resolve problems of the agency with respect to implementation of—

(A) laws, policies, procedures, and regulations of the agency, based on final determinations of the Division; and

(B) final determinations of the Division.

(2) AVAILABILITY TO PUBLIC.—The reports and studies referred to in paragraph (1) shall be made available to the public.

(h) INDEX OF DETERMINATIONS.—

(1) IN GENERAL.—The Director shall develop a subject-matter index of all significant final determinations of the Division that are considered by the Director to—

(A) be precedential; or

(B) otherwise establish a principle that—

(i) governs recurring cases with similar facts;

(ii) develops Division policy and exceptions to the policy in areas in which the law is unsettled;

(iii) deals with important emerging trends; or

(iv) provides examples of the appropriate resolution of major types of cases not otherwise indexed.

(2) AVAILABILITY TO PUBLIC.—The Director shall publicize the index and make the index available to the public.

(3) PUBLIC INFORMATION.—A final determination of the Division shall be subject to the requirements of section 552 of title 5, United States Code.

SEC. 4. NOTICE AND OPPORTUNITY FOR HEARING.

(a) IN GENERAL.—Not later than 10 days after an adverse decision affecting a participant, the Secretary shall provide the participant with written notice of—

(1) the decision, including all of the reasons underlying the adverse decision;

(2) an opportunity for an informal hearing or meeting with the decisionmaker on the adverse decision;

(3) an opportunity for a hearing by the Division on the adverse decision not later than 45 days after receipt of the request of the participant for a hearing;

(4) if the decisionmaker asserts that the adverse decision is nonappealable, an opportunity to request a determination by the Director on whether an adverse decision is appealable; and

(5) a description of the procedure to—

(A) appeal the adverse decision to the Division (including any deadlines for filing an appeal); and

(B) if the decisionmaker asserts that the adverse decision is not appealable, request a determination by the Director on whether the decision is appealable.

(b) RECORDS.—The Secretary shall maintain all of the materials on which an adverse decision is based with respect to a participant at least until the expiration of the period during which the participant may seek administrative or judicial review of the decision.

(c) JOINDER.—

(1) IN GENERAL.—A borrower or applicant who applies for a loan on which a guarantee is requested or who has received a guaranteed loan, and who is directly and adversely affected by a decision of the Secretary, may appeal the decision under this Act without the lender joining in the appeal.

(2) RENTAL HOUSING.—A tenant in rental housing of an agency who is individually, directly and adversely affected by a decision of the Secretary, may appeal the decision under this Act without the landlord joining in the appeal.

(3) THIRD PARTIES.—

(A) IN GENERAL.—If appropriate to protect the rights of a participant (other than the appellant) that may be directly, substantially, and adversely affected by a decision of the Division, a hearing officer may invite the participant to participate in a hearing if the final determination resulting from the hearing would, as a practical matter, foreclose the participant from protecting the rights of the participant that may be adversely affected by the final determination.

(B) PROCEDURAL RIGHTS FOR PARTICIPANTS.—If the participant elects to participate in the hearing, the participant shall have the same procedural rights as the appellant with regard to the hearing and other procedures described in this Act.

(C) NO APPEAL RIGHTS FOR NONPARTICIPANTS.—If the participant elects not to participate in the hearing, the participant may not institute an appeal with respect to the implementation of any final determination resulting from the hearing.

(D) BASIS FOR INVITING PARTICIPANTS.—The decision to invite a participant under subparagraph (A) shall be made in the discretion of the hearing officer taking into account—

(i) any request to participate made by the participant;

(ii) any request by the appellant to include or exclude the participant;

(iii) any request by the decisionmaker to include or exclude the participant;

(iv) the opportunity the participant would have to appeal the decision in a separate proceeding and whether the appeal would be adequate to protect the rights of the participant; and

(v) such other factors as may be specified in regulations specified by the Director.

(d) BASIS FOR DECISIONS.—A decisionmaker—

(1) shall base an adverse decision on the information that is available to the decisionmaker at the time the initial adverse decision is made; and

(2) may not base any subsequent adverse decision on information that was previously available to the decisionmaker if that information could have been used to support the initial adverse decision.

SEC. 5. INFORMAL HEARINGS AND MEETINGS; APPEALABLE DECISIONS.

(a) INFORMAL HEARINGS.—If the Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, or Soil Conservation Service makes an adverse decision—

(1) the appropriate State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), or (if applicable) an officer or employee of the Agricultural Stabilization and Conservation Service or the Soil Conservation Service, shall hold an informal hearing on the decision; and

(2) to be eligible to appeal the decision to the Division, the appellant, or a representative of the appellant, must participate in the informal hearing.

(b) INFORMAL MEETINGS.—If the Farmers Home Administration or the Rural Development Administration makes an adverse decision, the decisionmaker shall hold an informal meeting with the appellant after the appellant has requested a hearing and before any hearing on the decision of the decisionmaker by the Division. At a reasonable time prior to the informal meeting, the decisionmaker shall provide to the appellant, and any representative of the appellant, access to materials in accordance with section 6(a).

(c) APPEALABLE DECISIONS.—In a case described in section 4(a)(4), the determination of the Director as to whether an adverse decision is appealable shall be administratively final, conclusive, and binding.

SEC. 6. ACCESS TO MATERIALS.

(a) IN GENERAL.—An appellant shall have the right to have—

(1) access to all the materials in the personal file of the appellant and other materials used to make the adverse decision that are maintained by the Secretary, including a reasonable opportunity to inspect and reproduce the file at an office of the agency located in the area of the appellant; and

(2) representation by an attorney or nonattorney during the inspection and reproduction of files under paragraph (1) and at any informal meeting or hearing or Division hearing.

(b) CHARGES.—The Secretary may charge an appellant for any reasonable costs incurred in reproduction of files under subsection (a)(1).

SEC. 7. HEARINGS.

(a) CONDUCT OF HEARING.—At a minimum, at a hearing conducted under this Act, the appellant shall be given a full opportunity to present argument, evidence, facts, and information relevant to the matter at issue.

(b) HEARINGS.—

(1) IN GENERAL.—Hearing officers within the Division in a State shall hear and determine all formal appeals of decisions that are subject to this Act and are made by county supervisors, county committees, State committees, district directors, State directors, or other employees of an agency working in the State.

(2) LOCATION OF HEARINGS.—A hearing shall be held in the State of residence of the appellant.

(3) TELEPHONE.—At the request of an appellant, a hearing may be conducted over the telephone.

(4) DETERMINATION LETTER.—The hearing officer shall issue a determination letter on the appeal of the adverse decision not later than—

(A) 30 calendar days after a hearing on an appeal of an adverse decision made by the Farmers Home Administration or the Rural Development Administration; or

(B) 60 calendar days after a hearing on an appeal of an adverse decision made by the Agricultural Stabilization and Conservation Service, the Commodity Credit Corporation, or the Soil Conservation Service.

(5) REVIEW BY DIRECTOR.—

(A) REFERRAL.—A determination of a hearing officer shall, on request and election of the appellant, be referred to the Director for review.

(B) ACTIONS.—The Director shall promptly—

(i) review the determination; and

(ii) uphold the determination, issue a new determination, require that a new hearing be held on one or more of issues considered at the original hearing, or take any combination of the actions described in this clause; and

(iii) issue a determination letter.

(c) PRODUCTION OF RECORD.—Each hearing before a hearing officer in the Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with a copy of any audio recording of the hearing and copies of all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed.

(d) USE OF RECORD.—If the decision of a hearing officer is appealed, the hearing officer shall certify the hearing record and otherwise provide the certified hearing record to the Director. The Director shall base the review of the hearing by the Director on the hearing record. If necessary, the Director may conduct a complete review of the adverse decision.

(e) NEW INFORMATION.—

(1) HEARING.—A hearing officer shall consider information presented at the hearing regardless of whether the evidence was known to the decisionmaker at the time the decision appealed from was made. The hearing officer shall leave the record open for a reasonable period of time and allow the submission of information after the hearing to the extent necessary to prevent the appellant or the decisionmaker from being prejudiced by new facts, information, arguments, or evidence presented or raised by the decisionmaker or appellant.

(2) REVIEW.—The Director may, in extraordinary circumstances, consider new information in reviewing a determination under this section or section 8. An appellant and the decisionmaker shall have the opportunity to comment on the new information. When a determination of a hearing officer is being reviewed by the Director, and new information is being considered, the hearing officer shall have the opportunity to comment on the new information.

(f) FINDINGS OF FACT.—The Director shall not reverse the determination of a hearing officer or the Director under this section or section 8 as to a finding of fact that is based on oral testimony or inspection of evidence unless—

(1) there is no substantial evidence to support the finding of fact; or

(2) the Director is considering new information under subsection (e)(2) with respect to the finding of fact.

(g) CONSIDERATION OF LAWS AND REGULATIONS.—In considering the merits of an appeal, a hearing officer and the Director shall base a determination on and consider applicable laws and regulations in effect and available to the public on the date the decision appealed from was made. The Director shall have the same authority as the Secretary to grant equitable relief.

(h) FINALITY.—

(1) IN GENERAL.—Except as provided in section 7(b) or 8, the determination of a hearing officer or the Director shall be administratively final, conclusive, and binding on the relevant agency.

(2) EFFECTIVE DATE OF FINAL DETERMINATIONS.—A final determination made by the Division under this Act shall be effective as of—

(1) in the case of the Agricultural Stabilization Service, the Commodity Credit Corporation, or the Soil Conservation Service, the date of filing an application or the date of the transaction in question, whichever is applicable; and

(2) in the case of the Farmers Home Administration and the Rural Development Administration, the date of the original adverse decision.

SEC. 8. ADMINISTRATIVE APPEAL REVIEW.

(a) REVIEW OF DECISION OF HEARING OFFICER OR DIRECTOR.—In extraordinary circumstances, if an agency head believes that the decision of a hearing officer or the Director is contrary to a law or regulation of the agency, the agency head may request (in writing) that the Director review the decision of the hearing officer or the Director.

(b) REQUESTS FOR REVIEW.—

(1) TIMING.—A request for review under subsection (a) shall be made within 10 work-

ing days after receipt by the decisionmaker of the decision of the hearing officer or Director. If the relevant agency head fails to make a request for review in accordance with this section, the decision of the hearing officer or the Director shall be administratively final and shall be promptly implemented.

(2) CONTENTS.—A request for review shall include a full description of—

(A) the extraordinary circumstances justifying the request for review; and

(B) the reasons that the relevant agency head claims the decision is contrary to applicable law or regulations of the relevant agency.

(3) COPY TO APPELLANT AND HEARING OFFICER.—A copy of the request shall be provided to the appellant and the hearing officer at the same time the request is provided to the Director. The hearing officer shall immediately forward the case file to the Director on receipt of a copy of the request.

(c) TIMING OF DETERMINATIONS BY DIRECTOR.—On receiving a request for review and the case file, the Director shall determine within 5 working days whether the request has merit.

(d) REQUESTS WITHOUT MERIT.—If the Director determines that the request does not have merit, the Director shall notify the relevant agency head, the appellant, and the hearing officer, in writing, that the determination of the hearing officer or Director is a final determination.

(e) REQUESTS WITH MERIT.—

(1) IN GENERAL.—If the Director determines that a request by the relevant agency head has merit, within 10 working days after the receipt of the request for review and receipt of the case file (subject to paragraph (4)), the Director shall—

(A)(i) conduct a review of the decision (based on the hearing record), the assertions raised by the relevant agency head in the letter of the relevant agency head requesting an administrative appeal review, any additional argument submitted by the appellant, and (in extraordinary circumstances) any new information submitted by the relevant agency head or the appellant; and

(ii) issue a final decision on the appeal; or

(B) if the Director determines the hearing record is inadequate, remand the decision for further proceedings to complete the hearing record.

(2) OPPORTUNITY FOR COMMENT.—In a review conducted under paragraph (1)(A), an appellant and the hearing officer (if the decision being reviewed was made by a hearing officer) shall have the opportunity to provide written rebuttal to the claim of the relevant agency head, and comment in writing with regard to the review of the Director.

(3) NOTICE OF FINAL DETERMINATION.—The Director shall notify the hearing officer, relevant agency head, and the appellant, in writing, of the final determination or other disposition of the request for review.

(4) EXTENSION OF DEADLINE.—The period of time for a review may be extended by the Director to the extent that an appellant or hearing officer has requested and received additional time during which to submit arguments, rebuttal, or new information.

(5) FINALITY.—The determination of the Director shall be administratively final and shall be promptly implemented. The relevant agency may not request a second review as to the determination of the hearing officer or the Director on the same issues.

(f) RECOMMENDATIONS.—The Director or a hearing officer may include recommendations in a final determination letter.

SEC. 9. JUDICIAL REVIEW.

A final determination of the Division under the process provided for in this Act shall be reviewable and enforceable by a United States court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 10. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

(a) IN GENERAL.—Except as provided in sections 7(c) and 8, on having a case returned pursuant to the final determination of a hearing officer or the Director, the State committee, county committee, or employee of the relevant agency shall implement the final determination.

(b) ACTIONS BY RELEVANT AGENCY HEAD.—The relevant agency head shall correct implementation problems, and shall make available to the public a report on the status of implementation of final determinations of the relevant agency head that reversed or modified an adverse decision of the agency.

(c) IMPLEMENTATION.—It is the sense of Congress that under provisions of law in existence on the date of enactment of this Act—

(1) a State director is—

(A) responsible for reviewing all appeal requests of adverse decisions of the State director or subordinates, prior to hearings, to determine whether the adverse decisions should be modified or withdrawn by the decisionmaker, rather than proceed with the appeals;

(B) required to implement final determinations of a hearing officer or the Director that affect the State; and

(C) monitor implementation of final determinations that reverse and modify adverse decisions; and

(2) relevant agency heads are responsible for—

(A) the performance of State directors under paragraph (1); and

(B) the implementation of all final determinations of the Division that reverse or modify adverse decisions of the agency.

(d) PROTECTION OF APPELLANTS' RIGHTS.—

(1) IN GENERAL.—No officer or employee of the Federal Government shall make or engage in threats or intimidation, or solicit action, to prevent any potential appellant from exercising the rights of the appellant under this Act or make or engage in retaliation or retribution for the exercise of a right of an appellant under this Act.

(2) CORRECTIVE ACTION.—If an officer or employee of the Federal Government violates paragraph (1), the Secretary shall take corrective action (including the imposition of sanctions, when necessary).

(e) IMPLEMENTATION PROBLEMS.—

(1) IN GENERAL.—The Secretary shall assign employees within the Office of the Secretary whom appellants may contact concerning problems with the implementation of final determinations of the Division. The employees shall investigate and, to the extent practicable, resolve the implementation problems.

(2) IDENTITY OF EMPLOYEES.—The Secretary shall notify the Director of the name, address, and telephone numbers of employees assigned under paragraph (1). The Director shall include this information in the final determination letter of the Director to an appellant.

(3) LETTER TO APPELLANT.—Not later than 30 calendar days following the issuance of a final determination, the assigned employee shall mail a letter to the appellant soliciting confirmation from the appellant that the final determination has been implemented or, if the appellant believes that the decision has not been implemented, a description of the failure to implement the decision.

(4) DECISION NOT IMPLEMENTED.—If the appellant indicates that the decision has not been implemented, the assigned employee shall immediately undertake to ensure that the final determination is implemented in accordance with this Act.

(5) DESCRIPTION OF IMPLEMENTING STEPS.—On determining that the final determination has been implemented, the relevant agency head shall provide the appellant and the assigned employee with a description of the steps taken by the relevant agency to implement the final determination.

SEC. 11. EVALUATION OF EMPLOYEES.

(a) IN GENERAL.—The Secretary shall promulgate regulations that require an annual review and evaluation of employees and officials of each agency.

(b) PERFORMANCE.—As part of the review and evaluation, a decisionmaker, a State director, or the relevant agency head shall be considered to have performed poorly if the decisionmaker, State director, or relevant agency head—

(1) takes action that leads to numerous appeals that result in—

(A) adverse decisions that are reversed or modified; or

(B) administrative appeal reviews that are determined to not have merit by the Division;

(2) fails to properly implement decisions;

(3) fails to satisfactorily perform the reviewing and monitoring responsibilities required under provisions of law referred to in section 10(c); or

(4) threatens or intimidates, or engages in retaliation or retribution against, an appellant in violation of section 10(d).

(c) SANCTIONS.—If a decisionmaker, State director, or relevant agency head has performed poorly (as described in subsection (b)), the Secretary shall issue sanctions against the decisionmaker, State director, or relevant agency head which may include a formal reprimand or dismissal.

(d) BASIS FOR REVERSALS.—In conducting the evaluation of the number of appeals decided against the decisionmaker, the Secretary should consider mitigating circumstances, such as whether the reversal was based solely on—

(1) new information not available to the decisionmaker;

(2) erroneous advice from a superior to the decisionmaker;

(3) published agency interpretations or procedures that were determined to be invalid by the Division; or

(4) the failure of a superior to provide clear instructions to the decisionmaker.

SEC. 12. PROHIBITION ON ADVERSE ACTION WHILE APPEAL PENDING.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not take an adverse action relating to an appeal against an appellant while an appeal is pending. In particular, the Secretary shall not take any action that would prevent the implementation of a final determination in favor of the appellant.

(b) PAYMENTS.—This section shall not preclude the Secretary from withholding a payment if the eligibility for, or amount of, the payment is an issue on appeal.

SEC. 13. RELATIONSHIP TO OTHER LAWS.

(a) OTHER RIGHTS.—This Act is not intended to supersede or deprive a recipient of assistance from the relevant agency of any rights that the recipient may have under any other law, including section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)).

(b) EQUITABLE RELIEF.—This Act is not intended to affect the authority of an agency head to grant equitable relief.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act for fiscal year 1993 and subsequent fiscal years.

(b) TRANSFER OF FUNDS.—The Secretary shall transfer sums made available to the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as it existed before the amendment made by section 16(a)) for fiscal year 1992 to the Division established by this Act.

SEC. 15. STATE MEDIATION PROGRAMS.

(a) QUALIFYING STATES.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) by striking "agricultural loan" each place the term appears; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "and their creditors," and inserting "their creditors, and (with respect to other than agricultural loan matters) the Department of Agriculture,"; and

(ii) by striking "an" and inserting "the"; and

(B) in paragraph (5), by inserting before "receive" the following: ", and all persons directly affected by actions of the Department of Agriculture involving wetlands determinations, farm program compliance, disputes between farmers and their creditors, rural water loan programs, grazing on national forest lands, and pesticides,".

(b) MATCHING GRANTS TO STATES.—Section 502 of such Act (7 U.S.C. 5102) is amended—

(1) by striking "agricultural loan" each place the term appears;

(2) in subsection (b)(1), by striking "50" and inserting "70"; and

(3) in subsection (c), by inserting "in respect of which the amount was paid" before the period.

(c) PARTICIPATION OF FEDERAL AGENCIES.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place the term appears; and

(2) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "that makes, guarantees, or insures agricultural loans";

(B) in each of subparagraphs (A) and (B), by inserting ", in any matter involving agricultural loans" before the semicolon; and

(C) in subparagraph (B), by striking ", on the date of the enactment of this Act,".

(d) REPORT.—Subtitle A of title V of such Act (7 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 507. REPORT ON EXPANDED STATE MEDIATION PROGRAMS.

"Not later than 2 years after the date of the enactment of this section, the Secretary of Agriculture shall report to the Congress on the matters described in section 505 with respect to all State mediation programs receiving matching grants under this subtitle.".

(e) CONFORMING AMENDMENTS.—

(1) WAIVER OF FARM CREDIT MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(2) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 16. CONFORMING AMENDMENTS.

(a) ASCS.—

(1) FINALITY OF FARMERS PAYMENTS AND LOANS.—Section 385 of the Agricultural Act of 1938 (7 U.S.C. 1385) is amended—

(A) by striking the first sentence; and

(B) in the second sentence, by striking "such payment" and inserting "payment under any Soil Conservation Act (16 U.S.C. 590a et seq.), payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and this Act, loan, or price support operation, or the amount thereof,".

(2) DETERMINATIONS BY SECRETARY.—Section 412 of the Agricultural Act of 1949 (7 U.S.C. 1429) is repealed.

(3) APPEALS.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is amended to read as follows:

"SEC. 426. APPEALS.

"(a) DEFINITIONS.—As used in this section:

"(1) ASCS.—The term 'ASCS' means the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture.

"(2) COUNTY COMMITTEE.—The term 'county committee' means a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(3) NATIONAL APPEALS DIVISION.—The term 'National Appeals Division' means the National Appeals Division established in accordance with section 3 of the USDA National Appeals Division Act of 1992.

"(4) STATE COMMITTEE.—The term 'State committee' means a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(b) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by ASCS shall have the right to appeal to the National Appeals Division any adverse determination made by any State committee or county committee, by employees or agents of the committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation, under this Act or under any other Act administered by the ASCS.

"(c) APPEAL PROCEDURE.—

"(1) IN GENERAL.—The appeal shall be made in accordance with the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and this section.

"(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning the participant may appeal the determination as follows:

"(A) If the determination was rendered by a county committee, the participant may appeal the determination to the applicable State committee.

"(B) If the determination was rendered by a State committee, the participant may appeal the determination to the National Appeals Division.

"(C) If the determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal the determination to the National Appeals Division.

"(D) ASCS may reverse or modify a decision made by a State committee or county committee at any time prior to commencement of the appeal of an appellant to the National Appeals Division, except that nothing in this subparagraph is intended to affect a procedure of a State committee or county committee.

"(d) COURT REVIEW.—A final decision of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

"(e) PARTICIPANT.—For the purposes of this section, the term 'participant' means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State committee or county committee, by employees or agents of the committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(f) DECISIONS OF STATE AND COUNTY COMMITTEES.—

"(1) FINALITY.—All decisions of a State or county committee, or employee of the committee, made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final, unless such decisions are (not later than 90 days after the date of issuance of the decision) appealed under this section or modified under subsection (c)(2)(D).

"(2) RECOVERY OF AMOUNTS.—No action shall be taken to recover amounts found to have been disbursed thereon in error unless the participant had reason to believe that the decision was erroneous.

"(g) REGULATIONS.—The Secretary shall issue such regulations as are determined necessary to implement this section, including regulations governing the conduct of appeals made before State committees and county committees.".

(b) FMHA.—

(1) NATIONAL APPEALS DIVISION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is amended by striking subsections (d) through (g).

(2) LEASE OR PURCHASE AGREEMENTS.—Section 335(e)(9) of such Act (7 U.S.C. 1985(e)(9)) is amended by inserting after "appealable under" the following: "the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and".

(3) HOMESTEAD PROPERTY.—The second sentence of section 352(c)(3) of such Act (7 U.S.C. 2000(c)(3)) is amended by inserting after "described in" the following: "the USDA National Appeals Division Act of 1992 (including section 5 of such Act) and".

(4) DEBT RESTRUCTURING AND LOAN SERVICING.—Section 353 of such Act (7 U.S.C. 2001) is amended.—

(A) in subsection (h), by inserting after "filed under" the following: "the USDA National Appeals Division Act of 1992 and"; and

(B) in the first sentence of subsection (j), by inserting after "under" the following: "the USDA National Appeals Division Act of 1992 and".

SEC. 17. EFFECTIVE DATE.

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

(1) the date that is 180 days after the date of enactment of this Act, or

(2) the date the Director issues final regulations pursuant to subsection (b).

(b) REGULATIONS.—The Director shall—

(1) not later than 90 days after the date of enactment of this Act, promulgate proposed regulations to implement this Act and the amendments made by this Act, consistent with provisions of section 553 of title 5, United States Code, permitting public comment;

(2) issue final regulations to implement this Act and the amendments made by this

Act, not later than October 1, 1992, or 180 days after the date of enactment of this Act, whichever is later; and

(3) issue final regulations—

(A) providing for the transfer of all pending appeals within the jurisdiction of agencies referred to in section 2(2) to the Division on the effective date prescribed in subsection (a);

(B) providing for the transfer of case files with respect to the appeals; and

(C) otherwise providing for the orderly transfer of all pending appeals and reviews from the agencies to the Division.

(c) IMPLEMENTATION; PROTECTION OF APPELLANTS' RIGHTS.—Subsections (c) and (d) of section 10 shall become effective on the date of enactment of this Act.

This Act would establish an independent USDA National Appeals Division [NAD] which would consolidate the ASCS, CCC, FmHA, RDA, and SCS appeals systems. The NAD would be very similar in structure and purpose to the current National Appeals Staff [NAS] within FmHA, and would have the same authorities as the National Appeals Division within ASCS [ASCS-NAD]. NAD authorities which would differ from the current NAS statute or regulations, or current ASCS-NAD authorities, are enumerated in the attached summary.

In general, appellants of ASCS, SCS, and CCC adverse decisions must first have informal hearings before the relevant county or State committees. This legislation would make no change in the current county or State committee appeals process, which is under the authority of ASCS or SCS, as applicable. Appellants of FmHA and RDA adverse decisions must have an informal meeting with the FmHA or RDA decisionmaker prior to a NAD hearing.

If appellants are not satisfied with the decisions under the informal hearing or meeting process, they may proceed to formal appeals under NAD. Appellants who are appealing multiple agencies' adverse decisions may appeal them all at once, at one hearing. The NAD appeals process consists of a hearing before a hearing officer in the State, and an optional review of the hearing officer's determination by the NAD Director if requested by the appellant. If the relevant agency head asserts the NAD determination violates law or regulations, he or she can also request a review of that determination by the NAD Director. The NAD's final determination is administratively final, conclusive, and binding on the relevant agency, and must be implemented in 30 days.

USDA NATIONAL APPEALS DIVISION ACT OF 1992, SENATOR KENT CONRAD AND SENATOR HOWELL HEFLIN, SECTION-BY-SECTION SUMMARY

Section 1. This section names this Act the USDA National Appeals Division (NAD) Act of 1992, and includes a table of contents.

Section 2. This section defines terms used in this Act, including the following terms. The term "agency" means ASCS, CCC, FmHA, RDA, or SCS, or ASCS or SCS State or county committees, whichever is appropriate. The term "appellant" means any person whose right to participate in, or receive payments, loans or other benefits in accordance with, any of the programs administered by ASCS, CCC, FmHA, RDA, or SCS, who appeals an adverse decision. The term "final determination" means a determination by NAD of an appeal which is administratively final, conclusive and binding. The term "implement" means to effectuate fully and promptly a NAD final determination within 30 calendar days. The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

Section 3. This subsection establishes the NAD. Like the current NAS statute, it provides NAD with a Director and other employees who shall work for NAD only; authorizes NAD to perform the activities authorized in this Act; and requires the Secretary to provide NAD with necessary resources and personnel. It differs from the current NAS statute in nine ways. (1) The NAD is placed within the Office of the Secretary, and thus is independent of any agency. (2) The Director shall be a career appointee at the Senior Executive Service level V of the Executive Schedule who has substantial experience in administrative law. (3) The Director is required to promulgate NAD regulations and policies. (4) The NAD Director receives direction or control only from the Secretary. (5) It provides the NAD with legal counsel.

(6) It provides NAD with the same powers as the current ASCS-NAD with regard to (A) having access to all materials relating to programs and operations to which an appeal has been made; (B) requesting information and assistance to carry out NAD duties and responsibilities from any Federal, State, or local government agency or unit; (C) requiring the attendance of witnesses and the production of all data and documentary evidence necessary; (D) requiring the attendance of witnesses and production of documentary evidence by subpoena; (E) administering oaths and affirmations; and (F) entering into contracts for reporting and other services. Unlike ASCS-NAD, it gives these authorities directly to hearing officers.

This section, like current NAS statute, also states that NAD employees report only to the NAD Director. (7) The Secretary may only delegate his or her authority to oversee NAD to the Director. (8) The NAD Director is required to issue reports and studies as necessary regarding problems with (A) implementation of laws, policies, procedures and regulations by the agencies that NAD has identified through its final determinations, or (B) implementation of NAD final determinations, and may include NAD's advice on how to resolve the problems. The reports will be available to the public.

(9) It requires the Director to develop a subject-matter index of all significant final determinations, and make this index available to the public. It clarifies that final determinations fall are subject to the requirements of the Freedom of Information Act.

Section 4. This subsection, like the current NAS statute, requires the Secretary to provide a participant with written notice of an adverse decision, the opportunity for, and notice of, an informal hearing or meeting with the decisionmaker, and an opportunity for a NAD hearing. Like current NAS regulations, it allows the NAD to hear appeals of adverse decisions on all FmHA programs and requires that a hearing be held no later than 45 days after the appellant requests the hearing. It makes seven changes. (1) It allows NAD to also hear appeals under all ASCS, CCC, RDA and SCS programs. (2) It requires an agency to notify a participant of all of the reasons underlying an adverse decision. (3) It allows appellants, when denied the right to appeal an adverse decision, to request a determination by the NAD Director as to whether an adverse decision is appealable.

(4) It requires the Secretary to keep all the materials on which an adverse decision was based, to ensure that the appellant will have access to them. (5) It allows guaranteed loan borrowers or applicants to independently appeal an adverse decision without the lender joining in the appeal, and allows tenants in FmHA rental housing to independently appeal the decision without the landlord joining in the appeal. (6) It allows a hearing officer to invite participants other than appellant to a hearing if the final determinations would, as a practical matter, foreclose the other participant from protecting his or her rights that might be adversely affected by the final determination.

(7) Adverse decisions must be supported by the information available to the decisionmaker at the time the original adverse decision was made. Agencies are prohibited from basing any subsequent adverse decision on facts or information previously available to the agency if that information could have been used to support the initial adverse decision.

Section 5. This section makes three changes. (1) It requires ASCS, SCS and CCC participants or their representatives to go through the informal hearing process before the county and State committees, or an ASCS or SCS employee, an appropriate, prior to entering the formal NAD appeals process. (2) It requires FmHA and RDA appellants to have an informal meeting with the decisionmaker after the appellants have requested a NAD hearing and prior to such hearings, and give the appellant access to all of the materials used to make the adverse decision. (3) It requires the NAD Director to make the final administrative determination as to whether an adverse decision is appealable in cases in which an appellant is denied the right to appeal an adverse decision, and requests a determination by the NAD Director.

Section 6. This subsection, like the current NAS statute, gives appellants access to information in their personal file, allows appellants to have representation by an attorney or nonattorney, and allows the Secretary to charge for reasonable costs of reproducing files. It makes one change. (1) It ensures that appellants have access to all materials used to make the adverse decision.

Section 7. This section makes seven changes. Like the ASCS-NAD statute, it requires that appellants be advised of the issues involved in an appeal and have the full opportunity to present facts, information, and evidence.

Like current NAS statute, it defines the duties of hearing officers and the conduct of hearings and reviews. Like the ASCS-NAD, it allows hearings to be conducted over the telephone, at the request of the appellant, and makes the final determination of a hearing officer or the Director administratively final, conclusive and binding on the relevant agency. (2) It describes the hearing and review process, and requires hearing officers to issue determination letters not later than 30 days after a hearing on a FmHA or RDA appeal, as is currently required in NAS regulations, and not later than 60 days after a hearing on an ASCS, CCC or SCS appeal. (3) It eliminates the optional FmHA State director's review of a hearing officer's decision, because the NAD is no longer a division of FmHA. (4) It clarifies that hearing officers may consider new information at the hearing stage, and the NAD Director may consider new information, under extraordinary circumstances, at the review stage. All parties to the appeal are given an opportunity to respond to such new information.

(5) Unless considering new information, the Director shall not reverse the determina-

tions of a hearing officer or the Director as to the finding of fact based on oral testimony or inspection of the evidence unless there is no substantial evidence to support the finding of fact.

(6) It requires NAD to base its determinations on applicable laws and regulations that are published and available to the public in deciding appeals. The Director may grant equitable relief.

(7) Like the current FmHA regulations, it makes any final determination made by the NAD regarding FmHA or RDA adverse decisions effective as though the adverse decision appealed had originally been decided in the appellant's favor on the date of the original adverse decision. For ASCS, SCS or CCC appeals, the effective date will be the date of the filing of an application or the date of transaction, whichever is applicable.

Section 8. This subsection codifies the current NAS administrative appeal review regulations, which allows FmHA, in extraordinary circumstances, to appeal a NAS decision which an agency asserts violates law or regulations. This subsection makes nine changes. (1) It allows ASCS, SCS, CCC and RDA to request such reviews. (2) It allows only the relevant agency head to make such requests. (3) It eliminates from the criteria under which a review can be requested a claim that the determination would result in unauthorized assistance, since that would fall under the category of violating regulations. (4) It extends the deadlines for requesting a review to 15 days and conducting the review to 10 days. (5) If a review is not requested within 15 business days, or if the NAD Director issues a determination in response to the request, that determination is administratively final, conclusive and binding. (6) In these administrative review requests, the NAD Director shall issue a final determination, or remand the case for further proceedings to complete the administrative record. In these reviews, the appellant and NAD staff may comment on the agency head's claims. (7) The deadline for the NAD Director to make a determination can be extended if the appellant requests additional time to submit materials. (8) The Director's determination is administratively final and shall be promptly implemented. The relevant agency head may not request a second review.

(9) The Director or hearing officers may include recommendations in their determinations.

Section 9. Like the current ASCS-NAD statute, this section makes NAD final determinations reviewable and enforceable by a U.S. court of competent jurisdiction.

Section 10. This section addresses relevant agencies' responsibilities and performance with regard to appeals and implementation of NAD final determinations. Like current NAS statute, it requires the relevant agency to implement final determinations. It makes three changes. (1) It requires the relevant agency head to correct implementation problems, and make available to the public a report on implementation activity.

(2) It states the sense of Congress that current law requires State directors to be responsible for reviewing their adverse decisions and those of their subordinates which are appealed to determine whether the adverse decision should be withdrawn or modified rather than proceed with an appeal hearing; and ensuring they and their subordinates implement NAD final determinations which reverse or modify adverse decisions. Current law also makes the relevant agency heads responsible for overseeing the performance of these review and implementation responsibilities by their subordinates, and in general makes them responsible for implementing NAD reversed and modified decisions.

(3) It prohibits any federal employee or official from engaging in threats, intimidation, retaliation or retribution against an appellant, and requires that the Secretary take corrective action, including sanctions, when necessary, for employees who violate these statutes.

(4) It requires the Secretary to assign employees within the Office of the Secretary who appellants may contact about problems with the implementation of NAD final determinations. This staff will investigate and, to the extent practicable, resolve these implementation problems. The Secretary will notify NAD of the name, address, and telephone numbers of this staff. NAD will include this information in its final determination letters to appellants.

Section 11. This section makes one change. (1) It requires the Secretary to promulgate regulations that require the annual job performance review and evaluation of employees and officials of the relevant agencies to include criteria regarding appeals and to consider an employee to have performed poorly if the employee or official takes action that (A) leads to numerous appeals that result in NAD final determinations that reverse or modify the adverse decisions, or administrative appeal reviews that are determined to not have merit by NAD, (B) fails to properly implement final determinations, (C) fails to satisfactorily perform the reviewing and monitoring responsibilities required under current law, or (D) threatens or intimidates, or engages in retaliation or retribution against an appellant. It requires the Secretary to issue sanctions against an official or employee who exhibits such poor performance, including formal reprimands and dismissal.

Section 12. This subsection makes one change. (1) It prohibits the Secretary from taking any adverse action relating to an appeal against an appellant while an appeal is pending. In particular, the Secretary is prohibited from taking any action that would prevent the implementation of a final determination in favor of an appellant. The Secretary is not precluded from withholding a payment to an appellant if the eligibility for, or amount of, the payment is the issue on appeal.

Section 13. This subsection makes two changes. (1) It ensures that passage of this Act in no way supersedes or deprives recipients of FmHA assistance from any rights that they may have under any other statute such as 42 U.S.C. 1480(g). (2) It states that this Act does not affect the ASCS Administrator's authority to grant equitable relief.

Section 14. This section requires the Secretary to transfer the funds used for the NAS, the current ASCS-NAD, and SCS appeals programs to the NAD for FY 1992, and thereafter authorizes such sums as are necessary.

Section 15. This section amends the Agricultural Credit Act of 1987 with regard to USDA-certified state mediation programs to allow the Secretary to match up to 70% of the cost of the programs. It also allows these programs to mediate disputes involving wetland determinations, farm program compliance, farm creditors, rural water loans, grazing on national forest lands, and pesticides.

Section 16. This section amends the current ASCS-NAD statute in four ways. (1) It makes federal farm payment determinations and the findings of fact on which they are based reviewable by a United States Court of competent jurisdiction, as is generally mandated for all executive agency decisions under the Administrative Procedures Act. (2) It strikes the language which establishes ASCS-NAD. However, it retains the provisions regarding (a) definition of participant; (b) participants' right to appeal; (c) the county and State committee informal hearing process; (d) court review of USDA final decisions; (e) general finality of all decisions of State and County Committees, unless appealed, and prohibition on action to recover amounts found to have been disbursed in error unless the participant had reason to believe that the decision was erroneous; (f) the requirement that the Secretary issue regulations to implement these provisions; (g) the Secretary's authority to make price support or other payments available to farmers who have acted in good faith.

(3) If an adverse decision was rendered by a county committee, it requires a participant to appeal an adverse decision to the State committee prior to appealing to NAD. (4) It allows ASCS to reverse or modify a decision by a county or State committee at any time prior to commencement of a NAD appeal. (5) It states that this section is not intended to change any procedures of the county or State committee.

It also repeals the NAS statute on the effective date of this Act, and replaces references to the NAS in the Consolidated Farm and Rural Development Act with references to NAD.

Section 17. This subsection makes this Act effective the earlier of 180 days after the date of enactment or the date final regulations are issued, and requires the Director to issue proposed regulations within 90 days of enactment, and issue final regulations within 180 days. These regulations shall include provision for the transfer of all pending appeals of the agencies to NAD.

ADDITIONAL COSPONSORS

S. 703

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 703, a bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1578

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 2117

At the request of Mr. SASSER, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper

budgetary treatment of Social Security administrative expenses.

S. 2553

At the request of Mr. INOUYE, the names of the Senator from California [Mr. CRANSTON] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under the Act, and for other purposes.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2719

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2719, a bill to require the United States Trade Representative to take action authorized under section 301 of the Trade Act of 1974 against certain foreign countries in retaliation for the imposition by such countries of a ban on the importation of rice and rice products of the United States, and for other purposes.

S. 2766

At the request of Mr. LEVIN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2766, a bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

S. 2870

At the request of Mr. RUDMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2870, a bill to authorize appropriations for the Legal Services Corporation, and for other purposes.

S. 2887

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2887, a bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children.

S. 2899

At the request of Mr. KENNEDY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

At the request of Mr. FOWLER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2899, supra.

S. 2907

At the request of Mr. KERREY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2907, a bill to reform the National Flood Insurance Program.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. D'AMATO], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Idaho [Mr. CRAIG], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2935

At the request of Mr. BOND, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2935, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2978

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2978, a bill to amend the Rural Electrification Act of 1936 to permit the prepayment and refinancing of Federal Financing Bank loans made to rural electrification and telephone systems, and for other purposes.

S. 3046

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 3046, a bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes.

S. 3092

At the request of Mr. NUNN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE CONCURRENT RESOLUTION 132—RELATING TO THE CIVIL CONFLICT IN SOMALIA

Mrs. KASSEBAUM (for herself, Mr. SIMON, Mr. KENNEDY, Mr. DOLE, Mr. MITCHELL, Mr. PELL, Mr. HELMS, Mr. LUGAR, Mr. WOFFORD, Mr. MCCONNELL, Mr. LEAHY, Mr. DURENBERGER, Mr. LEVIN, Mr. GORE, Mr. COCHRAN, Mr. SANFORD, Mr. WELLSTONE, Mr. CHAFEE, Mr. DODD, Mr. DECONCINI, Mr. HARKIN, Mr. KERRY, Mr. RIEGLE, Mr. BIDEN, Mr. CRANSTON, Mr. LIEBERMAN, Mr. HATFIELD, Mr. ROBB, Ms. MIKULSKI, Mr. MOYNIHAN, and Mr. DANFORTH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 132

Whereas as a result of the civil conflict in Somalia, at least 30,000 people have died, hundreds of innocent civilians, many of them children, continue to die each day, and an additional 1,200,000 lives are at risk;

Whereas the Somali political factions show no signs of ceasing their internecine war for power even as thousands of their own people perish;

Whereas international relief agencies have been unable to deliver adequate humanitarian assistance to those most in need due to increasingly difficult and dangerous conditions, including pervasive banditry and looting;

Whereas the United Nations Security Council, on July 27, 1992, adopted a resolution on the situation in Somalia, including an expansion of United Nations relief efforts and support for the deployment of United Nations security personnel to facilitate the delivery of relief supplies, and the President has expressed strong support for the United Nations proposals; and

Whereas although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations cease-fire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somali factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a resolution on the desperate humanitarian crisis in Somalia. I am joined by the distinguished chairman of the African Affairs Subcommittee, Senator SIMON, as well as 29 other Senators, including the majority and Republican leaders, Senators MITCHELL and DOLE; the chairman and ranking member of the Foreign Relations Committee, Senators PELL and HELMS; Senators KENNEDY, LUGAR, WOFFORD, MCCONNELL, LEAHY, DURENBERGER, LEVIN, GORE, COCHRAN, SANFORD, WELLSTONE, CHAFEE, DODD, DECONCINI, HARKIN, KERRY, RIEGLE, BIDEN, CRANSTON, LIEBERMAN, HATFIELD, ROBB, MOYNIHAN, DANFORTH, and MIKULSKI.

Mr. President, an enormous human tragedy is unfolding in Somalia, a tragedy almost beyond the imagining of any American:

At least 30,000 Somalis have been killed;

Every day hundreds more die, mostly innocent children;

At this point, Doctors Without Borders estimates that one-quarter of all the children under 5 in Somalia have already died of hunger; and

In the coming months, another 1.2 million people will be at risk.

Mr. President, during my recent trip to Somalia, I saw the tragic effects of the crisis: Silent children waiting patiently for the next bowl of food, women too weak to stand, young boys with missing limbs, blown off by stray land mines.

It is, in the words of relief officials, "the single worst humanitarian crisis in the world."

LACK OF SECURITY

Despite the courageous efforts of relief officials, the reality is that many people continue to die. The food is not getting to those who need it most.

Much of the relief brought into Somalia is stolen by armed gangs. Bandits rule the ports and roadways. Raiding aid convoys has become a way of life. Nearly every teenager carries an automatic weapon.

In just 4 days in June, the manager of CARE's food relief operation in Mogadishu, recorded 21 armed raids on truck convoys, food distribution centers, and docks where food is stored.

The two major competing factions in southern Somalia, Ali Mahdi and General Aideed, show little or no regard for their own people. They do little to protect relief shipments or workers. And there is no sign that they will soon end their battle for the rubble of Mogadishu.

It is a tragic, desperate, and appalling situation. Food sits offshore and at the ports but cannot reach the thousands starving only a few miles away—simply because of insecurity.

HUMANITARIAN SECURITY GUARDS

Mr. President, I believe we have reached the point where action must be taken. I strongly believe that the United Nations should deploy humanitarian security guards immediately to assure that humanitarian relief gets to those most in need. These guards would secure the ports, guard relief convoys, and protect relief workers.

This is not without significant risk. But I believe, at this point, it is a risk worth taking. Hundreds of thousands of lives could be at stake.

RESOLUTION

Mr. President, the resolution specifically urges the President, working through the United Nations, to deploy U.N. security guards immediately to protect the food relief.

Earlier this week, the President expressed strong support for the deployment of an effective number of security guards and stated the willingness of the administration to help fund such an effort.

In addition, the resolution commends U.N. Secretary-General Boutros-Ghali and his special envoy for Somalia, Ambassador Mohammed Sahnoun. I met with Ambassador Sahnoun in Nairobi and was very impressed by his dedication and abilities.

The resolution pays tribute to the courageous and heroic efforts of the relief agencies working in Somalia, including: the International Committee of the Red Cross, International Medical Corps, CARE, World Concern, Save the Children-UK, and Doctors Without Borders.

The resolution calls upon the U.N. specialized agencies, particularly UNICEF and World Food Program, to expand their operations in Somalia.

Finally, the resolution condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia.

CONCLUSION

Mr. President, I know that many may wonder why we should care about Somalia. Sometimes it seems that Africa is an endless source of disaster and crisis—in Ethiopia, in Mozambique, in Sudan, or the drought that now grips all of southern Africa. Some may feel that Africa is hopeless, that no matter what we do, it is never enough.

I believe the United States has a specific moral obligation to Somalia. Throughout the long years of the cold war, Somalia and the rest of the Horn were of strategic importance to the United States. If the Soviet Union still existed today, we would never have allowed Somalia to disintegrate in this way. The question we must now face is whether our concern for human beings is as great as our past fear of the Soviet empire.

I ask unanimous consent that the editorials from the Financial Times, the Economist, and the New York Times be printed in the RECORD.

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

[From the Financial Times, July 29, 1992]

TIME TO INTERFERE

The tragedy in Somalia raises a fundamental question, as pertinent to the plight of countries such as Zaire or Angola as it is to the fate of 7m Somalis. What responsibility does the west have for erstwhile client states in Africa, once counted for strategic reasons, but abandoned when the end of superpower rivalry made those considerations redundant? And when these regimes collapse, should humanitarian imperatives override national sovereignty and justify the intervention of the outside world, providing aid where and when it sees fit?

The moral responsibility is clear. Africa's cold war legacy is the joint creation of the west and the former Soviet Union, whose rivalry many of the continent's leaders skillfully exploited. But the Soviet Union is no more. Only the west has the capacity to help Africa cope with the legacy, assisted by a United Nations now capable of playing a constructive role in world affairs.

In the era when the Horn of Africa was one of the cockpits of superpower rivalry, Somalia was courted by both Moscow and Washington. A shared border with Ethiopia, itself a cold war battleground, and the need for access to the Somali port of Berbera, strategically located on the Red Sea, made Somalia's friendship worth buying with aid and arms. Those assets are worthless in the new world order. Past rivalry over Somalia has been replaced by near indifference.

In the seven months since General Siad Barre abandoned the capital to competing factions, the country has descended into a state of anarchy from which recovery will be a forbidding task. Some 30,000 people have died. More than 1m Somalis have been displaced from their homes or have taken refuge in neighboring countries. Aid officials estimate that more than two-thirds of the 7m population are threatened with starvation, while hundreds of children are dying daily.

The arrival in Mogadishu last week of a 50-strong United Nations force to help monitor Somalia's fragile ceasefire is a welcome development. But it comes to late to avert catastrophe, and is too little to ensure a lasting peace.

What more can be done? A good deal, according to Mr. Boutros Boutros-Ghali, the UN's hardpressed secretary-general. He accuses the western nations that dominate the Security Council of double standards in dwelling on "the rich man's war" in the former Yugoslavia while largely ignoring the plight of Africa, and has proposed a significant extension of UN humanitarian and peacemaking efforts in Somalia.

Nobody should underestimate the difficulties. Mr. Boutros-Ghali would be the first to admit that, with paymasters such as the US refusing to pay their share of the budget, the UN is impossibly over stretched by its exist-

ing commitments. What is more, intervention in Somalia is highly risky, with aid shipments vulnerable to violent interference from rival warlords in the capital.

Yet there comes a point at which humanitarian needs eclipse other considerations. There are recent precedents, most obviously the UN's role in opening up Sarajevo airport as a conduit for relief supplies. A relatively modest operation in Mogadishu, properly guarded and backed with air cover, would probably save hundreds of thousands of lives. Better still, in the case of the other Somalias waiting to happen in Africa, would be timely diplomatic intervention to avert disaster.

NANNY IN BLUE HELMET

"Should I jab them with my ballpoint pen?" asks Lewis MacKenzie, the Canadian general whose job is to stop militiamen firing across the runway at Sarajevo airport. The United Nations, his employer, has been told to turn international good intentions into food and medicine for the besieged Bosnians, and it is doing what it can. But it is equipped with little more than ballpoints, and it is jabbing in a vacuum. Though global busybodiness is increasingly popular, the UN's members have yet to put their minds to the question of when, how and why their club should poke its military nose into a member's domestic concerns.

The United Nations' traditional peacekeeping duty is to interpose itself between belligerents, when both sides invite it to do so. Now, as the UN Security Council stretches in freedom after its long cold-war hibernation, it is being urged to stop the horrors that result from wars within states, from post-civil-war anarchy, from the crushing of human rights. Television, and the break-up of old political patterns, have made it harder than it used to be to ignore spectacular man-made disasters, even in faraway places.

Regimes that wish to be left alone—to make their own mistakes, to keep themselves in power or to torment their people—wrap themselves in the UN charter, which rules against intervention in domestic affairs. But the ban does not apply if a threat to international peace or security can somehow be unearthed; then, given the political will, the ban can be put aside. The UN has for quite a while been ready to get involved in a non-military way. It imposed economic sanctions against South Africa less because of the threat to international peace than because of a general revulsion at apartheid. With the consent of the rulers it has supervised elections, demobilised guerrilla armies, reorganised police forces. On request, it sends in peacekeepers, observers and mediators.

Now it hovers on a treacherous threshold. When something intolerable happens—inside Iraq, Somalia, Yugoslavia—where the government has not invited the UN in, should it sally forth regardless? Is it in the business of stopping people killing each other or, if that is beyond its powers, rescuing any innocents it can? In general, the answer has to be No. Intervening in a war, even if only to bring relief, means becoming involved in the fighting; outsiders who plunge into domestic wars without a clear idea of what they want to achieve, and a good chance of achieving it, may leave things worse than they were, and their own credibility smashed. But there will be exceptions.

Iraq was an exception: not the Gulf war but the UN's postwar response to Iraq's suppression of domestic rebellions. Some 400,000 Kurds had fled to the mountains where unarmed agencies could do nothing to help them. Security Council Resolution 688, passed in April 1991, established the principle that a government could be made to accept aid; even though the resolution did not speak of armed intervention, it was used as legal cover by the Americans, British and French who set up the Kurdish "safe havens" in northern Iraq.

Yet even in Iraq—a defeated country, subject to victors' justice—the going was hard, and is getting harder. Resolution 688 was carried by only one more vote than was necessary; China, one of the veto-bearing permanent members, abstained. Getting a similar resolution passed in the future, even in similar circumstances, might be beyond any government's power. Iraq is now making life impossible both for relief workers and for the UN guards who are there to protect them.

FOSTER-PARENT NEXT?

Somalia, where an inconclusive civil war has left people in desperate need of food, and of armed escorts to make sure the food gets where it should, could be another exception. The UN is inhibited because one of the local warlords has said he wants no armed outsiders in the country. But if the UN were to drop its inhibitions, a relatively small military operation could probably scare off the looters and hold the ring.

Such an action would have consequences: would the UN, after taking charge in a country with no semblance of a government, have to start thinking of running the place until one could be set up? It might. Yet the UN has had harder tasks. Indeed, the case for intervention in Somalia rests on the fact that it would be fairly easy. Like helping the Kurds, it is achievable.

Ex-Yugoslavia is much harder. The UN soldiers in Croatia perform the traditional peacekeeping role of separating the belligerents. The ones in Bosnia want to do something new. They arrived for what some saw as an urgent, discrete and achievable job: the breaking of the siege of Sarajevo. But their tasks multiply—silencing militias determined to keep the war going, taking control of heavy weapons, safeguarding a land route from the coast. General MacKenzie reckons he needs 40,000 troops, just for Sarajevo. In Bosnia the protection of humanitarian aid, if it is to succeed, will slide ineluctably into peace-enforcement, possibly on a larger scale than the UN's members are prepared to countenance.

All this points to a patchy, pragmatic set of criteria. Consistency is absent. Horrible happenings may have to be left to work themselves out, either because members of the Security Council are insufficiently interested or because the chances of a successful intervention are too low. Since the tendency nowadays is to think that the world should be put to rights despite itself, people turn to the UN to do something. Sometimes it can, more often it cannot. It is, thank goodness, less respectful than it was of its members' sovereign right to be as brutal as they wish on their own home ground. But Superman it is not.

THE HELL CALLED SOMALIA

War, drought, the collapse of civil authority: these are the malign toxins that threaten the very existence of Somalia, a husk of a country on the Horn of Africa. As Jane Perlez of The New York Times reports, a third of Somalia's more than 4.5 million people are likely to starve to death within six months. A third of a country! Small wonder a Red Cross worker exclaimed in despair: "Here is hell."

Worse, this hell is man-made, the result of a clan-based civil war waged by roving gangs of teenagers. The violence erupted after the overthrow last year of Somalia's longtime strongman, Mohammed Siad Barre, who played on cold war rivalry to amass a huge arsenal of weapons.

Could more be done to stop the fighting and feed the famished? Absolutely. But fearing a quagmire, the big Western states have averted their gaze. And unlike the Ethiopian famine in 1984–1985, which also occurred during a civil war, there have been no Live Aid concerts, no chorus of pop stars singing "We Are the World."

Granted, Somalia competes for the world's attention with the slaughter in Sarajevo, the plight of Iraq Kurds, the life-threatening droughts elsewhere in Africa and a global AIDS plague. And diplomats have seized on the particulars of Somalia to justify an inadequate United Nations humanitarian effort.

Somalia has no functioning government. Fighting persists despite a cease-fire in the capital, Mogadishu, whose de facto master is a capricious warlord named General Adid.

Citing this chaos as a pretext to do little, the Security Council voted to send only 50 unarmed U.N. military observers to monitor the cease-fire and speed the delivery of food and medicine. This token force was the most the Bush Administration felt it could prudently support.

Some U.N. officials, Ms. Perlez found, believe that more food could be airlifted into the interior even with this limited presence. Some Americans, notably Senator Nancy Kassebaum of Kansas, favored sending 500 armed peacekeepers to back up the biggest-ever International Red Cross relief operation.

But Somalia's agony underscores a more basic need: an effective, mobile U.N. peacemaking force, strong enough to quell the warlords.

Secretary General Boutros Boutros-Ghali has called for the formation of just such a force, consisting of volunteers, available on 48-hour call from U.N. members. But with the exception of France, the big Western powers have shown little interest in his suggestion. And George Bush, the New World President, has said nothing about this proposal, or about Somalia. Meantime, a third of a country inches toward the grave.

Mr. SIMON. Mr. President, I am pleased, together with Senator KASSEBAUM who recently visited the famine-stricken people of Somalia, to introduce a resolution to express the Senate's strong support for the calls for urgent action on Somalia which have come from the U.N. Security Council and from President Bush.

Although the Senate has twice passed resolutions indicating our commitment to active humanitarian relief efforts in Somalia, the famine has only worsened. Twenty-five percent of all children under five have already died, according to relief agency assessments. If efforts to distribute emergency aid to all those in need are not effective, one-third of Somalia's entire population may be dead within 6 months.

These numbers are appalling. Both the United Nations and the United States must mount an all-out effort to effectively distribute food to those at risk by whatever means necessary. A relief worker in Mogadishu was quoted

recently as saying that the Somali crisis is encountering not donor fatigue so much as donor exhaustion. When the deaths of over a million people can be avoided by an urgent and well-organized effort, then the international community, however tired, ought to do it.

Mr. KENNEDY. Mr. President, I join Senator KASSEBAUM, Senator SIMON, and others in sponsoring the resolution before us today. A massive human tragedy is occurring in Somalia, and the world can ignore it no longer.

With each passing day, day after day, literally hundreds of innocent Somali men, women, and children die of starvation.

International relief workers report that one cannot travel along any road in this broken country without seeing the lifeless skeletons of those whose desperate search for food ended in vain.

Children are always the first to die in families like these. One voluntary agency estimates that 20 percent of all children under 5 have now died. But that was 2 months ago, and as the international community wrings its hands over the difficulties of providing relief in the midst of conflict, that tragic statistic climbs higher every day.

I commend Senator KASSEBAUM for her visit to Somalia last week and for her leadership in bringing this desperate plight to the attention of the Senate—and our country. I am pleased to join with Senator KASSEBAUM, Senator SIMON, and others in sponsoring the resolution before us tonight.

Our Senate resolution says we cannot wait. We must do no less for the people of Somalia than we are doing for those in Yugoslavia and what we provided to Ethiopia in the 1980's. The role of the United Nations, the Red Cross, and the voluntary agencies must be expanded immediately.

The United Nations will also need security guards to protect relief workers and supplies. This step was authorized earlier this week by the Security Council.

Already, rebel forces in Somalia have threatened to disrupt the United Nation's humanitarian efforts and confront the security guards which the United Nation intends to provide.

The Secretary General of the United Nations has paused in his efforts to escalate relief in light of this recent threat.

However, we can't afford to wait. Relief efforts must be augmented immediately.

So our resolution encourages President Bush to work urgently with the Security Council to end the bullying of the callous faction leaders in Somalia and let the lifesaving U.N. mission go forward.

The United Nations estimates that of the 6.5 million Somalis, 4.5 million are in danger of starvation. At least 1.2 million—mostly children—are at immediate risk. Tens of thousands are in small camps scattered about the country.

Over 300,000 have already fled to neighboring Kenya, and 1,000 more arrive every day. Large numbers of refugees have also arrived in Ethiopia, Djibouti, and Yemen.

This tragedy threatens to surpass even the famine in Ethiopia in its deadly impact on the population. In Ethiopia, 9 million people were at risk—roughly 20 percent of the Ethiopian population—and 1 million died.

In Somalia, over two-thirds of the population faces famine, but it is not too late to curb the death rate and prevent the tragedy from reaching the level that afflicted Ethiopia 8 years ago.

Earlier this week, the Secretary General of the United Nations outlined the steps which must be taken to address the humanitarian needs of Somalia, and to move the country toward national reconciliation.

Relief efforts must be decentralized and must be extended throughout the country. They must go hand in hand with the peacekeeping mission of the United Nations, so that U.N. guards can provide security for the massive relief operation that is required.

The international community must contribute generously to the effort.

The United Nations has issued an appeal for $117 million for famine relief. So far, $41 million has been pledged by governments.

Clearly, more must be done to support this appeal and the vital work of the International Committee of the Red Cross.

Over the past year and a half, the United States has provided $63 million in supplies and funds for Somali relief.

Earlier this week, President Bush indicated his willingness to increase our contribution, and called upon the United Nations to move ahead swiftly to implement a broader program.

The time for talk is long past. Decisive action by the United States and the United Nations is needed to help the innocent and starving citizens of Somalia. I urge the Senate to approve this resolution.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1993

DECONCINI AMENDMENT NO. 2803

Mr. JOHNSTON (for Mr. DECONCINI) proposed an amendment to the bill, H.R. 5373, making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 40, line 19, strike "$467,634,000" and insert "$466,334,000".

On page 40 line 22, strike "$156,168,000" and insert "$154,868,000".

On page 45, line 6, strike "$2,202,000" and insert "$3,502,000".

On page 45, line 14, insert the following before the period: ": *Provided further*, That $1,300,000 of the funds contained herein shall be for the Fort McDowell Indian Community Small Reclamation Project Act loan authorized by Section 8(e) of Public Law 101-628.

DECONCINI AMENDMENT NO. 2804

Mr. JOHNSTON, (for Mr. DECONCINI) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated with the sanitary landfill on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, Arizona".

SASSER AMENDMENT NO. 2805

Mr. JOHNSTON (for Mr. SASSER) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, date June 1, 1992".

HEFLIN AMENDMENT NO. 2806

Mr. JOHNSTON (for Mr. HEFLIN) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 80, line 13, before the period, insert the following: ": *Provided further*, That no amount may be transferred from the Alabama Elk River Development Agency trust fund if the transfer would result in a balance in such trust fund that is less than $2,000,000".

SIMON AMENDMENT NO. 2807

Mr. JOHNSTON (for Mr. SIMON) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 12, line 4, insert the following before the period: ": *Provided further*, That of the appropriated funds herein, the Secretary of the Army acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the McCook and Thornton Reservoirs project in Illinois, including all activities necessary to ready the project for construction in fiscal year 1994".

REID AMENDMENT NO. 2808

Mr. JOHNSTON (for Mr. REID) proposed an amendment to the bill, H.R. 5373, supra, as follows:

On page 60, line 6, strike "$1,700,000" and insert in lieu therefore "$3,700,000".

CHAFEE AMENDMENT NO. 2809

Mr. JOHNSTON (for Mr. CHAFEE) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 28, line 7, insert the following after "662": "; *Provided further*, That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island as authorized by section 1166(c) of Public Law 99-662".

KERREY (AND OTHERS) AMENDMENT NO. 2810

Mr. JOHNSTON (for Mr. KERREY, for himself, Mr. DASCHLE, Mr. EXON, Mr. LIEBERMAN, Mr. DODD, Mr. LEVIN, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. PRESSLER) proposed an amendment to the bill H.R. 5373, supra; as follows:

At the appropriate place insert the following:

Findings:

The United States Congress enacted the Low-Level Radioactive Waste Policy Act of 1980 (Public Law 99-924; 42 U.S.C. 2021b et seq.) upon the urging of the National Governors Association and prompted by a concern that failure to open new low-level radioactive waste disposal sites in the United States would result in a severe shortage of disposal capacity for such waste in the United States;

Congress enacted the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) to modify such 1980 Act by establishing incentives and procedures to permit disposal of low-level radioactive waste at existing commercial disposal facilities through the end of 1992;

A 1989 study conducted by the Office of Technology Assessment indicates that the volume of low-level radioactive waste generated in the United States declined approximately by half between 1980 and 1989;

The study predicts that such volume may decline approximately by half again between 1989 and 1993;

The volume of low-level radioactive waste disposed of is a major determinant of the cost of the disposal of such waste;

The disposal of increasingly small volumes of such waste results in higher costs of disposal per unit volume because many of the costs of developing and maintaining low-level waste disposal sites are fixed;

Given the likelihood that the number of low-level radioactive waste disposal sites in the United States will increase soon from 3 to more than 10, it is likely that the cost per unit volume of disposing of such waste at such sites will rise dramatically; and

On June 19, 1992, the Supreme Court of the United States held that the provisions of the Low-Level Radioactive Waste Policy Act Amendments of 1985 known as the "take-title" provisions were unconstitutional: Therefore, it is the sense of the Senate that the Congress should reexamine the Low-Level Radioactive Waste Policy Act Amendments of 1985 (Public Law 96-573; 94 Stat. 3347) and work with the Secretary of Energy and the National Governors Association to develop a solution to problems relating to capacity in the United States for disposal of low-level radioactive waste (including a decline in the volume of the generation of such waste and a projected surplus of such capacity) that have arisen since 1980.

BYRD (AND OTHERS) AMENDMENT NO. 2811

Mr. JOHNSTON (for Mr. BYRD for himself, Mr. MITCHELL, Mr. REID, Mr. BOREN, Mr. DECONCINI, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 83, between lines 11 and 12, insert the following:

SEC. 509. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of Human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily of the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonable equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 2812

Mr. JOHNSTON (for Mr. BINGAMAN, for himself, and Mr. DOMENICI) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 63, line 7, delete the figure "$4,498,249,000" and insert in lieu thereof "$4,523,249,000".

On page 66, line 7, delete the figure "$2,548,301,000" and insert in lieu thereof "$2,523,301,000".

GORTON (AND ADAMS) AMENDMENT NO. 2813

Mr. JOHNSTON (for Mr. GORTON, for himself, and Mr. ADAMS) proposed an amendment to the bill H.R. 5373, supra; as follows:

At the appropriate place, insert:

SEC. . During the one-year period beginning on the date of the enactment of this Act, none of the funds made available in this Act or any other provision of law for fiscal year 1993 may be available for the implementation of an environmental restoration management contract at the Hanford, Washington, site.

BRYAN (AND REID) AMENDMENT NO. 2814

Mr. JOHNSTON (for Mr. BRYAN, for himself, and Mr. REID) proposed an amendment to the bill H.R. 5373, supra; as follows:

On page 60, line 1, insert after "appropriated": "from this Fund".

On page 60, line 2, insert "or by the Department of Energy" after "Nevada".

SANFORD AMENDMENT NO. 2815

Mr. JOHNSTON (for Mr. SANFORD) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 28, line 7, insert the following after "662":

Provided further, That with $600,000 of the funds appropriated herein, to remain available until expended, the Sec-

retary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina, project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer on March 1989, or any modifications to Plan 5 that would require raising the spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the North Carolina Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency".

BOREN (AND NICKLES) AMENDMENT NO. 2816

Mr. JOHNSTON (for Mr. BOREN, for himself, and Mr. NICKLES) proposed an amendment to the bill H.R. 5373, supra, as follows:

"*Provided further*, That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma".

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 2817

Mr. JOHNSTON (for Mr. MOYNIHAN, for himself, and Mr. D'AMATO) proposed an amendment to the bill H.R. 5373, supra, as follows:

Page 12, line 4, insert the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 of available funds to carry out the purposes of section 411 of Public Law 101-640".

SEYMOUR (AND CRANSTON) AMENDMENT NO. 2818

Mr. JOHNSTON (for Mr. SEYMOUR, for himself, and Mr. CRANSTON) proposed an amendment to the bill H.R. 5373, supra, as follows:

Page 28, line 7, insert the following before the semicolon: ": *Provided further*, That $500,000 of funds appropriated herein shall be for the Ventura Harbor project in California".

DOLE AMENDMENT NO. 2819

Mr. JOHNSTON (for Mr. DOLE) proposed an amendment to the bill H.R. 5373, supra, as follows:

On page 53, line 19, add the following after the word "Fund": ": *Provided further*, That within the funds appropriated herein, $50,000 shall be available only for planning funds for the Center for Energy Research, University of Kansas, Lawrence, Kansas".

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992

JOHNSTON AMENDMENT NO. 2820

Mr. WIRTH (for Mr. JOHNSTON) proposed an amendment to the House amendment to the Senate amendment to the bill (H.R. 429) to authorize additional appropriations for the Construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, as follows:

Delete all after the enacting clause and substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

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TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II-VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided, however,* That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development;

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as pro-

vided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in Section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-federal contribution requirements of Section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady state conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize Section 8 funds which may be available from FY 1992 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: *Provided, however*, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the U.S. Geological Survey is directed to consult with the District in the preparation of the study identified in subparagraph (5)(A)(1).

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 2 and 13, T. 3 S., R. 12 W., and Sec-

tions 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty day Congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, U.S. Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within 120 days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the non-Federal interests will satisfy the cost sharing provisions as set forth in this section. Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the U.S. Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within 120 days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983)*. The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65% of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25% of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10% of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2)(A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and,

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than 90 days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the Dis-

trict. Any conservation measure, up to a cumulative five in number within any three year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50% of the water conservation goal within seven years after submission of the initial plan and 100% of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the U.S. Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are:

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50% of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65% of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial

water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgement of the Board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, fifteen percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within 12 months after the first determination of substantial noncompliance, the Secretary shall refund 100% of the surcharge levied.

(h) Reclamation Reform Act of 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) Judicial Review.—(1) For the purposes of sections 701 through 706 of Title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of Title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of Title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) In General.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before 60 days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in re-

payment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of 5 members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the members of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of 4 years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of 3 years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of 2 years.

(3) A vacancy in the Commission shall be filled within 90 days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be 1 year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallo-

cate any amount so specified to achieve such benefits: *Provided, however*, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) FUNDING FOR NEPA COMPLIANCE.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than 90 days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least 60 days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: *Provided, however*, That the Commission shall obtain the prior approval of the U.S. Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act,

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as pro-

vided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of federal land ownerships, to the appropriate federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within 30 days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within 30 days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the U.S. Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of federal land ownerships, to the appropriate federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm watery fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will

be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: Title III, and 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102—).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102—).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to the appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the U. S. Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that —

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant states in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this Title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b)(1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the U.S. Forest Service, the Bureau of Land Management of the Department of the Interior, and the U.S. Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features

contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act, and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; *Provided, however*, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact of the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to the appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations. Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for clean-up and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife

management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA 89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO 0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation. (b)Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President Pro Tempore of the Senate and the Speaker of the House of Representatives for a period of not less than sixty days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other development in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section; *Provided*, That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary

shall submit a copy of the proposed project plans to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT.

(a) The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) All project costs for verification, design preparation, and construction management (estimated to be approximately 33 percent of the total project cost) shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) The Secretary shall, upon entering into a mutually acceptable agreement with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) At any time following the first advance of funds by the Authority, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, and reimbursement of Federal costs pursuant to subsection 804(b) of this title, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements, or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds. Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 805. APPROPRIATIONS AUTHORIZED.

There are hereby authorized to be appropriated to carry out the provisions of this title the sum of $3,000,000 (October 1989 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuation in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create:

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(a) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0-07-70-W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1001. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1002. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1001 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XI—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980, (94 Stat. 3227) is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend Contract 178r-458, all facilities are hereby transferred to the District. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately 2,800 acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract No. 14-06-500-1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1990, and expiring January 17, 1992, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract No. 14-06-500-1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project."

TITLE XII—GRAND CANYON PROTECTION

SECTION 1201. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1202. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in section 1204 and 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, but not limited to natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects 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, but not limited to, the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented.

SEC. 1203. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) INTERIM OPERATIONS.—Pending compliance by the Secretary with section 1204, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of Reclamation and the Western Area Power Administration executed October 2, 1991 and exercise other authorities under existing law, in accordance with the standards set forth in Section 1202, utilizing the best and most recent scientific data available.

(b) CONSULTATION.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) Appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, 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 the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) DEVIATION FROM INTERIM OPERATIONS.—The Secretary may deviate from Interim Operations upon a finding that deviation is necessary and in the public interest to—

(1) Comply with the requirements of Section 1204(a);

(2) Respond to hydrologic extremes or power system operation emergencies;

(3) Comply with the standards set forth in Section 1202;

(4) Respond to advances in scientific data; or

(5) Comply with the terms of the Interagency Agreement.

(d) TERMINATION OF INTERIM OPERATIONS.—Interim Operations described in this section shall terminate upon compliance by the Secretary with Section 1204.

C. 1204. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; 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 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 the results of the audit to the Secretary and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS.—(1) 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—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968 and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1202.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the 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 of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of 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 TO CONGRESS.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and 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 of Glen Canyon Dam.

(e) ALLOCATION OF COSTS.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1202 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1202 purposes shall be nonreimbursable.

SEC. 1205. 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 that of section 1202.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1204(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 academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1206. RULES 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 (16 U.S.C. 1531 et seq.).

SEC. 1207. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1204, including supporting studies, and the long-term monitoring programs and activities described in section 1205, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170).

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 1209. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with representatives of the Colorado River Storage Project power customers, environmental organizations and the states of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by Section 1204 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than two years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power.

TITLE XIII—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

SEC. 1301. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 1302. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include:

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving preference to crops that are not eligible for assistance under programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Secretary shall:

(A) supply all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) determine crop rotations and cultural practices;

(E) have unrestricted access to leased lands;

(3) the Secretary may contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed as prescribed by the Secretary;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. Each such study site farm will, during the demonstration phase of the Demonstration Program, annually receive planted and considered planting credit equal to the crop acreage base established for the farm by use of crop land ratios when it became a separate farm without regard to the acreage actually planted on the farm. Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall:

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Prgram; and

(3) prepare a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriate for the Demonstration Program, shall transfer to the other Federal agencies funds appropriate for their expenses.

SEC. 1303. PLANNING REPORTS-ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 1302, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions

thereof. Using feasibility methodologies consistent with those employed in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement, filed September 17, 1985, the final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency. The final report for the Lake Andes-Wagner Unit shall constitute a supplement to the Lake Andes-Wagner Unit report referred to in the preceding sentence.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention, correction, or mitigation of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains and shall be accompanied by findings by the Secretary and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards.

(c) The construction of a Unit may not be undertaken until the final report pertaining to that Unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than one hundred and twenty days and the Congress has appropriated funds for the initiation of construction.

SEC. 1304. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 1303 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 1305. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 1303 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately 3,000 acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 1303 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than forty years following the development period. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of that Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the Units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the Unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that Unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that Unit for irrigation purposes.

SEC. 1306. INDIAN EMPLOYMENT.

In carrying out sections 1302, 1304 and 1305 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 1307. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 1308. COST SHARING.

(a) IN GENERAL.—The Proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Energy and Natural Resources of the Senate and with the Committee on Interior and Insular Affairs of the House of Representatives), pursuant to which the State of South Dakota (hereafter in this section referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereinafter in this section referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved subject to the provisions of subsections (b) and (c) of this section. The Secretary shall promptly enter into negotiations with the State and District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) The agreement shall include provisions for:

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the Unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess remains reimbursable, subject to the conditions that:

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the Unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance, not to exceed $36,000,000, the construction of the closed drainage system.

(C) In the event the detailed plan of the Lake Andes-Wagner Unit referred to in subsection (b) of section 1303 reduces the irrigated acreage of the Lake Andes-Wagner Unit to less than 45,000, the District's maximum obligation hereunder shall be reduced in the ratio that the reduction in acreage bears to 45,000.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated

pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 1304 of this title (other than the costs apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include:

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) savings to the United States by reason of paragraph (2) of subsection (b) of this section;

(3) savings to the United States by reason of administering the design and construction of any other feature or features of the Lake Andes-Wagner Unit, and of any feature or features of the Marty II Unit, the design and construction of which is administered by the District pursuant to an agreement with the Secretary;

(4) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(5) any feature to which this section applies shall not be initiated until after the District and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 1305 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 1308 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 1305 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each Unit.

SEC. 1310. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XIV—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1402. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1405 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "summer electrical season" means May through October of each year;

(6) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(7) the term "Western" means the Western Area Power Administration;

(8) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(9) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1403. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1405 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1412 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for prepayment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1404. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1405. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1406. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1407. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1408. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1409. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1410. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1411. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1403, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1404; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1404;

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1411.

TITLE XV—SAN LUIS VALLEY PROTECTION

SEC. 1501. PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not:

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other federal reclamation project.

TITLE XVI—IRRIGATION ON STANDING ROCK INDIAN RESERVATION

SEC. 1601. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

Section 5(e) of Public Law 89-108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986, is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation".

TITLE XVII—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1701. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100-516). Section 3(b)(1) of the Mni Wiconi Project Act of 1988 is amended by striking "shall" and inserting "may".

TITLE XVIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 1801. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and main-

tenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 1802(d) of this title.

SEC. 1802. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: *Provided, however*, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection (d).

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 1802 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XIX—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

SEC. 1901. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

SEC. 1902. GENERAL AUTHORITY.

(a) The Secretary of the Interior (hereafter "Secretary"), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled "A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley" (September 1990).

SEC. 1903. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, state and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1904. FEASIBILITY STUDIES.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1903 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of fi-

nancial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1906 and 1908 through 1910 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1905. RESEARCH AND DEMONSTRATION PROJECTS.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 percent of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480) as amended by the Technology Transfer Act of 1986 (Pub. L. 99-502).

SEC. 1906. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

SEC. 1907. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1908. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the City of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1909. TUCSON AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1910. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on groundwater resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

SEC. 1911. SAN FRANCISCO AREA WATER RECLAMATION STUDY.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the cost of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title.

SEC. 1912. SAN DIEGO AREA WATER RECLAMATION PROGRAM.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1913. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

SEC. 1914. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility; *Provided*, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1915. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1901 through 1914 of this title.

SEC. 1916. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater, and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a groundwater management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1917.

SEC. 1917. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1916.

TITLE XX—SALTON SEA RESEARCH PROJECT

SEC. 2001. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80-858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81-516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: *Provided, however*, That the Federal property benefits exceed 50 per centum of the total project benefits.

TITLE XXII—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2201. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a-4221) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14-06-200-8423A and 14-06-200-842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2202. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applications of the provisions of Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific act of Congress.

SEC. 2203. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2204. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided*, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIII—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2301. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-20-W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Sec-

retary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2302. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and,

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2303. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided*, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

TITLE XXIV—SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 2401. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project rate setting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau.

(2) The credit is effective on the date the pumps were delivered to the Bureau for installation at Folsom Dam.

TITLE XXV—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2501. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 2701. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 2703, to the interstate compact, described in section 2702, relating to the waters of the Sabine River and its tributaries.

SEC. 2702. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 2703. AMENDMENT.

The amendment referred to in section 2701 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: *Provided*, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XXVIII—MONTANA IRRIGATION PROJECTS

SEC. 2801. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

(b) Power made available under this section shall be at the firm power rate.

TITLE XXIX—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 2901. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 2902. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 2903. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

TITLE XXX—RECLAMATION RECREATION MANAGEMENT ACT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

SEC. 3002. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet

public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 3003. DEFINITIONS.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term "Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371)), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 3004. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C. 4601-13(a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 4601-14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 4601-15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance, and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 4601-14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

"(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that is approved by the agency with administrative jurisdiction over the project; and

"(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 4601-18(a)) is amended—

(1) by striking "purposes: Provided," and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

SEC. 3005. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 3006;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses make of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(1)(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 3006. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project.

SEC. 3007. MAINTENANCE OF EFFORT.

Prior to making an expenditure for the construction, operation, and maintenance of any expansion of a recreation facility under section 3004(d) of this title at any project, the Secretary must determine that the expansion will not result in a delay or postponement of, or a lack of funding for, the repair, replacement, or rehabilitation of the water storage or delivery features which are necessary for the authorized purposes of such project.

TITLE XXXI—WESTERN WATER POLICY REVIEW

SEC. 3101. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public

land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, has the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3103. PRESIDENTIAL REVIEW.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Interior and Insular Affairs and Appropriations of the House of Representatives.

(b) Such report shall be submitted within five years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3104 of this title, and may request the Secretary of the Interior or other federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3104. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title.

(b) The Commission shall be composed of eighteen members as follows:

(1) Ten members appointed by the President including:

(A) the Secretary of the Interior or his designee;

(B) at least one representative chosen from a list submitted by the Western Governors Association;

(C) at least one representative chosen from a list submitted by Tribal governments located in the Western States.

(2) In addition to the ten members appointed by the President, the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives shall serve as ex officio members of the Commission.

(c) The President shall appoint one member of the Commission to serve as Chairman.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3105. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

(2) examine the current and proposed Federal programs affecting such states and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3106. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title;

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian Tribes and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3107. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for Level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel can not be obtained from the Secretary of the Interior or by detail from other federal agencies. Such personnel may be appointed without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109 (b) of Title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) The Secretary of the Interior shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3108. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3107(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3109. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3107(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for

carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3110. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of this title.

TITLE XXXII—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3201. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(a) IN GENERAL.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) PAYMENT AMOUNT.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined according to this section.

(c) INTEREST RATE.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) INVESTIGATIONS.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the federal government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) TAX-EXEMPT FINANCING.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the federal government for the direct or indirect loss of future tax revenues.

(f) LIMIT ON INTEREST RATE.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) TERMINATION OF AUTHORITY.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: Provided, That the borrower shall have at least 60 days to respond to any prepayment offer made by the Secretary.

(i) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma;

(3) the term "project" means the Mountain Park Project, Oklahoma; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 3202. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: *Provided*, That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than 12 months after the date of enactment of this section.

TITLE XXXIII—SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST

SEC. 3301. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The Trust is established by non-Federal interests as a non-profit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The trust is under the direction of a Board of Trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the Trust.

(3) The Board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the Board are filled in the manner in which the original appointments were made. Any member of the Board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the Board shall serve without compensation.

(5) The corporate purposes of the Trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) the Trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale natural ecosystems in accordance with its corporate purpose; and

(2) the Trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust.

(3) Proceeds from the Trust are used for the following purposes:

(A) $10,000 per year or 5 percent of the total funds expended by the Trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do the following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage Databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the Trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with Trust proceeds will be held by the public agency or private non-profit organization which proposed and completed the project, or another conservation owner with the approval of the Board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the Trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the Board, Trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a steward-

ship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the Trust and other endowments. The endowments will be managed by the Trust Board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the Board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the Trust may be used for management of public or private lands, including but not restricted to lands purchased with Trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota;

(2) acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems;

(3) provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna which are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

TITLE XXXIV—CENTRAL VALLEY PROJECT FISH AND WILDLIFE ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Fish and Wildlife Act of 1992."

SEC. 3402. STATEMENT OF PURPOSE.

The purposes of this title are:

(a) to protect, restore, and enhance fish and wildlife habitat in the Central Valley of California as specifically provided for within this title;

(b) to partially mitigate the impacts of the Central Valley Project on fish and wildlife habitat by requiring the implementation of specific habitat restoration actions;

(c) to provide for the continued orderly operation of the Central Valley Project by resolution of fish and wildlife issues impacts;

(d) to establish a joint Federal and state advisory committee to identify, develop and assist the Secretary of the Interior in the implementation of habitat restoration actions identified in this title and a Federal task force to assist the Secretary of the Interior in the identification and development of additional habitat restoration actions that would provide means by which the mitigation of Central Valley Project impacts on fish and wildlife habitat and cost effective protection, restoration, and enhancement of fish and wildlife habitat and resources in the Central Valley of California may be accomplished;

(e) to encourage, through cost sharing and other related actions, the cooperation and contribution by the State of California and other non-Central Valley Project entities toward the protection, restoration and enhancement of fish and wildlife habitat within the Central Valley of California;

(f) to increase the benefits provided by the Central Valley Project to California through the expanded use of water conservation and water transfers;

(g) to achieve the purposes of this title through implementation of projects, procedures and programs which do not result in further degradation of resources, including, but not limited to, groundwater, of the areas presently served by the Central Valley Project; and

(h) to coordinate the efforts and actions authorized in this title with other activities being undertaken within the State of California to ensure that work is not unnecessarily duplicated and is coordinated to minimize inconsistent and counter-productive results and maximize the benefits to be obtained.

SEC. 3403. DEFINITIONS.

As used in this title:

(a) The term "anadromous fisheries" includes runs of salmon, striped bass, steelhead trout, sturgeon, and American shad that ascend the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in the San Francisco Bay and/or the ocean.

(b) The terms "artificial propagation" and "artificial production" include spawning, hatching, incubating, and rearing fish in a hatchery or other facility constructed for fish production.

(c) The term "Central Valley" means the watershed of the Sacramento and San Joaquin Rivers and their tributaries including the Sacramento-San Joaquin Delta.

(d) The term "Central Valley Project" means the Central Valley Project, California, as authorized in the Act of August 26, 1937 (50 Stat. 850) and all acts amendatory thereto.

(e) The term "Central Valley Project Fish and Wildlife Advisory Committee" means the Committee established in section 3405 of this title.

(f) The term "Central Valley Project Fish and Wildlife Task Force" means the Task Force established in section 3406 of this title.

(g) The term "Central Valley Project Service Area" means that area where water service has been authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project.

(h) The term "Central Valley Project water" means all water that is diverted, stored or delivered by the Bureau of Reclamation pursuant to water rights acquired pursuant to California law, including water made available under the so-called "exchange" and Sacramento River settlement contracts.

(i) The term "Central Valley Project Water Contractor" means any entity which contracts for Central Valley Project water.

(j) The term "Central Valley Project Water Contractors Fund" means the fund established in section 3404(h) of this title.

(k) The term "Central Valley Refuges" includes the Sacramento, Delevan, Colusa, Sutter, Kesterson, San Luis, Merced, Pixley, and Kern National Wildlife Refuges, the Grassland Resource Conservation District, the Gray Lodge, Los Banos, Volta, and Mendota State Wildlife Areas, and those National Wildlife Refuges and State Wildlife Areas identified in the Bureau of Reclamation's report entitled San Joaquin Basin Action Plan/Kesterson Mitigation Plan (1989).

(l) The term "critically overdrafted groundwater basin" means those areas defined by the California Department of Water Resources, in its Bulletin No. 118-80, to have a critical groundwater overdraft problem.

(m) The term "natural production" means fish produced to adulthood without the direct intervention of man in the spawning or rearing processes.

(n) The term "Refuge Water Supply Report" means the report entitled Report on Refuge Water Supply Investigations, published in March 1989 by the Bureau of Reclamation, Department of the Interior.

(o) The term "Secretary" means the Secretary of the Interior or his designee, except as otherwise provided.

(p) The term "transfer" means:

(1) all conjunctive use programs that provide for the transfer of all or a portion of the surface water made available by the use of groundwater as a substitute supply to another water use,

(2) exchanges between water users,

(3) groundwater storage programs that provide for transfer of all or a portion of the stored water to another water user directly or through exchange,

(4) conservation programs that provide for all or a portion of the water conserved to be transferred to another water user, or

(5) purchase of water through fallowing programs that allow water to be moved from a Central Valley Project contractor to an-

other water user on a short or long-term basis.

SEC. 3404. PROTECTION, RESTORATION, AND ENHANCEMENT OF CENTRAL VALLEY FISH AND WILDLIFE HABITAT.

(a) GENERAL AUTHORITY.—The Secretary shall:

(1) implement the actions established by section 3404(b);

(2) develop, select, and implement actions, using the criteria established in section 3404(e), that address the fish and wildlife habitat issues listed in section 3404(c);

(3) as provided in section 3405, establish a "Central Valley Project Fish and Wildlife Advisory Committee" that will make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c) using the criteria established in section 3404(e); and

(4) as provided in section 3406, establish a "Central Valley Project Fish and Wildlife Task Force" that will identify additional actions that would protect, restore, and enhance the Central Valley fish and wildlife habitat, develop the technical information needed to evaluate these actions, determine the economic and biological feasibility of these actions using the criteria established in section 3404(e), and report the findings to Congress for implementation authorization.

(b) INITIAL ACTION.—Subject to limitations contained in sections 3404(f)(6) and 3404(f)(7), the following fish and wildlife habitat protection, restoration, and enhancement actions shall be implemented by the Secretary.

(1) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1992, which, when implemented, will mitigate the direct fishery losses associated with the operation of the Tracy Pumping Plant. Direct losses are defined as fish lost after they enter the Tracy Pumping Plant intake channel, taking into account numbers of fish that survive and are returned to the Sacramento-San Joaquin Delta. The cost of this action shall be allocated under section 3404(f)(1).

(2) Negotiation and execution of an agreement with the California Department of Fish and Game by December 31, 1994, which, when implemented, will mitigate for direct fishery losses associated with the operation of the Contra Costa Canal Pumping Plant No. 1. Direct fishery losses are defined as fish lost after they enter Rock Slough. The cost of this action shall be allocated in the same manner as costs associated with the Contra Costa Canal are currently paid.

(3) Installation and operation of a structural temperature control device at Shasta Dam and development and implementation of modifications in Central Valley Project operations, if needed, by December 31, 1995, to allow for control of water temperatures in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam sufficient to protect salmon. The cost of this action shall be allocated under section 3404(f)(1).

(4) The Coleman National Fish Hatchery shall be rehabilitated and expanded by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan by December 31, 1995. The Secretary shall negotiate and execute a contract for the operation of the hatchery by the California Department of Fish and Game. The contract shall provide that its operation shall be coordinated with all other mitigation hatcheries in California. In addition, the Keswick Dam Fish Trap shall be modified to provide for its operation at all project flow release levels. The cost of this action shall be allocated under section 3404(f)(1).

(5) The negotiation and execution of an agreement with the California Department of Fish and Game, within one year after the enactment of this Act, which, when implemented, will eliminate, to the extent practical, losses of salmon and steelhead trout due to flow fluctuations caused by the operation of Keswick, Nimbus, and Lewiston Regulating Dams. The agreement shall be patterned after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex. Any costs associated with this Agreement shall be nonreimbursable.

(6) A gravel replenishment program shall be developed and implemented by December 31, 1993, for the purpose of restoring and replenishing, on a continuous basis, spawning gravel lost due to the construction and operation of Shasta, Folsom and New Melones Dams, bank protection programs, and other actions that have reduced the availability of spawning gravel in the upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream of Nimbus and Goodwin Dams, respectively. The cost of this action shall be allocated under section 3404(f)(2).

(7) A Delta Cross Channel monitoring and operational program shall be developed and implemented, within one year after the enactment of this Act, for the purpose of protecting striped bass eggs and larvae as they approach the Delta Cross Channel gates. This program includes, but is not limited to, closing the Delta Cross Channel gates during times when significant numbers of striped bass eggs and larvae approach the Sacramento River intake to the Delta Cross Channel. Since this action will, by its nature, also restrict pumping at the Tracy Pumping Plant, other restrictions on the operation of the Delta Tracy Pumping Plant, which may currently exist to protect striped bass eggs and larvae, shall be modified, relaxed or eliminated to comport with this action. The cost of this action shall be allocated under section 3404(f)(1).

(8) The Secretary shall, either directly or through an agreement with the State of California, provide dependable water supplies of suitable quality to the Central Valley Refuges in accordance with Level 2 quantity and delivery schedules of the "Dependable Water Supply Needs" table for that refuge, as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. If the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then the Secretary shall impose shortages on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors. The Secretary shall implement the actions authorized herein without a reduction in the pumping and/or conveyance capacity needed to serve other Central Valley Project purposes. The Secretary shall encourage the conjunctive use of surface water and groundwater and the multiple use of water supplies as a means to facilitate the purposes and intent of this subsection. The dependable water supplies provided to the Central Valley Refuges pursuant to this subsection shall be delivered until the firm water supplies provided for in section 3404(c)(13) are available to these refuges, and shall be provided pursuant to agreements between the Secretary, the California Department of Fish and Game, and the Grasslands Resource Conservation District which shall be executed within one year after the enactment of this Act. Fifty percent of the cost of providing water to private refuges shall be paid for by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(2).

(9) The Secretary, in coordination with the California Department of Fish and Game, shall, within one year after the enactment of this Act, establish a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley and to assess the biological results of actions implemented pursuant to this section and section 3404(c). The cost of this action shall be allocated under section 3404(f)(2).

(c) HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f)(6) and 3404(f)(7), and utilizing the criteria in section 3404(e), the Secretary shall develop, evaluate, select, and, unless otherwise specifically provided, by December 31, 2000, implement actions that will address the following fish and wildlife protection, restoration, and enhancement issues.

(1) The Secretary shall develop and implement a program to eliminate the need to reduce Keswick Dam releases every Spring to place the Anderson-Cottonwood Irrigation District Diversion Dam into operation, and every Fall to take the Dam out of operation. Additionally, the program will include structural measures need to address upstream migrating adult salmon passage problems at the Diversion Dam due to inadequate ladder attraction flows. The cost of this action shall be allocated under section 3404(f)(3).

(2) The Secretary shall develop and implement a program to minimize fish passage problems for salmon at the Central Valley Project Red Bluff Diversion Dam. The cost of this action shall be allocated under section 3404(f)(4).

(3) The Secretary shall develop and implement a program to augment natural production of salmon and steelhead trout population levels in the San Joaquin River system in above normal water years through means of artificial production. The cost of this action shall be allocated under section 3404(f)(2).

(4) The Secretary shall construct and operate a new satellite hatchery to augment the single and dual purpose channels at the Tehama Colusa Fish Facility and to further mitigate the impact of Shasta Dam on fishery resources. The new satellite hatchery shall be located at a suitable location upstream of the Red Bluff Diversion Dam. This new hatchery shall be operated by the California Department of Fish and Game under contract with the Secretary. The cost of this action shall be allocated under section 3404(f)(2).

(5) The Secretary shall construct a salmon and steelhead trout hatchery on the Yuba River. The Secretary shall negotiate and execute a contract with the California Department of Fish and Game to operate the hatchery. The objective of such hatchery is to assist in California's efforts to realize the full potential of salmon and steelhead trout natural production on that river and to assist in maintaining the existing runs of salmon and steelhead trout and create enhancement potential for natural production in above normal water years. The cost of this action shall be allocated under section 3404(f)(3).

(6) The Secretary shall negotiate and execute an agreement with the California De-

partment of Fish and Game by December 31, 1993 that requires the release of the minimum flows necessary to take full advantage of the spawning, incubation, rearing and outmigration potential of the upper Sacramento River and the Lower American River for salmon subject to the physical capabilities of the Central Valley Project facilities involved. The Agreement shall provide for less than these minimum flows in dry and critical water years if the Secretary determines that in so doing the Secretary can minimize the impacts of providing the fishery flows on other Central Valley Project authorized purposes, provided the fishery benefits lost in those years are offset by enhancing spawning, incubation, rearing and outmigration conditions in other water years. The cost of this action shall be allocated under section 3404(f)(1). The Secretary is authorized to assist in the funding of biological studies, in cooperation with the California Department of Fish and Game and the California State Water Resources Control Board, focused on furthering the scientific understanding of the salmon fishery in these rivers and to provide the information needed to verify that the intended fishery benefits are being provided by the minimum fishery requirements in this agreement and to allow for adjustments to the flow requirements in the future, if needed. If the Secretary and the California Department of Fish and Game determine that the flow conditions in the upper Sacramento River and the lower American River provided by the Central Valley Project under this agreement are better than conditions that would have existed in the absence of the Central Valley Project facilities, the enhancement provided shall become credits to be provided Central Valley Project water and power contractors to offset future mitigation responsibilities identified pursuant to section 3404(d).

(7) The Administrator of the Environmental Protection Agency is directed to expedite and by no later than December 31, 1995, complete efforts to clean up mines causing intermittent releases of lethal concentrations of dissolved metals from the Spring Creek Debris Dam. In the interim, the Secretary shall provide water from Keswick Dam sufficient to dilute the Spring Creek Debris Dam discharges to concentration levels that allow survival of fish life below Keswick Dam except when the United States Corps of Engineers' flood control criteria for Shasta Dam limit that capability. The cost of this action, not including the cost of EPA actions, shall be allocated under section 3404(f)(3). If the Administrator of the Environmental Protection Agency fails to complete such efforts by December 31, 1995, all such costs shall be assumed by the Agency.

(8) The Secretary shall provide flows to allow sufficient spawning, incubation, rearing and outmigration conditions for salmon and steelhead trout from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. The cost of providing the required flows shall be allocated under section 3404(f)(1). Any federal cost associated with the restoration of the Clear Creek or in the construction of a fish ladder at the McCormick-Saeltzer Dam shall be allocated under section 3404(f)(3).

(9) The Secretary is authorized to construct, in partnership with the State of California, a barrier at the head of Old River in the Sacramento-San Joaquin Delta, by December 31, 1995, to partially mitigate the impact of the Central Valley Project and State Water Project pumping plants in the south Sacramento-San Joaquin Delta on the survival of young outmigrating salmon that are diverted from the San Joaquin River to the pumps. The cost of constructing, operating and maintaining the barrier shall be shared 50% by the State of California and 50% by the Federal government. The Federal share shall be allocated under section 3404(f)(1).

(10) The Secretary shall evaluate and implement a program to correct a defective fish screen at the Glenn-Colusa Irrigation District's Sacramento River diversion which was constructed with Federal and state funding and which does not function due to design errors. The cost of this action shall be allocated under section 3404(f)(3).

(11) The Secretary shall assist in the funding, in coordination with the California Department of Fish and Game, of enforcement measures that will reduce the numbers of striped bass illegally taken from the San Francisco Bay Estuary. The cost of this action shall be allocated under section 3404(f)(3).

(12) The Secretary shall provide such assistance as may be requested by the State of California to develop and implement fishing regulations that will protect the older more productive striped bass females in order to maintain a viable reproducing striped bass population.

(13) The Secretary shall develop and implement measures that will provide additional dependable water supplies of suitable quality. The conveyance capacity needed to deliver this water and associated refuge facilities to permit full habitat development of the Central Valley Refuges and the water provided shall be up to the Level 4 quantity and delivery schedules in the "Dependable Water Supply Needs" table as set forth in the Refuge Water Supply Report or as established by the Secretary for the refuges identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report. Water for this purpose shall be provided by: (1) the Secretary providing Central Valley Project water supply on a firm basis equal to the amount currently delivered by the Central Valley Project on a non-firm basis, provided that if the Central Valley Project cannot deliver a full supply in any water year to the refuges and the Central Valley Project contractors, then shortages shall be imposed on the Central Valley Project water provided the refuges that are equal to the shortages imposed on the non-water rights Central Valley Project agricultural contractors; (2) voluntary water conservation or conjunctive use purchases provided the surface water being made available through conjunctive use does not come from an area in a critically overdrafted groundwater condition and the conserved water being purchased would not be available to another user of Central Valley surface or groundwater in the absence of the water conservation purchase; and (3) voluntary water purchases from existing Central Valley Project water contractors provided the water being purchased would have been consumptively used in the absence of the specific water purchase. Neither additional Central Valley Project water shall be made available for this purpose nor should any Central Valley Project conveyance capacity be made available for this purpose if that conveyance capacity is needed to convey water to existing Central Valley Project water contractors. Fifty percent of the cost of providing water to private refuges shall be paid by those private refuges. The remaining cost of this action shall be allocated under section 3404(f)(3).

(d) ADDITIONAL HABITAT RESTORATION ACTIONS.—Subject to the limitations contained in sections 3404(f) (6) and 3404(f) (7) and utilizing the criteria in section 3404(e), the Central Valley Project Fish and Wildlife Task Force established in section 3406 of this title shall identify additional actions that would provide mitigation of Central Valley Project impacts on Central Valley fish and wildlife habitat and would protect, restore, and enhance Central Valley fish and wildlife habitat. The Task Force shall develop the information needed to evaluate these actions technically, determine the economic and biological feasibility using the criteria established in section 3404(e), determine appropriate cost allocations specific to each action, and select actions to recommend to Congress for authorization to implement. The Task Force shall make its first report to Congress no later than December 31, 1995, and shall report every five years thereafter, at a minimum, until the year 2010, when the Task Force shall cease to exist. Fish and wildlife habitat issues to be evaluated by the Task Force shall include, but not be limited to, the following:

(1) Determination of the flows and habitat restoration measures needed to protect, restore and enhance salmon and steelhead trout in the San Joaquin River below the confluence with the Merced River, Mokelumne River, and Calaveras River and in the Butte, Deer, Mill, and Battle Creeks, which are tributary to the Sacramento River, and development of feasible means of maintaining those flows and implementing the habitat restoration measures identified.

(2) Investigation of actions allowing closure or screening of the Delta Cross Channel and Georgiana Slough to prevent the diversion of outmigrating salmon and steelhead trout through those facilities.

(3) Investigation of the need to expand existing wildlife refuges and/or develop additional wildlife refuges in the Central Valley beyond what is included in the Refuge Water Supply Report. The Task Force shall also determine the water supply and delivery requirements, above Level 4, necessary to permit full habitat development of existing wildlife refuges and determine feasible means of meeting that water supply requirement.

(4) Investigation of alternative means of improving the reliability of water supplies currently available to privately owned wetlands in the Central Valley.

(5) As a means of increasing survival of migrating young fish, investigation of the feasibility of using short pulses of increased water flows to move salmon, steelhead trout, and striped bass into and through the Sacramento-San Joaquin Delta.

(6) Investigation of ways to maintain suitable temperatures for young salmon survival in the lower Sacramento River and in the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent.

(7) Investigation of the need for additional hatchery production to mitigate the impacts of water development on Central Valley fisheries where no other feasible means of mitigation is available or where hatchery production would enhance efforts to increase natural production of a particular species.

(8) Investigation of measures available to correct flow pattern problems in the Sacramento-San Joaquin Delta created by the

operation of the Central Valley Project and the California State Water Project as well as San Francisco Bay inflow pattern changes caused by the operation of water development projects in the Central Valley.

(9) Evaluation of measures to avoid unquantified losses of juvenile anadromous fish due to unscreened or inadequately screened diversions on the Sacramento and San Joaquin Rivers, their tributaries, and in the Sacramento-San Joaquin Delta such as construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas.

(10) Elimination of barriers to upstream migration of salmon and steelhead trout adults to spawning areas downstream of existing storage facilities in the Central Valley caused by agriculture diversions and other obstructions reduce the natural production of these species as well as removal programs or programs for the construction of new fish ladder.

(e) SOCIAL, ECONOMIC AND BIOLOGICAL CONSIDERATIONS.—In fulfilling their responsibilities as specified in sections 3404(c) and 3404(d), the Secretary, the Central Valley Project Fish and Wildlife Advisory Committee, and the Central Valley Project Fish and Wildlife Task Force shall consider the following criteria and factors, and issue findings thereon, when determining which alternate programs, policies or procedures should be implemented to protect, restore and/or enhance fish and wildlife conditions. The alternative programs available to implement specific actions in sections 3404(c) and 3404(d) that best meets all of the following criteria shall be selected.

(1) Natural production alternatives shall be given priority over artificial production alternatives;

(2) Alternatives that have the highest biological probability of achieving the desired objective shall be preferred.

(3) Alternatives that provide a greater magnitude of potential benefits shall be given priority over alternatives which have a lesser magnitude of potential benefits.

(4) Alternatives that are determined to be the most cost effective, measured in economic terms considering impacts within the Central Valley Project service area's water and power resources and related industries.

(f) COST ALLOCATIONS.—The fiscal cost of implementing actions listed in section 3404(b) and selected pursuant to section 3404(c) shall be allocated as follows:

(1) Costs specified within sections 3404(b) and 3404(c) as allocated under this subsection shall be first allocated among Central Valley Project purposes, with reimbursable costs then allocated between Central Valley Project water and power contractors pursuant to applicable statutory and regulatory procedures and assessed pursuant to the provisions of section 3404(h) of this title.

(2) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 37.5 percent to the Central Valley Project, 37.5 percent as a nonreimbursable Federal expenditure, and 25 percent payable by the State of California. Central Valley Project costs shall be first allocated among Central Valley Project purposes with reimbursable costs, then allocated between Central Valley Project water and power contractors and assessed pursuant to the provisions of section 3404(h) of this title. Central Valley Project costs determined to be nonreimbursable shall be added to the nonreimbursable Federal expenditure.

(3) Costs specified within sections 3404(b) and 3404(c) as allocable under this subsection shall be allocated 50 percent as a Federal nonreimbursable cost and 50 percent to the State of California.

(4) Costs associated with actions that are determined to be a Central Valley Project responsibility under sections 3404(f)(1) and 3404(f)(2) that pay for the replacement of existing Central Valley Project facilities that have not properly mitigated the effects of the Central Valley Project on the environment because of design errors by Federal agencies, shall be allocated as a Federal nonreimbursable cost.

(5) Central Valley Project power shall be used to supply the capacity and energy needs of actions identified in sections 3404(b) and 3404(c) where the costs or a portion of the costs have been allocated to the Central Valley Project as a reimbursable cost pursuant to subsections (1) and (2) of this section. The value of the Central Valley Project power, calculated as the cost of obtaining dependable power from other available sources, shall be credited against the Central Valley Project power contractors' share of the cost of actions that are mitigating the effects of the Central Valley Project and the effects of others on Central Valley fish and wildlife habitat as determined pursuant to section 3404(f)(2).

(6) Notwithstanding any other provisions of this title, the Secretary shall not undertake any action authorized herein unless the State of California makes appropriate commitments to participate in the actions identified in this title, provides relevant state approvals for identified actions, and agrees to participate in the cost sharing provisions of this title. Where local agency action or approval is required within this title, the Secretary shall not proceed unless that local agency approval or participation is secured: *Provided, however,* That nothing herein is intended to require Central Valley Project water or power contractors' approval or participation as a condition on the Secretary's ability to proceed with the mandated actions.

(7) Notwithstanding any other provisions of this title, no actions authorized in this title shall be implemented unless such actions are consistent with state water law and will not constitute an unreasonable use of water as that term is used within Article X, section 2, of the Constitution of the State of California.

(g) ADDITIONAL AUTHORITIES.—

(1) The Secretary is authorized to promulgate such regulations and enter into such agreements as may be necessary to implement the purposes and provisions of this title.

(2) In order to carry out the purposes and provisions of section 3404(c)(12), the Secretary is authorized, consistent with state law, to obtain water supplies from any source available to the Secretary: *Provided,* That such acquisition shall be pursuant to state law and any purchases shall be from willing sellers only. The Secretary, however, except as specifically provided herein, shall not diminish water supplies available to Central Valley Project contractors without compensation.

(3) The Secretary shall determine and implement the actions mandated by sections 3404(b) and 3404(c) in the most efficient and cost-effective means available. Should the Secretary determine that the State of California or a local agency of the State of California is best able to implement an action authorized by this title, the Secretary shall negotiate with the State of California or a local agency of the State of California an agreement which would allow the State of California or a local agency of the State of California to undertake the identified action. In the event no such agreement can be negotiated, the Secretary shall proceed to implement the action through means available to him.

(4) The Secretary is hereby authorized and directed as an integral part of this title, to initiate studies of any and all facilities that would assist in fully meeting the fish and wildlife purposes of this title. The Secretary shall, for each facility identified, also study the feasibility of these facilities for other purposes, including, but not limited to, water and power supplies. Cost allocations for identified multiple purpose facilities should be in accordance with the allocation of water developed or conveyed or otherwise made available by those facilities.

(h) FUNDING.—

(1) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this title. Funds appropriated under this section are authorized to remain available until expended.

(2) CENTRAL VALLEY PROJECT WATER CONTRACTORS REPAYMENT.—The amount to be repaid by water contractors under sections 3404(f)(1) and 3404(f)(2) of this title shall be collected as follows:

(i) Notwithstanding the provisions of section 105 of Public Law 99-546, the amount to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall be capitalized for a period necessary to ensure repayment, consistent with the provisions of subsection 3404(h)(ii).

(ii) Annual payment of the capitalized costs to be repaid by the Central Valley Project water contractors under sections 3404(f)(1) and 3404(f)(2) shall not exceed $1.00 an acre-foot for each acre-foot of water delivered under contract to such contractors.

(iii) The annual payments set forth in subsection 3404(h)(ii), together with interest thereon, shall be placed into a Central Valley Project Water Contractors Fund to be established by the Secretary. The first assessment shall be collected as part of water charges during the first water year which commences at least ninety days after enactment of this Act. The Central Valley Project Water Contractors Fund shall be utilized exclusively to repay costs of Central Valley Project water contractors incurred under sections 3404(f)(1) and 101(f)(2). The Secretary is authorized to use the funds within the Central Valley Project Water Contractors Fund, for these purposes, without further authorization, but subject to appropriation.

(iv) The provisions of this subsection 3404(h)(2)(i) shall apply only to Central Valley Project water delivered to Central Valley water contractors for water delivered under contract with the Bureau of Reclamation pursuant to which additional payments for such water are required.

(3) CENTRAL VALLEY PROJECT POWER CONTRACTORS REPAYMENT.—The amount to be repaid by Central Valley Project power contractors, pursuant to sections 3404(f)(1) and 3404(f)(2), shall be collected by the Secretary in accordance with existing law, policy, and practices for the repayment, by Central Valley Project power contractors, of operation and maintenance and capital costs allocated to those power contractors.

(4) COST SHARING.—The State of California and other parties identified in sections 3404(f)(2) and 3404(f)(3) shall pay an amount

equal to the amount allocated within those sections each year. In addition to cost outlays or payments to the Treasury of the United States, the Secretary may consider as a financial contribution by the State of California, Central Valley Project contractors, or other parties identified in sections 3404(f)(2) and 3404(f)(3) the value of contributions of personal or real property or personnel which the Secretary determines is beneficial to the achievement of the objectives of this title. Such contributions may include the provisions of water or water conveyance capacity to meet the requirements of this title.

(5) REMAINING COSTS.—The remaining costs shall be considered nonreimbursable costs as a Federal contribution for preserving, protecting, restoring and enhancing fish and wildlife resources within the Central Valley of California.

SEC. 3405. ESTABLISHMENT OF THE CENTRAL VALLEY PROJECT FISH AND WILDLIFE ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—In order to carry out the purposes of section 3404 of this title, there is hereby established the Central Valley Project Fish and Wildlife Advisory Committee (hereinafter referred to as the "Committee").

(b) FUNCTIONS.—The Central Valley Project Fish and Wildlife Advisory Committee shall make recommendations to the Secretary with respect to the actions set forth in sections 3404(b) and 3404(c). Such recommendations shall be strictly advisory in nature and shall not be binding on the Secretary.

(c) MEMBERSHIPS AND APPOINTMENTS.—The Central Valley Project Fish and Wildlife Advisory Committee shall be composed of the Secretary and the California Secretary of Resources and 21 additional members appointed jointly by them, as follows:

(1) A non-fishery representative of the Upper Sacramento River Fisheries Task Force.

(2) A representative of the California commercial salmon fishing industry.

(3) A representative of the California sports fishing interests.

(4) A representative of the California Department of Fish and Game.

(5) A representative of the California Department of Water Resources.

(6) A representative of the California State Water Resources Control Board.

(7) A representative of the United States Bureau of Reclamation.

(8) A representative of the United States Fish and Wildlife Service.

(9) A representative of the United States Bureau of Land Management.

(10) A representative of the United States National Marine Fisheries Service.

(11) A representative of the United States Army Corps of Engineers.

(12) A representative of the Western Area Power Administration.

(13) A representative of California wildlife interests.

(14) A representative of the Central Valley Project agriculture contractors.

(15) A representative of the Central Valley Project urban contractors.

(16) A representative of the State Water Project agriculture contractors.

(17) A representative of the State Water Project urban contractors.

(18) A representative of environmental interests in California.

(19) A representative of the Central Valley Project power users.

(20) A representative of agriculture who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(21) A representative of urban water users who does not receive water pursuant to a Central Valley Project or State Water Project contract.

(d) TERMS AND VACANCIES.—

(1) The term of a member of the Committee shall be for the life of the Committee.

(2) Any vacancy on the Committee shall be filled through appointment jointly by the Secretary and the California Secretary of Resources.

(e) TRANSACTION OF BUSINESS.—

(1) CHAIRMEN.—The Committee shall be cochaired by the Secretary and the California Secretary of Resources.

(2) MEETINGS.—Except as provided in paragraph (3), the Committee shall meet at the call of the Chairmen or upon the request of a majority of its members.

(3) RECOMMENDATIONS OF THE COMMITTEE.—All recommendations of the Committee shall be through a two-thirds majority vote.

(f) STAFF AND ADMINISTRATION.—

(1) ADMINISTRATION SUPPORT.—The Secretary, in cooperation with the State of California, shall provide the Committee with necessary administrative and technical support services.

(2) INFORMATION.—The Secretary, in cooperation with the State of California and to the extent practicable, shall furnish the members of the Committee with all information and other assistance relevant to the functions of the Committee.

(3) ORGANIZATION.—The Committee shall determine its organization and prescribe the practices and procedures for carrying out its functions under subsection (b). The Committee may establish committees or working groups of technical representatives of Committee members to advise the Committee on specific matters.

(g) MEMBERS WHO ARE FEDERAL OR STATE EMPLOYEES.—Any Committee member who is appointed to the Committee by reason of his employment as an officer or employee of the United States or the State of California shall cease to be a member of the Committee on the date on which that member ceases to be so employed.

(h) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Committee members and their technical representatives shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed travel expenses under section 5703 of title 5, United States Code. Any Committee member or technical representative who is an employee of an agency or governmental unit of the United States or the State of California and is eligible for travel expenses from that agency or unit for performing services for the Committee shall not be eligible for travel expenses under this paragraph.

(i) COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Committee and technical representatives who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Committee.

(j) TERMINATION.—The Central Valley Project Fish and Wildlife Advisory Committee shall cease to exist on December 31, 2010.

SEC. 3406. ESTABLISHMENT OF CENTRAL VALLEY PROJECT FISH AND WILDLIFE TASK FORCE.

(a) ESTABLISHMENT.—The Secretary shall, within thirty days after enactment of this title, establish a Task Force to review, evaluate and make recommendations with respect to matters identified; and in the manner provided for in section 3404(d) of this title. A minority report may be submitted if consensus recommendations cannot be achieved on any matter studied or reported on by the Task Force.

(b) SELECTION OF TASK FORCE MEMBERS.—The Task Force shall be comprised of fifteen members. The Secretary shall select the members of the Task Force as follows:

(1) The Secretary shall include on the Task Force six members recommended by the Governor of the State of California.

(2) The Secretary shall include on the Task Force three members recommended by each of the following:

(i) Chairman of the Senate Committee on Energy and Natural Resources; and

(ii) Chairman of the House of Representatives Committee on Interior and Insular Affairs.

(3) The Secretary shall also include on the Task Force three members of his own selection.

(4) With respect to the recommendations and selections set forth in sections 3406(b)(1), 3406(b)(2) and 3406(b)(3), the Task Force shall be comprised of, but not limited to:

(i) members of the general public;

(ii) representatives of the Central Valley Project Water Contractors;

(iii) representatives of the State Water Project Contractors;

(iv) representatives of the Central Valley Project power contractors;

(v) representatives of other affected water and irrigation organizations and entities; and

(vi) representatives of fish and wildlife organizations.

(c) ORGANIZATION AND OPERATION OF THE TASK FORCE.—The Secretary shall appoint a Task Force Chairman who will set the dates of hearings, meetings, workshops and other official Task Force functions in carrying out the purposes of this title. The Secretary is authorized and directed to finance from funds available to the Secretary the reasonable costs and expenses of the Task Force and its members in carrying out the mandate of this section. This shall include all reasonable travel and related expenses. The Task Force shall dissolve on December 31, 2010.

SEC. 3407. PROVISIONS FOR TRANSFER OF CENTRAL VALLEY PROJECT WATER.

(a) TRANSFERS WITHIN THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements among Central Valley Project contractors and between Central Valley Project contractors and non-contractors involving Central Valley Project water within the authorized Central Valley Project service area.

(b) TRANSFERS WHICH RESULT IN NO NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfer agreements between Central Valley Project contractors and parties outside of the Central Valley Project service area upon the determination that as a result of the proposed transaction over the term of the transfer agreement there is no net export of water out of the Central Valley Project service area of the transferor.

(c) TRANSFERS WHICH RESULT IN A NET EXPORT OF WATER OUTSIDE THE CENTRAL VALLEY PROJECT SERVICE AREA.—Except for transactions authorized under sections

3407(d) and 3407(e) and subject to the provisions of section 3407(f), the Secretary is authorized to approve all transfers between Central Valley Project water contractors and parties outside of the Central Valley Project service area where the Secretary determines that as a result of the proposed transaction over the term of transfer agreement there will be a net export of water out of the service area of the transferor, provided that the transfer meets the following conditions:

(1) The water being transferred would not otherwise be available to other consumptive beneficial uses absent implementation of the program; and

(2) Over the term of the agreement in question, the transfer will have no significant, long-term, adverse impact on groundwater conditions in the transferor's service area.

(d) TRANSFERS OF WATER DEVELOPED THROUGH TEMPORARY FALLOWING OR PERMANENT LAND FALLOWING.—Subject to the provisions of section 3407(f), the Secretary is authorized and directed to approve transfers of Central Valley Project water within or outside of the authorized Central Valley Project service area where the water to be transferred is available for transfer because of the implementation, by the transferor or landowner, of a temporary fallowing or permanent land fallowing program, including land retirement, provided that the involved Central Valley Project water contractor determines that the following conditions are satisfied:

(1) The program will have no significant long-term adverse impact on groundwater conditions.

(2) The water developed under the program shall be that water that would have been consumptively used on crops had those crops been produced during the year(s) of the transfer or water that would have otherwise been lost for beneficial use (i.e. wet water).

(3) No more than 80 percent of the water developed under such transfer shall be made available for export out of the transferor's service area with 10 percent distributed within the transferor's service area to assist in the protection of groundwater resources and 10 percent applied to fish and wildlife purposes within the Central Valley Project service area pursuant to a program approved by the Secretary.

(4) In order to avoid adverse third party impacts the total quantity of water exported under all such transfers by the transferor or landowner shall not exceed 20 percent of the total annual water supply delivered by the Central Valley Project that otherwise would have been available in any particular year for use within the service area of the transferor or 3,000 acre-feet, whichever is greater.

(5) The program will have no unreasonable impacts on water supply, operations or financial condition of the water contractor or its water users.

(e) TRANSFERS OUTSIDE OF THE CENTRAL VALLEY PROJECT SERVICE AREA DURING CERTAIN CRITICAL YEARS.—Notwithstanding the provisions of sections 3407(c) and 3407(d) and subject to the provisions of section 3407(f), the Secretary is authorized to approve both long-term and short-term contracts for the transfer of Central Valley Project water outside of the Central Valley Project service area during dry and critically dry years, as determined by the California Department of Water Resources, where the water is to be transferred to a water district or other public agency which the Secretary determines, in the absence of the transfer, would have been required, after the imposition of water conservation measures, to impose a twenty-five percent or greater deficiency on its customers.

(f) GENERAL PROVISIONS.—The following provisions shall also apply to any transfer:

(1) No program and/or agreements authorized under this title shall be approved unless the action is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon;

(2) No program and/or agreements authorized under this title shall be approved unless the proposed action is consistent with State law including, but not limited to, the provisions of the California Environmental Quality Act.

(3) All programs and/or agreements authorized under this title involving Central Valley Project water, shall be deemed a beneficial use of water by the transferor.

(4) All programs and/or agreements authorized under this title must include a Central Valley Project water contractor as a transferor and as a contracting party. The criteria established within section 3407(d) are intended to govern the exercise of a Central Valley Project water contractor's approval of a transfer proposed by a landowner within the service area of the Central Valley Project water contractor. The provisions of this title are only intended to govern the transfer of Central Valley Project water.

(5) Notwithstanding any contrary provisions contained within Central Valley Project water contracts, in implementing programs and/or agreements authorized under this title, there shall be no limitations on the use of agricultural water for municipal and industrial purposes or municipal and industrial water for agricultural purposes. All transferees of Central Valley Project water shall strictly comply with acreage and pricing requirements of reclamation law applicable to the actual use of Central Valley Project water by the transferee, rates for the applicable uses of water by the transferee shall apply to the transferee during the year or years of actual transfer and shall not be applied to the transferor.

(6) All agreements entered into pursuant to this title between Central Valley Project water contractors and entities outside of the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's full costs associated with the development and negotiation of the agreement.

(7) Agreements entered into pursuant to this title shall not be considered as conferring new, supplemental or additional benefits, and shall not be otherwise subject to the provisions of section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(8) No programs and/or agreements authorized under this title shall be approved unless the Secretary has determined that the action will have no adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations because of limitations in conveyance or pumping capacity.

(g) THE ESTABLISHMENT OF CENTRAL VALLEY PROJECT WATER CONTRACT TRANSFER SECURITY AND CERTAINTY.—

(1) All existing and future contracts for Central Valley Project water shall be deemed to allow for the transfers and exchanges provided for within this section.

(2) In order to encourage and aid in the transfer and exchange of water, as provided for within this title, all Central Valley Project contractors who are parties to a long-term transfer or exchange contract shall be entitled to renew its water contract for, at a minimum, a term equal to the remaining term of the transfer or exchange agreement at the time that the underlying contract is to be renewed.

(3) All agreements entered into under sections 3407(b)-(e) of this title shall provide that, during the year(s) of actual transfer, Central Valley Project water subject to transfer shall be repaid at "full cost" as that term is defined at 43 U.S.C. 390(bb).

SEC. 3408. AGRICULTURAL WATER CONSERVATION FEASIBILITY STUDIES.

(a) GENERAL.—This objective of this section is to encourage implementation of financially feasible water conservation practices. Water conservation practices include those practices which make water available that would not otherwise have been available to Central Valley streams or which do not worsen groundwater conditions. Water conservation, for the purposes of this title, does not include land fallowing.

(b) WATER CONSERVATION FEASIBILITY STUDIES.—All existing Central Valley Project agricultural contractors shall submit a report to the Secretary which identifies water conservation practices within two years after enactment of this Act. For such practices identified, the report shall analyze the cost and benefits to that entity and its customers of implementing each of the water conservation practices listed in this section, to the extent they apply to that entity, and any additional practices the Secretary determines should be analyzed.

(1) Water management:

(i) monitoring water supplies, deliveries and accounting;

(ii) providing farmers with crop evapotranspiration information; and providing scheduling procedures for ordering water which correspond with demand for irrigation water to the extent practical;

(iii) monitoring of surface water qualities and quantities;

(iv) monitoring of groundwater elevations and quality; and

(v) monitoring of quantity and quality of drainage waters within facilities the district owns or controls.

(2) District facility improvements:

(i) improving the maintenance or upgrading of water measuring devices;

(ii) automating canal structures;

(iii) lining or piping ditches and canals;

(iv) modifying distribution facilities to increase water delivery flexibility;

(v) constructing or lining regulatory reservoirs;

(vi) developing recharge basins, implementing in lieu recharge programs or other means of recharging groundwater basins when adequate supplies are available; and

(vii) evaluating and improving pump efficiencies of district pumping facilities.

(3) District institutional adjustments:

(i) improving communications and cooperation among districts, farmers and other agencies;

(ii) adjusting the water fee structure to provide incentives for efficient use of water and to reduce drainage discharges;

(iii) increasing flexibility in the ordering and timing of deliveries to meet crop demands; and

(iv) increasing conjunctive use of groundwater and surface water.

(4) District water user water management programs:

(i) assisting the facilitation of the financing of physical improvements for district and on-farm irrigation systems;

(ii) providing educational seminars for staff and farmers; and conducting public information programs, which seminars and programs shall address the following subjects, to the extent applicable to the area; and

(A) improving existing on-farm and district-wide irrigation efficiency;

(B) monitoring of soil moisture and salinity;

(C) promoting of efficient pre-irrigation techniques;

(D) promoting of on-farm irrigation system evaluations;

(E) constructing tail-water deliveries;

(F) improving on-farm irrigation and drainage systems; and

(G) evaluating and improving water user pump efficiencies.

(iii) providing water users with crop evapotranspiration data and information.

(c) BENEFITS AND COSTS.—The benefits and costs of implementation of specific water conservation practices shall be evaluated through analysis of, but not limited to, the impact on the following:

(1) water usage;

(2) electrical energy usage;

(3) labor and equipment required, including costs of training personnel;

(4) crop yields;

(5) reduction or increase in drainage related problems;

(6) fish and wildlife habitat conditions;

(7) costs of construction;

(8) costs of operation and maintenance;

(9) costs of water information programs; and

(10) costs of computer equipment and software.

SEC. 3409. IMPLEMENTATION.

(a) AGRICULTURAL CONTRACT WATER CONSERVATION REQUIREMENTS.—All Central Valley Project agricultural contractors shall develop a plan for implementation of water conservation practices determined by the entity within the water conservation report required under section 3408 of this title to be financially and otherwise feasible for the specific entity. The entity shall complete the plan for implementation within one year after completion of the report required in section 3408. Financially feasible conservation practices which will cause environmental harm, including, but not limited to, adversely affecting groundwater conditions, or are inconsistent with other requirements of law, shall not be required to be implemented.

(b) ON-FARM WATER CONSERVATION INCENTIVE PROGRAM.—There is hereby established a Water Conservation Incentive Program, which shall be administered by the Secretary to encourage and assist with the on-farm implementation of the water conservation practices set forth in section 3408(b)(4). Said program shall be a Guarantee Loan Program, and the Secretary may enter into a Memorandum of Understanding with the Secretary of Agriculture to administer such program in conjunction with other programs offered through the United States Department of Agriculture.

(c) MUNICIPAL AND INDUSTRIAL CONTRACT WATER CONSERVATION REQUIREMENTS.—The Secretary shall require all Central Valley Project municipal and industrial water users, to the extent they provide retail, municipal and industrial water service, to comply with the provisions of the September 19, 1991, Memorandum of Understanding regarding Urban Water Conservation in California.

(d) SECRETARIAL REVIEW.—The Secretary shall evaluate the benefits and cost analysis for each of the water conservation practices found by the specific water user preparing the water conservation reports required by section 3408 of this title to be not feasible and determine the following:

(1) Which water conservation practices, if implemented, would make additional water available to Central Valley streams or to a usable groundwater basin that would not otherwise be available in the absence of implementation of the water conservation practice.

(2) For each water conservation practice identified in section 3409(d)(1), the benefit/cost ratio of implementing that water conservation practice if that water were used to fulfill wildlife refuge water supply obligations established by this title; or made available to other water agencies through the transfer provisions established by this title.

(e) WATER CONSERVATION PRACTICES.—The Secretary may implement those water conservation practices identified which conserve water, are economically feasible, and which the Secretary determines are prudent, through implementation of the identified water conservation practice with the entity holding the contractual right to the water conserved and then making that water available for use by Central Valley refuges as required by provisions of this title, provided that an agreement is entered into between the entity and Secretary that insures the entity and its water users are not damaged by such measures, including, but not limited to, increasing cost to the entity or its water users or interferes with the ability of the entity water users to produce crops. The Secretary shall fund the implementation of a specific water conservation practice in exchange for the use of the saved water. If the Secretary determines that purchasing water for the Central Valley refuges by implementing specific water conservation practices found to meet the requirements of section 3409(d)(1) is not feasible, the Secretary shall make that water available to other California water agencies by negotiating and executing agreements between the United States, the entity holding the Central Valley Project contractual right to the saved water, and entities interested in obtaining the conserved water in exchange for funding the implementation of the water conservation practice.

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act."

SEC. 3502. DEFINITIONS.

As used in this title, the term——

(1) "Secretary" means the Secretary of the Interior;

(2) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreement between the Tribes and the United States;

(3) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(4) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS; DECLARATIONS.

(a) FINDINGS.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of 156,000 acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, 56,000 acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the United States Government did not justly compensate such Tribes when it acquired those lands.

(b) DECLARATIONS.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of 156,000 acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3504(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over 56,000 acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(a) THREE AFFILIATED TRIBES ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (hereinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1993 and each of the next following 9 fiscal years, the sum of $6,000,000.

(4) Only the interest received on moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(b) STANDING ROCK SIOUX TRIBE ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Recovery Fund an amount, which shall be nonreimbursable and nonreturnable and which is hereby appropriated, equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts appropriated to the Recovery Fund for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) Only the interest on the moneys in such Fund shall be available, and is hereby appropriated, for use by the Secretary of the Interior in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary.

(c) LIMITATION.—During fiscal years 1993, 1994, and 1995, the interest described in subsections (a)(4) and (b)(3) shall not exceed the savings generated by the bill.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) IRRIGATION.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a 2,380 acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) SPECIFIC.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) DISCLAIMER.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation 1,860 feet mean sea level.

(b) FOUR BEARS AREA.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation 1,854 feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, Range 93 West of the 5th principal meridian, McKenzie County, North Dakota:

Section 15: South Half of the Southwest Quarter;

Section 21: Northeast Quarter and Northwest Quarter of the Southeast Quarter;

Section 22: North Half of the Northwest Quarter; and

(2) approximately 45.80 acres, more or less, situated in the East Half of the Southwest Quarter and the East Half of the West Half of the Southwest Quarter of Section 15, lying at or above contour elevation 1,854 mean sea level, located North of the Northerly right-of-way line of North Dakota State Highway No. 23 and Southeasterly of the following described line:

Commencing at a point on the West line of said Section 15, said point being 528.00 feet Northerly of the existing Northerly right-of-way line of North Dakota State Highway No. 23; thence North 77 00' 00" East to the West line of said East Half of the West Half of the Southwest Quarter of Section 15, and the point of beginning of such line; thence Northeasterly to the Northwest corner of the East Half of the Southwest Quarter and the point of termination.

(c) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation 1,860 feet mean sea level.

(d) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of the Three Affiliated Tribes, described in subsection (b), and in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, an option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) 30 days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) 1 year from such notification to complete the purchase of such lands under their right of first refusal.

(e) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations 1,860 feet mean sea level (for subsections (a) and (c)) and 1,854 feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(f) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and natural obstructions which, in the opinion of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) PROHIBITIONS.—With respect to any lands described in this section that are below 1,860 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) EXCAVATION.—With respect to lands described in subsections (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) TRUST LANDS.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held

in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County, North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(b) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual Indian owners by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85-915), and from non-Indian owners (either by purchase or condemnation), and—

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation 1,620 feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within 1 year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed 12 months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value any land, in the case of the Standing Rock Sioux Tribe, described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) 30 days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) 1 year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation 1,620 feet mean sea level by surveying and monumenting such contour at intervals no greater than 500 feet. The survey and monumentation shall be completed within 2 years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, submerge, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below 1,620 feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates, North Dakota, and the recreation facilities located at the Fort Yates Recreation Area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation 1,620 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE..—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation on such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89-108 is amended by striking "$67,910,000" and inserting "$7,910,000."

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—WETLAND HABITAT RESTORATION PROGRAM

SEC. 3601. DEFINITIONS.

(1) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota; and

(2) the term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3602. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefore, the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: *Provided*, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3603. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3602.

TITLE XXXVII—SAN JOAQUIN NATIONAL VETERANS CEMETERY, CALIFORNIA

Notwithstanding any other provisions of law, the Secretary of the Interior and the Secretary of Veterans Affairs are authorized to enter into a contract to provide for the delivery in perpetuity of water from the Central Valley Project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin National Cemetery, California.

TITLE XXXVIII—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT

SEC. 3801. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation, and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within 6 months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of onsite improvements, shall be completed within 10 months of the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of

the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

TITLE XXXIX—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT

SEC. 3901. SHORT TITLE.

This title may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1992".

SEC. 3902. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately 58,735 acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF TITLE.—It is the purpose of this title—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this title.

SEC. 3903. DEFINITIONS.

For purposes of this title:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 3910(c) and 3911(a)(7) of this Act.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Acts of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of June 7, 1924 (42 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 3904. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) PARTIAL SATISFACTION OF CLAIMS.—Notwithstanding any other provision of this Act, in the event the authorizations contained in section 3908(b) do not become effective, the water referred to in subsection 3904(a) of this Act shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source," Maricopa County Superior Court Nos. W-091, W-092, W-093, and W-094 (consolidated), as against the parties identified in section 3903(2) of this Act.

(c) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to 14,655 acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3906, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe and annual entitlement to 3,480 acre-feet of water

from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3906, water service capital charges, or any other charges or payments of such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP for irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of 12,700 acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 3910(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII (2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 3910(d) of this Act, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 3908(b) of this Act, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 3905. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 3910(i), the contract between the SRP and the RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of Exhibit "A" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this title.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(f) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this title, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to 100 years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 3906. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 3904(a) of this Act.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d) of section 3904 of this Act; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to deliver CAP water shall not exceed the cost of construction of the delivery and distribution system for the 12,700 acrefeet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the terms and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as author-

ized by section 3906 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 3904, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charges for any water use or lease from the effective date of this title through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-0906-09W-09245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Safford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this title may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 3907. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this title; and

(2) to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07-0981-09000210, to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this Act are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 3906 of this Act.

(c) AUTHORIZATION.—There are authorized to be appropriated $18,800,000 in fiscal year 1993, and $19,600,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this Act at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—When the authorizations contained in section 3908(b) of this Act are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: Provided, however, That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure the use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS.—The Secretary shall, no later than 30 days after the date the authorizations contained in section 3908(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Fund.

SEC. 3908. SATISFACTION OF CLAIMS.

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this title shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this title. Notwithstanding the foregoing, nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this title, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 3911(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this title shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

(f) AK-CHIN WATER CLAIMS; WAIVER AND RELEASE.—Lands receiving CAP water shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law: *Provided*, That, as to each non-Indian agricultural contractor of such water, such exemptions shall be contingent upon the execution by such contractor of a waiver and release of any and all claims resulting from the reallocation of water to the Tribe pursuant to section 3904(a) of this Act.

SEC. 3909. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 3910(c) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the set-

tlement under this title, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspects of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 3910. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this title or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this title or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the provisions of this title, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) GROUND WATER MANAGEMENT PLAN.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as a management plan developed under Arizona law.

(e) AMENDMENT TO THE ACT OF APRIL 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390) is amended by inserting immediately before the period at the end thereof a colon and the following: "*Provided further*, That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe".

(f) SAN CARLOS RESERVOIR.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) LIMITATION.—No part of the Fund established by section 3907(b) of this Act, including principal and income, or income from options to lease water or water leases authorized by section 3906, may be used to make per capita payments to members of the Tribe.

(h) DISCLAIMER.—Nothing in this title shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) WATER RIGHTS.—Nothing in this title shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, other than the San Carlos Apache Tribe.

(j) PLANET RANCH.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14-0906-09W-09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: *Provided, however*, That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) REPEAL.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries.

(l) WATER RIGHTS.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this title be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 3911. EFFECTIVE DATE.

(a) EFFECTIVE DATE OF AUTHORIZATION.—The authorization contained in section 3908(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 3904 and 3906;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 3905(b);

(3) the funds authorized by section 3907(c) have been appropriated and deposited into the Fund;

(4) the contract referred to in section 3907(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this title, and has been executed by the Secretary.

(b) CONDITIONS.—(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section have not occurred by December 31, 1994, subsections (c) and (d) of section 3904, subsections (a) and (b), of section 3905, section 3906, subsection (a)(2), (c), (d), and (f) of section 3907, subsections (b) and (c) of section 3908, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 3910 of this Act, together with any contracts entered into pursuant to any such section or subsection, shall not be effective on and after the date of enactment of this title, and any funds appropriated pursuant to section 3907(c), and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 3905 of this Act have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

TITLE XXXX—NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

SEC. 4001. SHORT TITLE.

This title may be cited as the "National Historic Preservation Act Amendments of 1992".

SEC. 4002. FINDINGS.

Section 1(b) of the National Historic Preservation Act, Public Law 89-665, as amended (16 U.S.C. 470(b)), is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), (8) and (9); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) historic properties, including prehistoric and historic sites, buildings, districts, structures, and objects, prehistoric and historic archaeological resources, prehistoric and historic roads and trails, and places that have figured in the traditions and lifeways of our communities, of indigenous populations and of the Nation as a whole, are vital links to our past and contribute in major ways to the identity of our Nation and its communities;

(3) a national preservation program is achieved by extending Federal Government concern to properties of significance to localities, Indian tribes, Native Hawaiians, States, and the Nation in private and public ownership;".

SEC. 4003. POLICY.

Section 2 of the National Historic Preservation Act (16 U.S.C. 470-1) is amended—

(1) in paragraph (2) by inserting "and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiian organizations, and local governments" after "community of nations"; and

(2) in paragraph (6) by inserting ", Indian tribes, and Native Hawaiian organizations" after "local governments".

SEC. 4004. REVIEW OF THREATS TO PROPERTIES.

Section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) is amended at the end thereof by adding the following new paragraph:

"(8) The Secretary shall, at least once every 4 years, in consultation with the Council, make a review in general of threats to properties included in or eligible for inclusion on the National Register, in order to—

"(A) determine what kinds of properties may be in particular danger;

"(B) ascertain the causes of the threats; and

"(C) develop and submit to the President and Congress recommendations for remedial action where appropriate.".

SEC. 4005. STATE HISTORIC PRESERVATION PROGRAMS.

Section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council and the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with the requirements of this Act. If at any time the Secretary determines that a State program is not consistent with the requirements of this Act, the Secretary shall disapprove the program and suspend, in whole or in part, assistance to the State under subsection (b)(1), unless there are adequate assurances that the program will be made consistent with the requirements of this Act within a reasonable period of time. At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system establishes and maintains substantially similar accountability standards. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.";

(2) in paragraph (3)—

(A) in subparagraph (G), by striking "relating to the Federal and State Historic Preservation Programs; and" and inserting "in historic preservation;";

(B) in subparagraph (H), by striking the period at the end thereof and inserting a semicolon; and

(C) by adding at the end thereof the following new subparagraphs—

"(I) consult with appropriate Federal agencies in accordance with this Act on—

"(i) Federal undertakings that may affect historic properties; and

"(ii) the content and sufficiency of any plans developed to protect or to reduce or mitigate harm to such properties;

"(J) advise, assist, and evaluate proposals for rehabilitation projects that may qualify for Federal assistance (including grants, loans, and tax incentives); and

"(K) carry out such additional responsibilities as the Secretary, in consultation with the State Historic Preservation Officer determines to be appropriate, consistent with the purposes of this Act.";

(3) in paragraph (5) by striking "1980" and inserting "1992"; and

(4) by adding at the end thereof the following new paragraphs:

"(6)(A) Subject to subparagraph (B), the Secretary or the Council may enter into contracts or cooperative agreements with a State Historic Preservation Officer to allow such Officer to carry out their duties within the State in the following areas—

"(i) to identify and preserve historic properties;

"(ii) to determine the eligibility of properties for listing on the National Register;

"(iii) to expand the National Register;

"(iv) to maintain historical and archaeological data bases;

"(v) to certify eligibility for Federal preservation incentives; and

"(vi) to comment on actions of Federal, State, or local governments, private individuals, and corporations pursuant to this Act, the Internal Revenue Code of 1986, and other Federal law.

"(B) The Secretary or the Council may enter into a contract or cooperative agreement under subparagraph (a) only if—

"(i) the State Historic Preservation Officer has requested the additional authority;

"(ii) the Secretary has approved the State historic preservation program pursuant to section 101(b) (1) and (2);

"(iii) the State Historic Preservation Officer agrees to carry out the additional authority in a timely and efficient manner acceptable to the Secretary or the Council, as the case may be;

"(iv) the Secretary or the Council agree to provide for a timely review of decisions when requested; and

"(v) the Secretary or the Council and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such authority.".

SEC. 4006. CERTIFICATION OF LOCAL GOVERNMENTS.

Section 101(c) of the National Historic Preservation Act (16 U.S.C. 470a(c)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this section the term—

"(A) 'designation' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

"(B) 'protection' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).".

SEC. 4007. TRIBAL HISTORIC PRESERVATION PROGRAMS.

(a) REVISION OF EXISTING LAW.—Section 101 of the National Historic Preservation Act (16 U.S.C. 470a) is amended—

(1) by redesignating subsections (d), (e), (f), (g) and (h) as subsections (e), (f), (g), (h), and (i); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1)(A) The Secretary shall establish a program to assist Indian tribes and Native Hawaiian organizations in preserving their unique cultural resources. The program shall have as its purpose the preservation, retention, and enhancement of the historic properties and cultural traditions of Indian tribes and Native Hawaiians. The Secretary shall foster communication and cooperation between Indian tribes and Native Hawaiian organizations and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, Native Hawaiian organizations, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

"(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal and Native Hawaiian values are taken into account. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal or Native Hawaiian heritage preservation goals and objectives. The tribal and Native Hawaiian programs implemented by specific tribes and Native Hawaiian organizations may vary in scope, as determined by each tribe's chief governing authority and Native Hawaiian organizations authorized officials.

"(C) The Secretary shall consult with Indian tribes, Native Hawaiian organizations, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1993.

"(2) A tribe or a Native Hawaiian organization may assume all or any part of the functions of a State Historic Preservation Officer under subsection (b)(3), together with the concomitant responsibilities under subsections (b) (2) and (3), with respect to tribal land, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if—

"(A) the tribe's chief governing authority or organization's chief executive official so requests;

"(B) the tribe or organization designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or the organization's chief executive official or as a tribal ordinance may otherwise provide;

"(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

"(D) the Secretary determines, after consultation with the tribe or organization, the appropriate State Historic Preservation Officer, the Council (if the tribe or organization proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106), and other tribes or organizations, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

"(i) that the tribal preservation program is sufficient to carry out the functions specified in the plan provided under subparagraph (C); and

"(ii) that the plan defines any remaining responsibilities of the State Historic Preservation Officer; and

"(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in (b)(3), together with the concomitant responsibilities under subsections (b)(2) and (3); and

"(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

"(3) In consultation with interested Indian tribes, Native Hawaiian organizations, and other Native American organizations and the National Conference of State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying

out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

"(4) At the request of a tribe or Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (3), the Secretary shall enter into contracts or cooperative agreements with such tribe or organization, all or any part of the authorities described in subsection (b)(6) on tribal land, if—

"(A) the Secretary and the tribe or organization agree on additional financial assistance, if any, to the tribe or organization for the costs of carrying out such authorities;

"(B) the Secretary ensures that the tribal historic preservation program is sufficient to carry out the contract or cooperative agreement and this Act; and

"(C) the contract or cooperative agreement specifies any continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

"(i) the tribes or organizations traditional cultural authorities;

"(ii) representatives of other tribes or organizations whose traditional lands are under the jurisdiction of the tribe or organization to which the Secretary's preservation responsibilities are delegated; and

"(iii) the interested public.

"(5) The Council may enter into an agreement with an Indian tribe or a Native Hawaiian organization to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe or organization and appropriate State Historic Preservation Officers, determines that the tribal historic preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

"(6) At the request of an Indian tribe or a Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (2), and with the concurrence of the Council (after consultation with the affected State Historic Preservation Officer), the Bureau of Indian Affairs, the Indian Health Service, and other Federal agencies may enter into contracts or cooperative agreements to carry out such part of their preservation functions and responsibilities as the tribe or organization may request on tribal land to the tribal preservation official, or, when a tribe or organization so requests, to the appropriate State Historic Preservation Officer, including any such agency's responsibility to consult with the Council and the State Historic Preservation Officer pursuant to section 106.

"(7)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

"(B) In carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).".

(b) CONFORMING AMENDMENT.—Section 110(c) of the National Historic Preservation Act (16 U.S.C. 470h-2(c)) is amended by striking "101(g)" and inserting "101(h)".

SEC. 4008. MATCHING GRANTS.

Section 101(e) of the National Historic Preservation Act, as redesignated by section 4007(a)(1) of this title, is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act and any other Act affecting historic resources.

"(B) The Secretary shall consult with the Council regarding the provision of grants related to the carrying out of authorities under subsection (b)(6).."; and

(2) by adding at the end thereof the following new paragraphs—

"(4) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be waived or Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribes or organizations conducting its responsibilities pursuant to this section.

"(5)(A) As part of the program of matching grant assistance to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled 'Joint Resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes' (48 U.S.C. 1681 note). It shall be the goal of the program to ensure at the termination of the Compacts that each Micronesian State has established historic and cultural preservation programs that meet the unique cultural needs of those emerging nations, thus guaranteeing the continuation of the programs. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations in order to achieve that goal.

"(B) The amounts to be made available to the Micronesian States shall be determined by the Secretary on the basis of needs as determined by the Secretary. Matching funds shall not be required.".

SEC. 4009. EDUCATION AND TRAINING.

Section 101 of the National Historic Preservation Act (16 U.S.C. 470a), as amended by section 4006 of this title, is further amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall, in consultation with other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

"(2) The education and training program described in paragraph (1) shall include—

"(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

"(B) increased preservation training opportunities for other Federal, State, tribal, and local government workers, students, and individuals with an avocational interest in preservation;

"(C) inclusion of provisions in federally-sponsored survey and excavation work to afford an opportunity for the participation of avocational archaeologists;

"(D) special assistance to historically black colleges and universities and to tribal colleges and colleges with a high enrollment of Native Americans or Native Hawaiians to establish preservation degree programs;

"(E) dissemination of information on preservation technologies;

"(F) implementation of a coordinated national informational and media program (such as public service announcements) on preservation topics;

"(G) distribution of model preservation curricula for elementary and high schools and adult education programs;

"(H) preservation internship programs for United States and foreign students;

"(I) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in existing Federal training and development programs; and

"(J) support for research, analysis, curation, interpretation, and display related to preservation.".

SEC. 4010. REQUIREMENTS FOR AWARDING OF GRANTS.

Section 102 of the National Historic Preservation Act (16 U.S.C. 470b) is amended—

(1) by amending subsection (a)(3) to read as follows:

"(3) for more than 60 percent of the aggregate costs of carrying out projects and programs specified in section 101(b)(3) in any one fiscal year, except that the Secretary may provide additional financial assistance for costs incurred by a State Historic Preservation Officer in carrying out activities pursuant to section 101(b)(6).";

(2) in subsection (b) by striking ", in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.".

SEC. 4011. APPORTIONMENT OF GRANT FUNDS.

Section 103 of the National Historic Preservation Act (16 U.S.C. 470c) is amended—

(1) in subsection (a) by striking "for comprehensive statewide historic surveys and plans under this Act", and inserting "for the purposes of this Act"; and

(2) in subsection (b) by striking "The amounts appropriated and made available for grants to the States for purposes and programs under this Act for each fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans.".

SEC. 4012. FEDERAL AGENCY HISTORIC PRESERVATION PROGRAMS.

Section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2) is amended—

(1) in subsection (a)(1) by striking "101(f)" and inserting "101(g)";

(2) by amending subsection (a)(2) to read as follows:

"(2) Each Federal agency shall establish (unless exempted pursuant to section 214), in consultation with the Council and the Secretary and in cooperation with affected

State Historic Preservation Officers, tribal preservation programs, and certified local governments, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Each agency shall implement such a program that ensures—

"(A) that historic properties under the jurisdiction or control of the agency are identified, evaluated, and nominated to the National Register;

"(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register—

"(i) are managed and maintained in a way that reasonably preserves their historic, archaeological, architectural, cultural, and other values; and

"(ii) are not inadvertently damaged, disposed of or allowed to deteriorate;

"(C) that the preservation, management, and maintenance of such properties not under the jurisdiction or control of the agency, but subject to possible effect are given full consideration in planning;

"(D) that the agency's preservation-related activities are carried out in cooperation with historic preservation planning activities of other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations, and the private sector; and

"(E) that the agency's procedures for compliance with section 106—

"(i) are consistent with regulations issued by the Council pursuant to section 211;

"(ii) provide for identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, regarding the means by which adverse effects on such properties will be resolved; and

"(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c)).''; and

(3) by adding at the end thereof the following new subsections:

"(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

"(l) With respect to any undertaking subject to section 106 which adversely affects any property included in or eligible for inclusion in the National Register, and for which the Federal agency has not entered into an agreement with the Council, the head of the Federal agency shall approve the undertaking only if the head of such agency accepts the recommendations of the Council or determines that the undertaking as approved is a feasible and prudent alternative to the recommendations of the Council. Where a section 106 memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all its parts.

"(m) When the Council finds, after consultation with the Secretary, State Historic Preservation Officers, affected Indian tribes, Native Hawaiian organizations, local governments, and the interested public, that a Federal agency's procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) provide adequately for consideration of properties of cultural and historical significance, including—

"(1) the identification of effects on such properties; and

"(2) the development and implementation of agreements with affected parties and others regarding the means by which adverse effects will be resolved,

the agency may comply with those procedures in place of regulations promulgated by the Council in order to meet the requirements of sections 106, 110(a)(2), 110(b), and 111 of this Act, as applicable. The Council shall review the procedures of such an agency from time to time to ensure that they continue to provide adequately for consideration of properties of cultural and historical significance.''.

SEC. 4013. LEASE OR EXCHANGE OF FEDERAL HISTORIC PROPERTIES.

Section 111 of the National Historic Preservation Act (16 U.S.C. 470h-3) is amended in subsection (a) by striking "may, after consultation with the Advisory Council on Historic Preservation, lease" and inserting "after consultation with the Council, shall establish and implement adaptive use alternatives for historic properties that are not needed for current or projected agency purposes, and may".

SEC. 4014. DISPOSITION OF ARCHAEOLOGICAL MATERIALS.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 112. (a) Each Federal agency that is responsible for the protection of archaeological resources or that conducts, causes to be conducted, or permits archaeological surveys or excavations pursuant to this Act or any other law shall ensure that—

"(1)(A) contractors supervising archaeological surveys and excavations meet professional standards under regulations developed by the Secretary in consultation with the Council and other affected agencies, taking into account, and, when appropriate, utilizing the pertinent standards and certification systems of, international, national, State, and local archaeological organizations;

"(B) agency personnel supervising archaeological surveys and excavations meet qualification standards established by the Office of Personnel Management, in consultation with the Secretary, in accordance with standards for archaeologists under the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

"(2) programs for the protection of archaeological resources and for archaeological surveys and excavations are designed, when appropriate, to involve and inform the interested public, including volunteers, professional societies, avocational groups, educational institutions, Indian tribes, and Native Hawaiian organizations;

"(3) archaeological surveys and excavations are designed, to the extent feasible, to address research topics of demonstrable significance to the sciences and humanities; and

"(4) records and other data produced by archaeological surveys and excavations are maintained in perpetuity in appropriate data bases and disseminated to potential users.

"(b) In order to promote the preservation of archaeological resources on private land that are eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to—

"(1) provide information to the owners of private lands containing archaeological resources that have a demonstrated or likely research significance, with information about the need for protection of those resources, and the available means of protection;

"(2) encourage owners to preserve archaeological resources in place and offer the owners of those resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

"(3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9)) and of properties of religious or cultural importance to Indian tribes, Native Hawaiian organizations, or other Native American groups; and

"(4) encourage owners who are undertaking excavations to—

"(A) conduct excavations and analyses that meet the standards for federally-sponsored excavations established pursuant to this Act;

"(B) register artifacts found within the archaeological resource with an antiquities registration program;

"(C) donate or lend artifacts of great significance in current or likely research to an appropriate research institution;

"(D) allow access to artifacts for research purposes; and

"(E) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2)(B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C)), give notice to and consult with such Indian tribe or Native Hawaiian organization.''.

SEC. 4015. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.), as amended by section 4013, is further amended by adding at the end thereof the following new section:

"SEC. 113. (a) In order to facilitate the control of illegal interstate and international traffic in antiquities, the Council, in consultation and cooperation with the Secretary, shall study and report the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

"(b) In conducting the study described in subsection (a) the Council shall consult with other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations and with State Historic Preservation Officers, archaeological organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

"(c) Not later than 18 months after the date of enactment of this section, the Council shall submit to Congress a report detailing its findings and recommendations from the study described in subsection (a).

"(d) There are authorized to be appropriated not more than $500,000 for the study

described in subsection (a), such sums to remain available until expended.".

SEC. 4016. MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) one member of an Indian tribe or Native Hawaiian organization appointed by the President.".

SEC. 4017. REGULATIONS OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 211 of the National Historic Preservation Act (16 U.S.C. 470s) is amended by striking the period at the end of the first sentence and inserting "in its entirety".

SEC. 4018. DEFINITIONS.

(a) AMENDMENT AND ADDITION OF DEFINITIONS.—Section 301 of the National Historic Preservation Act (16 U.S.C. 470w) is amended—

(1) in paragraph (1) by striking "Code," and all that follows through the end of the paragraph, and inserting in lieu thereof, "Code.";

"(2) in paragraph (2) by striking 'the Trust Territories of the Pacific Islands' and inserting 'the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau';

"(3) by amending paragraph (4) to read as follows:

"(4) 'Indian tribe' or 'tribe' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) in paragraph (5) by striking "Register" and all that follows through the end of the paragraph and inserting "Register, including artifacts, records, and material remains related to such a property or resource.";

(5) by amending paragraph (7) to read as follows:

"(7) 'undertaking' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

"(A) those carried out by or on behalf of the agency;

"(B) those carried out with Federal financial assistance;

"(C) those requiring a Federal permit, license, or approval; and

"(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.";

(6) in paragraph (8) by—

(A) striking "maintenance and reconstruction," and inserting "maintenance, study, interpretation, reconstruction, and education and training regarding the foregoing activities,";

(7) in paragraph (9) by striking "urban area" and inserting "area";

(8) in paragraph (10) by striking "urban area of one or more neighborhoods and" and inserting "area";

(9) in paragraph (13)(A) by striking "archaeology" and inserting "prehistoric and historic archaeology, folklore and cultural anthropology,"; and

(10) by adding at the end thereof the following new paragraphs:

"(14) 'tribal land' means—

"(A) all lands within the exterior boundaries of any Indian reservation;

"(B) all dependent Indian communities; and

"(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), and section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 17, 1959 (Public Law 86-3; 73 Stat. 5).

"(15) 'Traditional cultural authority' means an individual in a Native American group, Native Hawaiian, or other social or ethnic group who is recognized by members of the group as an expert on the groups traditional history and cultural practices.

"(16) 'Certified local government' means a local government whose local historic preservation program has been certified pursuant to section 101(c).

"(17) 'Cultural resources' means the tangible and intangible elements of traditional culture, including—

"(A) historic resources;

"(B) American folklife, as that term is defined in section 3(1) of the American Folklife Preservation Act (20 U.S.C. 2102(1)); and

"(C) Native American cultural values protected by the American Indian Religious Freedom Act (42 U.S.C. 1996).

"(18) 'Council' means the Advisory Council on Historic Preservation established by section 201.

"(19) 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(20) 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians;

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

"(C) has expertise in Native Hawaiian Affairs, and includes the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.".

(b) TECHNICAL AMENDMENT.—Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended by striking "(hereafter referred to as the 'Council')".

SEC. 4019. COOPERATIVE AGREEMENTS FOR THE PERFORMANCE OF FUNCTIONS OF A FEDERAL AGENCY.

Section 302 of the National Historic Preservation Act (16 U.S.C. 470w-1) is amended by inserting after "Act," the following: "and, in consultation with the Council, enter into an agreement with the Council, a State Historic Preservation Officer, or a tribal preservation official to carry out the functions of the Federal agency within a State or within tribal land, and may make funds available to the Council, State Historic Preservation Officer, or tribal preservation official for that purpose,".

SEC. 4020. ACCESS TO INFORMATION.

Section 304 of the National Historic Preservation Act (16 U.S.C. 4702-3) is amended to read as follows:

"(a) The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

"(1) cause a significant invasion of privacy;

"(2) risk harm to the historic resource; or

"(3) impede the use of a traditional religious site by practitioners.

"(b) When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

"(c) When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).".

SEC. 4021. NATIONAL CENTER FOR PRESERVATION TECHNOLOGY.

(a) The National Historic Preservation Act, as amended, is further amended by adding at the end thereof the following new title—

"TITLE IV—NATIONAL CENTER FOR PRESERVATION TECHNOLOGY

"SEC. 401. The Congress finds and declares that the complexity of technical problems encountered in preserving historic properties and the lack of adequate dissemination of technical information to preserve such properties require a national initiative to coordinate and promote research, disseminate information, and provide training about preservation technologies.

"SEC. 402. For the purposes of this title, the term—

"(1) 'Board' means the National Preservation Technology Board established pursuant to section 404;

"(2) 'Center' means the National Center for Preservation Technology established pursuant to section 403; and

"(3) 'Secretary' means the Secretary of the Interior.

"SEC. 403. (a) There is hereby established within the Department of the Interior a National Center for Preservation Technology. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

"(b) The purposes of the Center shall be to—

"(1) develop and disseminate preservation and conservation technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

"(2) develop and facilitate training for Federal, State, and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

"(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

"(4) coordinate and promote the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector;

"(5) serve as a liaison with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums; and

"(6) conduct such other activities as may be necessary to fulfill the purposes of this title.

"(c) Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through regional centers, laboratories, and service facilities designated or established under section 405.

"(d) The Center shall be headed by an Executive Director appointed by the Secretary in consultation with the Board.

"(e) The Secretary shall provide the Center with such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

"SEC. 404. (a) There is hereby established a Preservation Technology Board.

"(b) The Board shall—

"(1) provide leadership, policy advice, coordination, and professional oversight to the Center;

"(2) advise on priorities and the allocation of funds among the activities of the Center; and

"(3) submit an annual report to the President and the Congress.

"(c) The Board shall be comprised of—

"(1) at least 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, and other public, private, and international organizations; and

"(2) at least 5 members appointed by the Secretary on the basis of outstanding professional qualifications or experience in the disciplines included in the scope of the work of the Center.

"SEC. 405. (a) The Secretary, in consultation with the Board, shall select regional preservation technology centers from among applicants with a demonstrated institutional commitment to the purposes of the Center.

"(b) Such centers, covering regional areas of the United States (as specified by the Secretary, in consultation with the Board), shall develop, coordinate, and implement preservation technology programs consistent with the purposes of the Center.

"(c) Eligible applicants may include Federal and non-Federal laboratories, museums, universities, non-profit or for-profit corporations, offices and Cooperative Park Study Units of the National Park Service, State Historic Preservation Offices, and tribal preservation offices.

"(d) The Secretary, in consultation with the Board, may establish or designate analytical or technical research laboratories and service facilities to further the purposes of the Center.

"SEC. 406. The Center may accept—

"(a) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

"(b) transfers of funds from other Federal agencies.

"SEC. 407. Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public and private entities to carry out the Center's responsibilities under this Act.".

"(b) Nothing in this section shall affect existing related programs and activities currently undertaken by the National Park Service at Williamsport, Maryland or Monocacy National Battlefield, Maryland.

"(c) There are authorized to be appropriated for the establishment, operation, and maintenance of the Center and any regional preservation technology center, such sums as may be necessary.".

SEC. 4022. SECRETARIAL REPORT.

(a) Not later than one year after the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to the appropriateness of the criteria used in determining such eligibility, and the effect, if any, that such listing or finding of eligibility may have on the owners of such property.

(b) In preparing the report, the Secretary shall consult with, and consider the views and comments of other Federal agencies, as well as interested individuals and public and private organizations, and shall include any comments received as an appendix to the report.

SEC. 4023. MISCELLANEOUS.

Notwithstanding any provision of Public Law 89-665, as amended (16 U.S.C. 470 et seq.), the inclusion on or determination of eligibility for the National Register for a structure or facility used for the diversion, storage, carriage, or transmission of water shall not limit or restrict the use, operation, repair, or improvement of such structure or facility.

HIGH SEAS DRIFT NET FISHERIES ENFORCEMENT ACT

PACKWOOD AMENDMENT NO. 2821

Mrs. KASSEBAUM (for Mr. PACKWOOD, for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposed an amendment to the bill (H.R. 2152) to enhance the effectiveness of the United Nations international drift net conservation program, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(A) FUNDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in the United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance

with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) Determination of effectiveness of sanctions.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(A)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—THE TERM "LARGE-SCALE DRIFTNET FISHING VESSEL" MEANS ANY VESSEL WHICH IS—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, would, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the Untied States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federations are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that

any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V-FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(A) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

FREEDOM OF CHOICE ACT OF 1991

SMITH AMENDMENT NOS. 2822 THROUGH 2831

(Ordered to lie on the table.)

Mr. SMITH submitted amendments intended to be proposed to the bill (S. 25) to protect the reproductive rights of women, and for other purposes, as follows:

AMENDMENT No. 2822

At the appropriate place, add the following:

Section 152 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"( ). EXCEPTION.—For purposes of subsection (a), the term "dependent" does not include any individual in any taxable year if

"(1) an induced abortion was attempted with respect to such individual;

"(2) such abortion was unsuccessful;

"(3) the taxpayer claiming such individual as a dependent consented to such abortion; and

"(4) such individual died within the same table year as the birth as a result of the abortion or of complications resulting from the abortion.".

AMENDMENT No. 2823

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the ninth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AMENDMENT No. 2824

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from allowing a woman to sue an abortion-provider for physical, mental, emotional, or financial damage done to such woman by such abortion-provider.".

AMENDMENT No. 2825

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from establishing a reasonable waiting period not in excess of 24 hours prior to the performance of an abortion.".

AMENDMENT No. 2826

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age give their consent to the performance of an abortion on such child: *Provided, however,* That a state may not require the notification of a parent in the case of a pregnancy resulting from incest with such parent or in the case in which the minor would be subject to severe physical or mental abuse if the parent were notified.".

AMENDMENT No. 2827

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from enacting constitutional statutes requiring that the parents of a minor child who has not attained 18 years of age be notified prior to the performance of an abortion on such child.".

AMENDMENT No. 2828

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from requiring the provision of information concerning the medical and biological ramifications of an abortion to a woman seeking an abortion prior to the performance of such abortion.".

AMENDMENT No. 2829

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions performed solely on the basis of the sex of the fetus.".

AMENDMENT N. 2830

At the appropriate place, add the following:

"Nothing in this Act shall be construed to require any individual or institution with moral or religious objections to the performance of some or all abortions to perform an abortion or participate in the performance of an abortion.".

AMENDMENT No. 2831

At the appropriate place, add the following:

"Nothing in this Act shall be construed to prevent a State from regulating the performance of abortions after the sixth month of pregnancy unless the life of the mother would be endangered if the pregnancy were carried to term.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, July 31, 1992, at 10 a.m., to conduct a hearing on the nominations of C.C. Hope, Jr., to be a Member of the Board of Directors of the FDIC; James D. Jameson, to be an Assistant Secretary of Commerce.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. WIRTH. 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, July 31, beginning at 10:30 a.m., to conduct a hearing to consider measures to conserve exotic, wild birds, including S. 1218 and S. 1219.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 31, at 10 a.m., to hold a hearing on the United States response to the drought in southern Africa.

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

ADDITIONAL STATEMENTS

SENATE QUARTERLY MAIL COSTS

• Mr. FORD. Mr. President, in accordance with section 318 of Public Law 101-520, I am submitting the summary tabulations of Senate mass mail costs for the third quarter of fiscal year 1992, that is the period of April 1, 1992 through June 30, 1992, to be printed in the RECORD, along with the quarterly statement from the U.S. Postal Service setting forth the Senate's total postage costs for the quarter.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1992

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Adams				
Akaka	2,451	.00221	$2,205.88	$0.00199
Baucus	39,900	.04993	5,684.87	.00711
Bentsen	429,320	.02527	81,427.90	.00479
Biden	2,031	.00305	1,611.38	.00242
Bingaman	4,725	.00312	996.29	.00066
Bond	364,665	.07126	55,022.51	.01075
Boren				
Bradley	106,840	.01382	15,192.13	.00197
Breaux	59,225	.01403	9,573.95	.00227
Brown	151,489	.04598	25,518.92	.00775
Bryan	67,300	.05600	10,626.88	.00884
Bumpers	92,796	.03948	21,349.76	.00908
Burdick				
Burns	107,725	.13481	19,691.51	.02464
Byrd				
Chafee	88,150	.08785	13,342.72	.01330
Coats				
Cochran				
Cohen	376,226	.30639	65,684.65	.05349
Conrad			34.22	.00005
Craig				
Cranston	5,375,250	.18062	926,649.32	.03114
D'Amato	2,159,336	.12003	379,647.58	.02110
Danforth				
Daschle	21,855	.03140	3,111.50	.00447
DeConcini				
Dixon				
Dodd	40,765	.01240	10,326.32	.00314
Dole				
Domenici	1,975	.00130	474.26	.00031
Durenberger	358,085	.08185	59,286.55	.01355
Exon				
Ford				
Fowler	83,600	.01290	12,196.18	.00188
Garn				
Glenn				
Gore	354,790	.07274	48,768.97	.01000
Gorton	1,044,120	.21454	185,885.64	.03820
Graham	1,930	.00015	1,735.07	.00013
Gramm	32,999	.00194	10,548.50	.00062
Grassley	78,000	.02809	14,155.72	.00510

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1992—Continued

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Harkin				
Hatch	223,004	.12944	40,773.08	.02367
Hatfield				
Heflin	1,400	.00035	326.76	.00008
Helms				
Hollings				
Inouye	425,000	.38349	65,610.48	.05920
Jeffords	12,450	.02212	2,922.46	.00519
Johnston	179,300	.04249	24,742.22	.00586
Kassebaum				
Kasten	58,339	.01193	44,915.08	.00918
Kennedy	5,550	.00092	1,173.07	.00019
Kerrey				
Kerry	30,850	.00513	5,849.11	.00097
Kohl				
Lautenberg	3,578	.00046	1,950.09	.00025
Leahy	44,250	.07863	8,559.72	.01521
Levin	27,950	.00301	5,817.54	.00063
Lieberman	93,672	.02850	27,130.00	.00825
Lott				
Lugar	106,975	.01930	17,651.85	.00318
Mack	2,435,074	.18821	416,817.12	.03222
McCain	596,699	.16280	111,876.98	.03052
McConnell	504,025	.13677	88,863.71	.02411
Metzenbaum				
Mikulski				
Mitchell	57,370	.04672	8,169.33	.00665
Moynihan	38,315	.00213	7,897.56	.00044
Murkowski	178,000	.32361	37,202.34	.06764
Nickles	139,224	.04426	30,181.63	.00959
Nunn				
Packwood	38,900	.01369	7,304.61	.00257
Pell				
Pressler	25,749	.03700	21,233.20	.03051
Pryor	99,500	.04233	16,646.28	.00708
Reid	69,910	.05817	9,950.60	.00828
Riegle	307,357	.03307	48,068.80	.00517
Robb				
Rockefeller	35,080	.01956	4,984.30	.00278
Roth				
Rudman				
Sanford				
Sarbanes	64,650	.01352	10,572.84	.00221
Sasser	197,650	.04053	27,141.09	.00556
Seymour	1,311,500	.04407	222,922.99	.00749
Shelby				
Simon				
Simpson	5,400	.01191	740.45	.00163
Smith	471,790	.42532	67,180.03	.06056
Specter				
Stevens	311,110	.56561	47,831.78	.08696
Symms	13,275	.01319	2,747.82	.00273
Thurmond				
Wallop				
Warner				
Wellstone	170,775	.03903	26,154.65	.00598
Wirth				
Wofford				

Other offices	Total pieces	Total cost
The Vice President	0	0
The President pro-tempore	0	0
The Majority Leader	0	0
The Minority Leader	0	0
The Assistant Majority Leader	0	0
The Assistant Minority Leader	0	0
Secretary of Majority Conference	0	0
Secretary of Minority Conference	0	0
Agriculture Committee	0	0
Appropriations Committee	0	0
Armed Services Committee	0	0
Banking Committee	0	0
Budget Committee	0	0
Commerce Committee	0	0
Energy Committee	0	0
Environment Committee	0	0
Finance Committee	0	0
Foreign Relations Committee	0	0
Governmental Affairs Committee	0	0
Judiciary Committee	0	0
Labor Committee	0	0
Rules Committee	0	0
Small Business Committee	0	0
Veterans Affairs Committee	0	0
Ethics Committee	0	0
Indian Affairs Committee	0	0
Intelligence Committee	0	0
Aging Committee	0	0
Joint Economic Committee	0	0
Joint Committee on Printing	0	0
Democatic Policy Committee	0	0
Democratic Conference	0	0
Republican Policy Committee	0	0
Republican Conference	0	0
Legislative Counsel	0	0
Legal Counsel	0	0
Secretary of the Senate	0	0
Sergeant at Arms	0	0
Narcotics Caucus	0	0
SCMTE POW/MIA	0	0

U.S. POSTAL SERVICE,
Washington, DC, July 16, 1992.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. FORD: Detailed data on franked mail usage by the U.S. Senate for the third quarter, Fiscal Year 1992, is enclosed. Total postage and fees for the quarter is $3,891,848.

A summary of Senate franked mail usage based upon the first three quarters of actual data for Fiscal Year 1992 is as follows:

Volume	65,139,691
Revenue per piece	.1859
Revenue	12,108,152.00
Provisional payments to date	16,000,000.00
Excess in provisional payments	3,891,848.00

The first three Postal Quarter results, when projected to an annual figure based upon historical trends for Senate franked mail activity, provide the following estimates for FY 1992:

Volume	101,940,049
Revenue per piece	.1825
Total revenue	18,599,312
Current appropriation	32,000,000
Estimate surplus	13,400,688

However, the validity of these projections does remain questionable due to substantial variances in Senate quarterly mailing patterns over the past several years.

If you or your staff have any questions, please call Tom Galgano of my staff on 268–3255.

Sincerely,

JAMES S. STANFORD,
General Manager, Official and International Mail Accounting Division, Office of Accounting.

Enclosures.

SENATE FRANKED MAIL POSTAL QUARTER III, FISCAL YEAR 1992

Subcategories	Pieces	Rate	Amount
1. Letters: 1st class (total)	1,833,606	$0.2900	$531,746
2. Flats: 1st class	106,985	1.1053	118,251
3. Parcels:			
Priority-up to 11 oz			
Priority-over 11 oz	15,523	4.9016	76,088
4th class—regular	23,285	3.8586	89,848
Total	38,808	4.2758	165,936
4. Orange bag pouches:			
First class	146,917	.3511	51,583
Priority-up to 11 oz	1,324	2.8983	3,837
Priority-over 11 oz	8,899	4.2552	37,867
Total	157,140	.5937	93,287
5. Agriculture bulletins:			
First class			
Priority-up to 11 oz			
Priority-over 11 oz	1	20.3500	20
3d class			
4th class special (Bk)	5	10.3502	52
4th class regular	27	9.6059	259
Total	33	10.0303	331
6. Yearbooks: 4th class special (Bk) (Total)	1,058	1.4800	1,566
7. Other (ODD SIZE PARCELS):			
Priority-up to 11 oz			
Priority-over 11 oz	354	36.6034	12,958
4th class special (Bk)			
4th class regular	2,116	11.7825	24,932
Total	2,470	15.3401	37,890
Total outside DC	346,250	.4801	166,222
Permit imprint mailings:			
1st class single piece rate	554	.2906	161
3d class bulk rate	17,863,881	.1178	2,104,712
Parcel post—PI			
1st class single piece—PI			
Address corrections (3547's)	250	.3520	88
Address corrections (3d cl)	2,623	.2901	761
Mailing list corrections (10 names or less)			

SENATE FRANKED MAIL POSTAL QUARTER III, FISCAL YEAR 1992—Continued

Subcategories	Pieces	Rate	Amount
Mailing list corrections (more than 10 names)			
Mailgrams:			
IPA—International priority airmail			
Mailing fees (registry, certified, et cetera)			
Postage due/short paid mail			205
Permit fees			
Miscellaneous charges/adj			
Express mail service			664,464
Subtotal	20,353,658	.1909	3,885,620
Adjustments			
Grand total	20,353,658	.1909	3,885,620

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Brian Riendeau, a member of the staff of Senator MCCONNELL, to participate in a program in China, sponsored by the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 17–29, 1992.

The committee determined that participation by Mr. Riendeau in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.•

TRIBUTE TO THE "DREAM TEAM"

• Mr. ROCKEFELLER. Mr. President, I rise today to pay tribute to an outstanding group of athletes, the men who comprise the U.S. Olympic men's basketball team.

The U.S. Olympic basketball team is made up of NBA players this year in an effort to show the rest of the world the United States is still the world's dominant basketball nation. In every previous Olympiad, the U.S. basketball team used only collegians. In 1989, the Olympic Committee, frustrated by the recent failures, voted to allow professional basketball players to compete as Olympians.

The result of that decision is the great Olympic basketball team assembled for this Olympiad. The "Dream Team," as the team has been dubbed, is composed of 10 pros and 1 collegian. They are: Michael Jordan, Scottie

Pippen, Earvin "Magic" Johnson, John Stockton, Karl Malone, Charles Barkley, Patrick Ewing, David Robinson, Chris Mullin, Larry Bird, and Christian Laettner.

The "Dream Team" played their first game together in Portland, OR, in the Tournament of the Americas, an Olympic qualifying tournament. Their opponent in that first game was Puerto Rico. By all accounts, it wasn't much of a game. I say that because the "Dream Team" routed the Puerto Rican team by 72 points. After beating each of their next two opponents by a margin of over 50 points, the "Dream Team" qualified for the Olympics and became the overwhelming favorite to win the gold medal in Barcelona.

The "Dream Team" has become a worldwide sensation. These athletes have been relentlessly pursued by thousands of fans, including their fellow Olympians. Despite all of the attention, these men have handled their success in a manner that makes our country proud. As Magic Johnson said, "We are Olympic athletes." Indeed they are. They have raised the sport of basketball to an art form. Each of these men is an extraordinary athlete, and the explosiveness of their games reflects the genius of the players. Today I rise with my fellow Americans to salute the "Dream Team." We, as Americans, are proud to say that the greatest basketball team in the world represents our country in the 26th Olympiad.•

THE MODERATE'S LAMENT

• Mr. DURENBERGER. Mr. President, we are living in a time of change. In the politics of public policy the political parties lose relevance, predictability and credibility.

But, conservatives and liberals are usually that—and no matter how "neo"—predictable by contrast with each other.

It has been comforting to be a moderate, but difficult to define. We're often called middle-of-the-roaders. We are recently the bridge between the shoulders or the road. But, we are also—in the middle—the place where most accidents occur.

Once a year we gather to celebrate our existence. We do it as the Ripon Society—founded in 1857 in a small college town in Wisconsin. Last evening former Minnesota Congressman Bill Frenzel lead a gathering of Ripons that describes where we think all politics should be.

I ask that Bill's "rhyme" be included in the RECORD.

The article follows:

THE MODERATE'S LAMENT

(Rhyme of the Ancient Moderate)

Lend me your ear, you people here, I'd like to now present
A piece of verse that I've rehearsed, called the Moderate's Lament
Though others say we've lost our way I'll get this one response in
'Tis a noble cause that gave us pause at Ripon in Wisconsin.
In the G-O-P there'll always be some different ways of thinkin'
Proclamations in our nation antedate the days of Lincoln
We all embrace the same traditions, even share a few positions,
But honor different prohibitions, politicians and ambitions.
Ripons are moderate, we're balanced, we are temperate and medium
We don't like right wing pandering or leftist liberal tedium
We believe the middle course is always best to steer the nation
Said our model, Aristotle "all things in moderation."
We're mod'rate in extreme, since way before the Civil War
Only two say they're more moderate, Bill Clinton and Al Gore.
To come around to middle-ground the Democrats have tarried,
That lively lad Ted Kennedy must wonder, "What, me married?"
But it's not easy being moderate, no politicians dream,
On either side you are besot by collegues so extreme
Sometimes you say "Cool off my friend, your rantings are not pretty,
Then later on he pulls his rank and kills you in committee
We will dispute with Landslide Newt, but we manage with decorum,
And when he's wrong, he'll go along, he even reads the Ripon Forum.
It's tough making out when you have no clout, the House is really frightenin'
Like Rudolph's reindeer friends, before they knew his nose was lightnin'.
Reelection's never easy, as a Ripon I recall,
The only thing that's sure is Archer and Clinger in the fall.
No it's not easy being moderate, it's no day at the beach,
Even with the best of men, like Jeffords, Green, Leach
They're all good legislators, yes they do well one and all,
But they're always on edge at home, do help them when they call.
It's not easy being moderate, though we seek the true and good
They say we're wishy-washy, but we're just misunderstood
Right wingers may go throw their bombs from places they're ensconsed in
But we will honor moderation as per Ripon, Wisconsin.
So we'll endure the critics pure
whose path toward hell is bent
And wonder, will our party make us room inside its tent?
We'll disagree bout what to fund and where those funds are spent
And with voices proud we'll sing aloud the Moderate's Lament.•

CENTENNIAL OF THE SHERMAN ANTITRUST ACT

• Mr. KOHL. Mr. President, 2 years ago this month, our Nation celebrated the centennial of the Sherman Antitrust Act, one of the most significant laws ever passed by this body. To commemorate the occasion, Members of the Congress and the Justice Department, scholars and practitioners gave speeches about the history of the Sherman Act in strengthening this Nation's commitment to the principles of economic justice, free-market opportunity, and consumer welfare.

I rise today not to revisit anew the historical importance of the Sherman Act, but to recognize its present and future value. In just 2 years since we commemorated the act's 100th birthday here in this country, antitrust legislation has been born for the first time in emerging democracies around the globe.

The hurricane winds of democratic revolution in Eastern and Central Europe have left in their wake shattered institutions and daunting challenges. How can emerging democracies create successful political and economic institutions? How can they make the transition from a controlled to a market-based economy? The Sherman Act provides twin legacies of guidance: First, industrial democracies must enact antitrust laws, and second they must enforce them.

Mr. President, antitrust laws were nonexistent in Eastern Europe's centrally planned economies, which were premised on price fixing and the domination of whole sectors by a single monopoly. Antitrust laws seek to ensure that societal resources are allocated in their most valuable way through the natural forces of market supply and demand. So it is not surprising that the failure of antitrust policy corresponds with a failure of economic growth.

Based on the Sherman Act's century of success, there is international consensus today that economic growth necessitates the enactment of competitive, nonmonopolistic market structures. This is the Sherman Act's first and foremost legacy. At an international antitrust summit held last year in Prague, the heads of newly constituted antitrust authorities across Eastern Europe agreed that antimonopoly laws were a sine qua non of successful economic democracy.

In fact, all across Eastern Europe, newly emerging governments are putting the principles embodied in the Sherman Act into practice. For example, new laws in the former Soviet Union require that business enterprises wishing to merge present a reorganization plan to the antitrust committee. The committee has the right to prevent merger or absorption if it might lead to a substantial decrease in competition, and the law grants government authorities and business enterprises the right to appeal their cases to the Supreme Court. Noncompliance with the committee's prescriptions are punishable by stiff fines and confiscation of any profit obtained through monopoly activities or unfair competition.

Poland passed the earliest and most stringent antitrust laws in Eastern Europe. Under its new antimonopoly law,

mergers that create or strengthen a dominant market position can be divided and liquidated by the antimonopoly office. Managers of defaulting companies can be fined personally, something which is not possible even under the European Community's antitrust laws. I am not sure, Mr. President, that we need such stringent sanctions here in the United States, but I do believe that the current administration could learn something from the trust-busting vigor of these new democracies.

In Hungary and Czechoslovakia, under antimonopoly laws passed recently by their respective parliaments, nearly all mergers that lead to a joint market share of 30 percent or more are prohibited. Cartel agreements are nullified and banned. Newly created offices for economic competition can impose fines for infringement. And Bulgaria, closely following recommendations made by the American Bar Association's Central and East European Law Initiative [CEELI], last summer adopted its first antitrust measures. I would note that CEELI, as well as the U.S. Department of Justice, the Federal Trade Commission, and the Agency for International Development, have strongly encouraged these global antitrust developments by consulting emerging democracies on the lessons of the Sherman Act.

The second key legacy of the Sherman Antitrust Act is the primacy of enforcement. Market-based competition lies not only within our statutes but also in ourselves, and in a society's willingness to make short-run sacrifices for long-term gains. The Sherman Act could not have withstood a society uncommitted to its enforcement. Although the impetus for the act was the anger of farmers and unions against trusts, its enduring success is our Nation's faith in economic justice and market opportunity.

Mr. President, emerging democracies—plagued by generations of central planners and a half-century's worth of bad habits—must change not only their laws but their ideals. It is not enough that yesterday's poets and political prisoners are today's presidents and prime ministers. It is not even enough that they pass strong antitrust laws. In the words of Justice Thurgood Marshall:

> Antitrust laws in general, and the Sherman Act in particular, are the Magna Carta of free enterprise. They are as important to the preservation of economic freedom as the Bill of Rights is to the protection of our fundamental personal freedoms.

The enforcement of and commitment to Sherman Act principles in countries which have never known such disciplines will be the supreme challenge of future generations.●

MILITARY ORDER OF WORLD WARS

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

The Military Order of World Wars is a nonprofit organization composed of over 19,000 officers on active duty, retired or honorably discharged/separated from the Armed Forces. Their membership, comprising 153 chapters throughout the country, includes officers of all ranks who have served in the Armed Forces of the United States. They include Presidents, Senators, Congressmen, judges, and military chiefs of the armed services. The order was established in 1920 and has had many notable leaders, including two generals, John J. Pershing and Douglas MacArthur.

The objectives of the Military Order of World Wars include the promotion of patriotic education, defending the honor and integrity of the Federal Government and the Constitution, fostering fraternal relations among all branches of the Armed Forces and encouraging the commemoration of military service and the establishment of war memorials.

Granting a Federal charter to the Military Order of World Wars is a fitting act by this body, on behalf of a grateful nation, to express heartfelt appreciation for what the members of the order have done for our country. The services these individuals have given has not been limited to the taking of arms, but also, in civilian life, has been extended to acts of charity and selflessness that bring them little recognition. Certainly they do not serve to seek recognition, Mr. President, but they do deserve it. It is our responsibility to provide it.

Mr. President, I am proud of the people who serve and have served in our Armed Forces, and I am grateful for what they have done for our country. Through the efforts of the Military Order of World Wars, and other organizations like it, their efforts continue. I urge my colleagues to join me in supporting this bill, because in so doing we can perhaps communicate, at least in some small measure, a sense of our heartfelt appreciation.●

BUDGET SCOREKEEPING REPORT

●Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is below the budget resolution by $0.9 billion in budget authority and above by $4.3 billion in outlays. Current level is $2.9 billion above the revenue floor in 1992 and above by $3.8 billion over the 5 years, 1992–96. Since my last report, dated July 6, the Congress has cleared and the President has signed the unemployment compensation amendments bill—Public Law 102–318—a bill providing for the transfer of certain naval vessels—Public Law 102–322—and the higher education amendments bill—Public Law 102–325. These actions changed the current level estimate of budget authority and outlays.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $352.6 billion, $1.4 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 27, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through July 24, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 2, 1992, the Congress has cleared and the President has signed the Unemployment Compensation Amendments bill (P.L. 102–318), a bill providing for the transfer of certain naval vessels (P.L. 102–322) and the Higher Education Amendments bill (P.L. 102–325). These actions changed the current level estimate of budget authority, outlays and revenues.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 2D SESSION AS OF JULY 24, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level [1]	Current level +/− resolution
On-budget			
Budget authority	1,270.7	1,269.8	−0.9
Outlays	1,201.7	1,206.0	+4.3
Revenues:			
1992	850.5	853.4	+2.9
1992–96	4,836.2	4,840.0	+3.8
Maximum deficit amount	351.2	352.6	+1.4
Debt subject to limit	3,982.2	3,894.2	−88.0
Off-budget			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Note.—Detail may not add due to rounding.●

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS, JULY 24, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Mandatory adjustments [1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted [2]	1,260,314	1,199,389	853,364
Enacted this session			
Emergency Unemployment Compensation Extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(3)
Technical Correction to the Food Stamp Act (Public Law 102–265)	(3)	(3)	
Further Continuing Appropriations, 1992 (Public Law 102–266) [4]	14,178	5,724	
Extend Certain Expiring Veterans' Programs (Public Law 102–291)	(3)	(3)	
1992 Rescissions (Public Law 102–298)	(8,154)	(2,499)	
Emergency Disaster Assistance for Los Angeles and Chicago (Public Law 102–302) [5]	81	15	
Unemployment Compensation Amendments (Public Law 102–318)	980	980	
Transfer of Certain Naval Vessels (Public Law 102–322)			2
Higher Education Amendments (Public Law 102–325)	(305)	(270)	
Total enacted this session	9,483	6,653	2
Total current level	1,269,797	1,206,043	853,366
Total budget resolution [6]	1,270,713	1,201,701	850,501
Amount remaining:			
Over budget resolution		4,342	2,865
Under budget resolution	916		

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H. Con. Res. 121).

[2] Excludes the continuing resolution enacted last session (P.L. 102–145) that expired March 31, 1992.

[3] Less than $500 thousand.

[4] In accordance with Section 251 (a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–266 does not include $107 million in budget authority and $28 million in outlays in emergency funding for SBA disaster loans.

[5] In accordance with Section 251 (a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–302 does not include $995 million in budget authority and $537 million in outlays in emergency funding.

[6] Includes revision under Section 9 of the Concurrent Resolution on the Budget (see p. S4055 of "Congressional Record" dated March 20, 1992).

Note.—Detail may not add due to rounding.

ACTION ON AMENDMENT NO. 2811 TO H.R. 5373 VITIATED

Mr. BYRD. Mr. President, I ask unanimous consent that Senate action on amendment No. 2811 to H.R. 5373, a sense-of-the-Senate amendment on Romanian elections, be vitiated.

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

ACTION ON MESSAGE FROM HOUSE VITIATED—H.R. 429

Mr. BYRD. Mr. President, I ask unanimous consent, on behalf of Mr. MITCHELL, that all Senate action on the message from the House on H.R. 429 that followed the adoption of the motion to concur in the House amendment with an amendment be vitiated.

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

Mr. BYRD. Mr. President, I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

I further ask unanimous consent that the Senate amendment be printed.

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

ORDERS FOR MONDAY, AUGUST 3, 1992

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Monday, August 3; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately after the Chair's announcement, the Senate resume consideration of Calendar No. 570, H.R. 5373, the energy and water appropriations bill.

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

RECESS UNTIL MONDAY, AUGUST 3, 1992, AT 10 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Monday, August 3.

The motion was agreed to; and the Senate, at 5:02 p.m., recessed until Monday, August 3, 1992, at 10 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE HEALTH CHOICES FREEDOM ACT OF 1992

HON. BILL RICHARDSON
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce today, the House companion bill to S. 2835, the Health Choices Freedom Act of 1992 introduced on June 11, 1992, by Senator ORRIN HATCH of Utah. I have heard from many of my constituents and from citizens around our country who have expressed great enthusiasm and support for this legislation. This legislation will protect consumers' rights to obtain nutritional supplements and accurate information on their use and the roles they may play in matters of health care, and at the same time strengthen consumer protections on the manufacture of these products.

The exploding costs and inadequacies of our current health care system have caused many citizens and health professionals to explore and investigate the use and efficacy of complementary and alternative forms of health care. Santa Fe, NM, the heart of my congressional district, has grown into national prominence as a center for complementary and alternative health care including acupuncture, Chinese herbal medicine, homeopathic medicine, and nutritional medicine. Additionally, herbal and other alternative treatments are an important part of traditional ethnic minority cultures both in New Mexico and the United States.

There is a growing body of science which indicates important roles for nutrients and herbs in the prevention of disease and the maintenance of health and well-being. We should be exploring this research, Mr. Speaker, as the costs of health care continue to rise seemingly beyond our control. Now more than ever, Americans want to know how they can achieve optimal health and well-being through diet, lifestyle, and nutritional changes. Regardless of whether or not one personally agrees with the use and effectiveness of nutritional supplements and herbs, many across our Nation do and ongoing scientific and research efforts in this area have given new credence and currency to this issue.

I cite as a few examples, the following:

The cover story of the April edition of Time magazine highlights "the real power of vitamins" and says "new research shows they may help fight cancer, heart disease, and the ravages of aging." The New York Times and U.S. News & World Report have had similar articles.

At the February 1992 New York Academy of Sciences conference on "New Views on the Function and Health Effects of Vitamins," scientists detailed the links between vitamin consumption and disease prevention.

A pharmaceutical company has purchased the rights to parts of the Costa Rican rain forest in order to protect from destruction potential medical and herbal cures that may yet be discovered in rare flora and fauna.

The Centers for Disease Control issued an advisory on Monday, July 27, 1992, that all women of childbearing age insure they obtain adequate levels of folic acid in their diet through food or supplementation to prevent neural tube birth defects. This important B-vitamin can help prevent congenital deformities in children such as spina bifida and anencephalopathy. It is interesting to note Mr. Speaker, that the FDA had ruled under the proposed regulations of the Nutrition Labeling Act of 1990 Public Law 101–535, that there was not "significant scientific agreement" to support a claim that folic acid prevents neural tube birth defects. This legislation would create a framework to provide accurate information to consumers and allow them to decide for themselves or in conjunction with the opinions of their health professionals.

A July 1992 article in the Journal of Nutrition Science & Policy which explains how antioxidant vitamins like beta carotene, vitamins A, C, and E, can actually reduce certain cancer risks. The National Cancer Institute has long advocated that Americans eat a diet rich in antioxidant vitamins to reduce the risk of developing cancer. Ironically Mr. Speaker, the FDA has yet to acknowledge significant scientific agreement to support a health claim for antioxidant nutrients and the prevention of cancer. This legislation would allow consumers to obtain all the information about this claim and decide for themselves whether to use such dietary supplements.

Mr. Speaker, in view of all of this positive health information, the Food and Drug Administration has lacked a coherent regulatory policy on nutritional supplements and herbs. Aside from the requirements of the Proxmire amendment, the current system of regulating these substances as drugs and/or food additives has led to a policy that ultimately denies consumers their freedom to obtain these substances and relevant health information about their uses. This legislation seeks to both protect consumers' rights to obtain dietary supplements and herbs; and assures them that they will be safe, of high quality, and that the information about them will be truthful and not misleading. Americans want greater freedom, participation, and expanded options for themselves in health care, not less.

From discussions with my colleagues it is my understanding that virtually every Member of this body has received constituent mail or communications with regards to the issue of access to dietary supplements and current FDA policy toward them. It is critical that we gain a greater scientific understanding of vitamins, minerals, and herbs and the role they play in preventing disease and promoting health. In this way, we will firmly recognize the role that dietary supplements have been playing and will continue to play into the future in offering us real options for health, well-being, and prevention of disease. I urge my colleagues to recognize the importance of this legislation and give their support to it.

Mr. Speaker, I am attaching a section-by-section analysis of my legislation explaining important features of the legislation, as well as the New York Times article referenced in my statement:

SECTION-BY-SECTION ANALYSIS OF THE HEALTH FREEDOM ACT OF 1992

Section 1 contains the name of the Act.

Section 2 contains definitions. "Dietary supplement" is defined to include all of the terms that were discussed in the floor statements made by Senator Symms and Senator Hatch at the time that Section 403(r)(5)(D) was introduced into the Senate as part of the Nutrition Labelling and Education Act. This definition adds only one element—the specific mention of a concentrate or extract. The appropriate forms of dietary supplements are mentioned in Section 2(a)(1)(b)(i).

Section 2(b) defines drug to preclude a drug classification based solely on the fact that a dietary supplement contains a certain potency or because it was sold in conjunction with a valid health claim. The reason for this clarification is that FDA has indicated in its proposed NLEA regulations that potency will be considered in determining whether a dietary supplement is sold for "therapeutic" as opposed to "nutritional" purposes. There is no provision in the law that permits such interpretation. Section 411 was passed to prevent potency-based drug classifications, but FDA has not incorporated this interpretation into its dietary supplement enforcement policy.

Section 2(c) defines food additives to exclude any dietary supplement which is labeled as such. This section is particularly critical since the Food and Drug Administration has pursued many safe, otherwise lawful dietary supplements on the tortured theory that they are unsafe food additives. The rationale for their theory is that a substance that is otherwise a nutrient or food, when placed in a gelatin capsule or in a tablet, suddenly becomes an added ingredient and thus a food additive.

Section 3 is the health claims and labelling section for dietary supplements. Under Section 403(r)(5)(D) of the NLEA, Congress stated that FDA could establish a separate procedure and standard for dietary supplement health claims as opposed to those for foods. The reason for the enactment of Section 403(r)(5)(D) was a recognition by Congress that dietary supplements as a category had been treated as a stepchild; major scientific institutions, perhaps influenced by traditional medical concerns, never performed research on the role of dietary supplements. Rather, any nutritional/disease prevention research was done solely on foods as such. Given the health care crisis in this country, the need for the population to have access to improved means of maintaining and preventing health became very clear to Congress in 1990. This section thus allows for responsible claims concerning safe substances and also

provides that FDA will be notified 30 days before any new claims are issued, allowing for regulatory or enforcement action in the event the Agency believes there to be a danger. In addition, this section spells out a very thorough basis in science for any claim that must be made. If the claim does not appear to be based on a full consensus of scientific opinion or "significant scientific agreement" as that term is used in the NLEA, then the labelling will disclose that fact. Consumer protection thus enters both in terms of the necessary science required, as well as in the fact that there will be disclosure as to the level of scientific agreement.

As an added measure of disclosure to the consumer, *Section 3(d)* also requires that labelling for dietary supplements bear the quantity of such nutrients on a per day basis rather than on a per unit basis. There has been confusion in the past when nutrition information has been provided as to a single pill or capsule, yet the recommended dosage was for ingestion of two to three capsules per day.

Section 3(e) mandates that FDA take a strong look at whether the U.S. RDA must be retained. The FDA proposed as an alternative the Recommended Daily Intake, quantity measures which were below the U.S. RDA and which would severely impact on the nutrition of the population. This is another health and safety measure that the bill provides.

Section 3(f) adds a strong mandate that FDA issue new Good Manufacturing Practice regulations to ensure that raw material manufacturers in the dietary supplement industry notify FDA of any safety problems or significant manufacturing changes. It is felt that this type of control can help to avoid unintended contamination. Section 3(f) also permits FDA to establish safety studies on dietary supplements. Subsection (3) requires FDA to establish by regulation the safe dietary supplement use of all the essential nutrients that have been identified to date (and will be identified in the future).

The final provision of the Act, *Section (g)*, deals with the problem that many industry members face in introducing a safe supplement that FDA may question. A common practice for FDA has been to issue a Warning Letter or to take other regulatory action against a company, threatening criminal sanctions, civil remedies, or further enforcement measures if the company does not cease selling the supplement or making certain claims for that supplement. When challenged in court, FDA has stated that it has not yet engaged in "final Agency action," thereby precluding any legal challenge. Industry companies are thus left in the paradoxical situation of being told that FDA has not yet made up its mind, but that FDA will sue the company if it continues its challenged conduct. Courts have gone both ways in supporting or rejecting FDA's ripeness argument, and a legislative solution is particularly appropriate here where the industry has taken the lead in providing newer nutritional products.

[From the New York Times, Mar. 10, 1992]

VITAMINS WIN SUPPORT AS POTENT AGENTS OF HEALTH

(By Natalie Angier)

Long consigned to the fringes of medicine and accorded scarcely more credibility than crystal-rubbing or homeopathy, the study of how vitamins affect the body and help prevent chronic diseases is now winning broad attention and respect among mainstream medical researchers.

Scientists, who thought that the basic questions in vitamin research had been solved and that the major benefits of the nutrients were to prevent diseases of deficiency like rickets and beri-beri, are learning that most of the vitamins—from A through K and all the subvariants in between—play far more fundamental and long-term roles in the body than anybody had suspected.

They are gathering provocative evidence that vitamins influence the health and vibrancy of nearly every organ, and that these enigmatic chemicals may help forestall or even reverse many diseases of aging, including cancer, heart disease, osteoporosis, a flagging immune system, neurodegeneration and other chronic disorders.

But scientists emphasized that the results were extremely preliminary and should not be viewed as reason to start popping vitamin tablets by the fistful. They warned that a few compounds, like the fat-soluble vitamins A and D, can be quite toxic if taken in doses significantly exceeding the Government's recommended daily intake.

Nevertheless, scientists are buoyed by their new observations, which reveal molecular mechanisms that go beyond standard assumptions about why vitamins are so vital, and why the body goes to such lengths to absorb these essential chemicals from food. For example, some researchers have suspected for years that certain vitamins, particularly vitamins E, C and beta carotene, may help prevent cancer by scavenging free radical molecules that might harm the cell's fragile genetic material. But more recently researchers have discovered that those vitamins, called as a group antioxidant compounds, may also battle cardiovascular disease. They have shown that antioxidant vitamins prevent the body from turning otherwise innocuous cholesterol into a sticky and reactive form that can clog the arteries and set the stage for heart attacks.

Other vitamins, particularly folic acid, seem to counteract cancer by strengthening the chromosomes and perhaps preventing dangerous viruses from infiltrating deep into cells and touching off a tumor. For reasons that remain unknown, folic acid also sharply cuts the rate of neural-tube birth defects. In a study reported last July, researchers showed that pregnant women who took folic acid supplements had a much lower risk than women who did not take the supplement that their babies would have neural-tube deformities like spina bifida, or open spine, and anencephaly, a deadly defect in which much of the brain is missing.

"We used to think about vitamins strictly in terms of what you needed to prevent short-term deficiencies," said Dr. Simin N. Meydann of the Human Nutrition Research Center on Aging at Tufts University in Boston. "Now we're starting to think about what is the optimal level of vitamins for lifelong health and to prevent age-associated diseases."

ALLOW SENIOR CITIZENS TO CHOOSE THEIR FAMILIES, FIRST

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, imagine losing your family's financial security because you wanted to provide long-term home care instead of nursing home care for your infirmed spouse. That's the tough choice facing many elderly Americans and that's why Congresswoman HELEN DELICH BENTLEY and I are introducing the Senior Home Care Choice Fairness and Improvement Act of 1992 today. This is the companion bill to S. 2686, introduced by Senators BOND and COATS. This legislation would assure financial equity in a Medicaid benefit intended to protect senior citizens needing long-term care, regardless of setting. No longer could the Federal Government—albeit unintentionally—punish those elderly persons who want to care for spouses within their family setting.

Currently, most States force an elderly person, whose spouse needs long-term care, to choose between losing the couple's financial security or placing the spouse in a nursing home, even though the infirmed spouse could be cared for at home. Only a limited number of States—and I am pleased that Connecticut is one of them—have elected to include the optional spousal impoverishment provisions of the Medicaid Program in their community and home-based waiver programs.

The ability of one spouse to save a portion of the couple's assets is referred to as "spousal impoverishment" protection. This protection was first extended to Medicaid nursing home patients in 1989. At the same time, it was made an optional benefit under the Home and Community-Based Waiver Program. Spousal impoverishment protection permits the at-home spouse to retain assets, in addition to the home, of $13,000 to $69,000 and an income of approximately $13,000 to $21,000. But since protection does not automatically apply to home care, elderly persons who decide to be cared for at-home must spend down to $2,000 in assets—savings accounts, certificates of deposits, and the like—before they can qualify for Medicaid assistance.

Elderly couples who want to stay together and want to care for their needs at-home should be protected. They should not be forced to choose between poverty and institutionalization. Representative BENTLEY's and my bill is both about saving money—long-term care for Medicaid patients in nursing homes is generally far more expensive than care in a home setting—and preserving family values and individual dignity.

It is the Government's responsibility to ensure that families are given every option to stay together and that seniors who choose home care are as well protected from spousal impoverishment as seniors receiving out-of-home care. The purpose of our legislation is to clarify the current law and ensure that there is no question that spousal protection should apply in all settings.

Our legislation requires that those States which have a community and home-based Medicaid waiver must provide spousal impoverishment protection to spouses of individuals eligible for home care under the Medicaid State Waiver Program. Everyone who is eligible for nursing home coverage will now have an equal and fair option to stay in their homes with their spouses while they receive Medicaid coverage for medical and personal services just as they would have if they had elected nursing home care.

In addition, this bill requires hospitals to notify patients needing long-term care that they

are qualified for either nursing home or home care under Medicaid. These patients deserve to have the opportunity to make a fair choice and to know of their options.

The Senior Home Care Choice Fairness and Improvement Act of 1992 will give to Medicaid eligible individuals the choice of staying at home with their infirmed spouses and, thereby, keep their family together during a time of need. It is truly a family protection measure.

LET'S HELP KEEP OUR SENIOR CITIZENS TOGETHER

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. BENTLEY. Mr. Speaker, today I am introducing legislation along with my colleague from Connecticut [Mrs. JOHNSON] that I believe offers a realistic way to keep families with ill or disabled loved ones together. For too long, the system has been weighted in favor of separating as opposed to unifying the family. The problem with our current system is that in most States, elderly individuals who want to keep their spouses in the home are unable to do so because of dire financial consequences. While the State of Maryland does not participate in the 1915(c) program—better known as the Home and Community-Based Waiver Program—and is therefore a unique exception to the rule, the legislation that we are introducing today will reverse what amounts to an unacceptable policy throughout much of the country.

Under current law in most States, a spouse who lives in the community must have a yearly income below $21,000 and assets below $69,000 to qualify for the spousal impoverishment assistance for nursing home care. Requirements for home-based care however, are dramatically different and unfortunately for untold numbers of Americans, terribly unfair. To receive home-based care, this same individual must spend down to $2,000 in assets to qualify for medical assistance.

Mr. Speaker, the fact that a family would have to exhaust nearly all of its assets in order to enable a loved one to receive long-term care in the home is outrageous when you consider that the same assets would be fully protected, provided of course, that the family member were institutionalized. I know of several families throughout the country who have been faced with the difficult choice of selling off their investments in order to keep a loved one in the home, and therefore qualify for assistance. At great financial peril, many families nonetheless opt to care for the family member without the benefit of financial assistance that they should rightly be entitled to. Faced with two unpleasant alternatives, this particular option is often viewed as the correct choice for elderly couples who want to stay together.

Nevertheless, the policy that I have just mentioned is blatantly unfair, and this unfairness warrants the type of remedy that Mrs. JOHNSON and I are prepared to initiate today. We need policies that provide for more compassionate care in the last years in life—and policies that encourage families to stay together, not break apart.

Constructive changes to the current law makes good sense, not only because of the fairness issue but also because home care is compassionate and costs effective. The National Association for Home Care estimates that it costs over $20,000 per month to keep a patient in the hospital for intravenous nutritional therapy. Similar therapy, administered in the home environment, costs under $10,000. The same holds true for numerous other in-home therapies.

Mr. Speaker, as the ongoing health care debate is elevated in intensity it is clear that we need to make health care more family friendly. The legislation that we are introducing today does just that.

LIONS HOME FOR THE BLIND (HOGAR DEL CIEGO) SEARCHES FOR LIGHT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to commend the Lions Home for the Blind (Hogar del Ciego) for their admirable devotion to bettering the quality of life for Miami's blind community.

The Lions Home for the Blind has served as a haven for blind and visually handicapped individuals for some time now. This nonprofit organization depends on the generosity of community support for its survival. To raise the funds necessary to operate the Home for the Blind, the Lions Club held a radio marathon on Saturday, July 11, 1992. Aleida Leal, radio marathon chairman, and Felipe Vilaomat, executive director, devoted many hours of hard work to organizing this event, and their efforts were a great success. Listeners called in all day, raising over $17,000 in revenue for the home. I was honored to have been asked to participate and I called in to encourage all to donate to this worthy cause.

The many donations received by the home allow them to brighten the lives of many individuals who find themselves in perpetual darkness. Transported to and from the center 5 days a week, these individuals find companionship, social and educational activities, and, most importantly, people who care about them and are eager to be of service in any way they can.

Mr. Speaker, I commend the many individuals associated with the Lions Home for the Blind. The citizens of south Florida realize the importance of the Home's survival, and provide support. I ask my colleagues to join me in offering all involved a hearty congratulations for the success of the radio marathon and in wishing the Lions Home for the Blind good fortune in all future endeavors.

THIRD GRADERS MAKE AIDS PANELS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to insert in the RECORD the story of third graders from the Bret Harte Elementary School in Deptford, NJ who, after much time and effort, made a mini AIDS quilt. I commend these young people for their concern and dedication.

BRET HARTE THIRD GRADERS MAKE AIDS PANELS

December 1, 1991 was World AIDS Day. In order to promote an awareness of the disease and concern for people suffering with HIV and AIDS, Ms. Moore's third grade made paper panels that were put together to form a mini AIDS quilt. After the project, Erin Mullen decided to make a real AIDS panel for Ms. Moore's brother, Bobby Moore, because he died of AIDS. That night, Erin used her baby blanket to begin the panel. The next day, she asked Alissa Snyder to help. Later, Rachael Cohen thought of making another panel for Eddie Pompper, a 28 year old man who died of AIDS. Soon Rachael asked Lauren Xenakis and Lauren Schlanger to help develop Eddie's panel. All of us gave up many lunchtime recesses because we care about people who have died of AIDS and about people living with the disease.

We have shared the panels with other Bret Harte students and with a K-8 school in Deptford, NJ. In October of 1992, they will be shown with 20,000 others as part of the Names Project Aids Memorial Quilt. The display will be in Washington, DC.

LAUREN SCHLANGER.
LAUREN KENAHIS.
ERIN MULLEN.
ALISSA SNYDER.
RACHAEL COHEN.

THE QUAGMIRE RIGHTS OF ABORTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LAFALCE. Mr. Speaker, for too long the national debate on abortion has been the captive of inflamed rhetoric, distorted claims, and extreme tactics. Rational discourse has been the exception rather than the rule and even the suggestion of compromise has been anathema to both sides. Yet, amid the escalating rhetoric of the abortion debate there remain a few voices seeking to advance constructive debate on this divisive issue.

I would like to insert into the RECORD the following article written by one of these voices, John Leo, entitled "The Quagmire of Abortion Rights." Mr. Leo makes two important points in his article. First, he asserts the need for a political solution to a dilemma which moral philosophy, logic, reason, or other materials of law have been unable to resolve. Second, he underscores the importance of genuine compromise—a compromise which will likely displease both extremes but appeal to the vast

majority of Americans who are troubled with the status quo of abortion on demand.

To provide much-needed perspective on the situation in the United States, Mr. Leo cites the democratic compromise forged in France, embodying the idea that abortions should be kept to a minimum but leaving neither side fully satisfied. I commend the following article as a constructive contribution to the dialogue so fundamental to solving this dilemma.

[From U.S. News and World Report, July 13, 1992]

THE QUAGMIRE OF ABORTION RIGHTS

(By John Leo)

In 1973, Yale Law Prof. Alexander Bickel, one of the eminent constitutional scholars of his day, had an immediate objection to *Roe v. Wade*. Since "moral philosophy, logic reason or other materials of law" can give no answer to the dilemma of what to do about abortion, he wrote, "Should not the question then have been left to the political process, which in state after state can achieve not only but many accommodations, adjusting them from time to time as attitudes change?"

Obvious answer. Yes. If politics had been allowed to operate, we wouldn't be in such a fix today. Lacking an imperial judiciary, other democracies have reached tolerable accommodations and moved on. The court has prevented that here. By foreclosing normal democratic outlets, *Roe v. Wade* distorted abortion policies, setting the stage for extreme street politics and frank attempts to pack the courts. If judges are going to impose social policy, then politicians will try to impose judges.

In the 1989 *Webster* decision, four justices seemed poised to overturn *Roe*. The decision suggested that the right to decide about abortion belongs to the people, through their legislatures, and not to the courts. But last week in *Planned Parenthood v. Casey*, the court veered away from the expected next step—junking *Roe* altogether—and produced a patched-up, head-scratching decision that accomplishes nothing. *Casey* maintains the status quo. *Roe* is reaffirmed. The plurality's argument that the court can't back down because it has staked its authority and reputation on *Roe* is truly pathetic. It sounds like late 1960s White House rhetoric on why America couldn't afford to leave Vietnam. The adventure has been a giant mistake. It has torn the country apart, but we can't do anything about it or we'll lose face.

OUT OF THE COURTS.

A comment in the *Wall Street Journal* by Harvard Law Prof. Mary Ann Glendon echoes Bickel: The *Casey* decision "disappoints those who hoped that the court would adhere to the principle that, in the absence of clear guidelines from constitutional text or tradition, controversial social issues are to be worked out through the ordinary processes or bargaining, education and persuasion, rather than resolved by judicial fiat."

Glendon's book "Abortion and Divorce in Western Law" shows how this process has worked in other Western democracies. France, bitterly divided on the issue in the early 1970s, worked out a compromise, and turmoil has ended. Up to the 10th week, abortion is offered to any woman in a state of 'distress" over her pregnancy. "Distress" is self-defined, no questions asked. Later abortions are somewhat harder to get.

But ease of access is balanced by emphasis, mostly rhetorical, on the duty to protect developing human life. The French statute names the underlying problem as one involving developing life, not as a conflict between a woman's freedom and a nonperson. Regulations call for a one-week waiting period, which can sometimes be waived, and counseling, preferably with the male partner present, on alternatives to abortion and the benefits guaranteed to all mothers. The law states that abortion is not a form of birth control and backs that up with government promotion of birth-control information. To avoid bringing abortion mills into existence, and thus making abortion look routine, the operations are government-funded and must be performed by doctors in approved facilities. ("Only in America has a vast profit-making industry grown up around abortion," Glendon writes.)

Could such a compromise take hold in the United States? Not in that form, surely. France has a long tradition of paternalistic government. America has its fierce individualism, exacerbated by *Roe*. But if the Supreme Court can get hold of itself and return abortion to the political process, Glendon thinks legislators would do well to study foreign models.

The French solution can be viewed cynically: easy abortion in exchange for accepting a few platitudes on the value of human life. But Glendon considers it "humane, democratic compromise" built around compassion and concern for pregnant women, married and unmarried, as well as concern for fetal life.

The key to the compromise is that abortion is socially positioned as a regrettable exception to the principle that developing life is to be protected. French law embodies the idea that abortions should be kept to a minimum. The idea is backed by social programs, including grants and day care, that help women avoid abortion. The mandatory counseling, a simple discussion of options, does not have the punitive or anxiety-producing tone that arouses such resentment here. Glendon reports that it is "clearly meant to be helpful to the woman while trying to preserve the life of the fetus."

This sort of compromise will not appeal to those who think early abortion is murder or to those devoted to the hysterical argument that a one-day waiting period is an intolerable act of oppression. But it would appeal to the vast majority of Americans who want the turmoil to end. Polls consistently show that a decisive majority opposes abortion; wants it discouraged and regulated but is unwilling to use law to forbid abortions. So an Americanized version of the French accommodations may be the future of the issue here. But not until the Supreme Court extricates itself from its 19-year Vietnam.

SERGEANT HENDERSON RECOGNIZED FOR HIS 20 YEARS OF DEDICATED SERVICE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FASCELL. Mr. Speaker, on the occasion of his retirement from the U.S. Air Force, I want to take this occasion to recognize the outstanding service of T. Sgt. Lester D. Henderson for his 20 years of dedicated service to the United States.

During a 20-year career of exemplary service, Sergeant Henderson established a pattern of achievements and outstanding service, culminating in his most recent assignment as noncommissioned officer in charge of the suspense control section in the Air Force Office of Legislative Liaison. He personally managed the overall operation of the suspense control desk which processes all Presidential, Vice Presidential, and congressional correspondence for the Secretary of the Air Force and the Air Force Chief of Staff. After a survey of the tasks performed and needed skills, he developed an extensive training program to qualify new personnel for the performance of all facets of correspondence control. His program resulted in major improvements in the management of office correspondence. As a military escort for numerous congressional delegations he elicited an unending series of favorable comments on the part of his delegation chairmen and members.

I would like to especially note that Sergeant Henderson has been awarded the Air Force Meritorious Service Medal with an oak leaf cluster, the Air Force Commendation Medal with an oak leaf cluster, and the Air Force Achievement Medal with an oak leaf cluster. This, Mr. Speaker, is an extraordinary achievement.

Sergeant Henderson's service is a model for every young man seeking to serve his country.

RULE ON HOUSE CONCURRENT RESOLUTION 246, EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE RELATION OF TRADE AGREEMENTS TO HEALTH, SAFETY, LABOR, AND ENVIRONMENTAL LAWS OF THE UNITED STATES

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic Caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of House Concurrent Resolution 246, expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States.

CITY OF MIAMI HONORS ITS OUTSTANDING CITIZENS OF THE YEAR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize five distinguished Miami citizens who were honored by the city of Miami with its fourth annual Citizens of the Year award. These outstanding citizens were nominated by the mayor and the city's commissioners for their work in civic and cultural affairs, as well as their significant efforts to improve our community.

The five recipients of this award were recognized with a presentation ceremony, as part of the state of the city address, at the Omni International Hotel. These dedicated citizens included Alan Weisberg and Bernard Poitier.

Alan Weisberg was nominated by Mayor Xavier Suarez as the "kind of person who solves problems rather than creating them." He has served Miami in many roles as a founder of a civic association, a promoter of historic districts, and advocate for renovation of Biscayne Boulevard. His most significant achievement has been as the chairman of the Bayfront Park Management Trust, which he helped turn into an attraction which has brought millions of visitors to the downtown area.

Bernard Poitier, the director of the Poitier Funeral Home, was nominated by Commissioner Miller Dawkins as one of the unsung heroes in our community. He has gone beyond the call of duty to assist the needy and less fortunate. A compassionate and principled man, he has lived by the principle, "love thy neighbor as thyself."

Also nominated for this prestigious award were Dr. Olga Perez-Nodal, Josefina Carbonell, and Orlando Urra who were mentioned in a previous extension.

Each of the award winners have gone beyond the call of duty to assist the needy, and less fortunate members of our community. These distinguished citizens were not only successful in their careers, but have also found personal reward from day to day through helping others. They have helped others not only financially but with their hard work and dedication to various causes. They are truly a significant part of Miami's contribution to the "thousand points of light" who throughout our Nation work to help people in their local communities.

TAKE PRIDE IN AMERICA VIRGIN ISLANDS' DAY

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. DE LUGO. Mr. Speaker, today is Take Pride in America Virgin Islands' Day, marking the kickoff of a cleanup and environmental awareness project that is to serve as a model for the other U.S. offshore areas.

The residents of our insular areas are stewards of some of the most beautiful and environmentally sensitive areas under the U.S. flag. It is so important that we work diligently to preserve and enhance this inheritance.

I am proud that Secretary of the Interior Manuel Lujan has selected the Virgin Islands for this event, and I am proud of the many individuals and organizations in the Virgin Islands taking part in today's efforts.

I read into the RECORD a release from Secretary Lujan's office summarizing Take Pride in America Virgin Islands' Day.

JULY 31 IS TAKE PRIDE IN AMERICA VIRGIN ISLANDS' DAY

Secretary of the Interior Manual Lujan today announced the kickoff of a project for the U.S. Virgin Islands aimed at stewardship of natural resources and protecting the environment.

The project, part of the Interior Department's Take Pride in America program, in cooperation with the government of the U.S. Virgin Islands will launch a Take Pride in America Virgin Islands' Day, July 31, 1992. The project will document and outline a successful day of islandwide cleanup and stewardship activities for use as a model for other U.S. insular areas in the Pacific.

"We selected the U.S. Virgin Islands for this model project because of the interest and commitment," Lujan said. "We are encouraged and excited about this project."

Take Pride in America is a broad based partnership of millions of volunteers to preserve and enhance our Nation's natural, cultural and historic public resources. The organization sponsors an annual awards program to recognize those who have made outstanding contributions to the preservation and enhancement of America.

The Virgin Islands project represents the first in a series of planned activities culminating in 1994 when the Take Pride in America program will hold its first National Take Pride in America Day, bringing Americans from all over the United States to participate in an assortment of stewardship efforts.

The Take Pride in America Virgin Islands' Day will be followed by two days of awards ceremonies to recognize organizers of these events on each island. Cleanup activities will be coordinated with the St. Thomas-St. John Chamber of Commerce and the St. Croix Chamber of Commerce.

Assistant Secretary for Territorial and International Affairs Stella Guerra will be joined by U.S. Virgin Islands Lieutenant Governor Derek Hodge. Hodge is the Honorary Chairman of the Take Pride in America Virgin Islands' Day activities.

NATIONAL PARKS AND LANDMARKS CONSERVATION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. VENTO. Mr. Speaker, our Nation's identity is steeped in images from our national parks: The power of Old Faithful in Yellowstone, the majesty of Halfdome in Yosemite, the vision of Independence Hall, the endurance of Chaco Canyon's prehistoric ruins. These are places of national and international significance. We have been shaped by these special places. We all care deeply about our national parks and landmarks and take great pride in them; they embody the best this Nation has. The Statue of Liberty, the Everglades, Gettysburg, the Grand Canyon—these places help define us as an American people. In addition to the national parks, there are 2,000 national historic landmarks and 580 national natural landmarks, which although not owned or administered by the National Government have been found to be nationally significant.

Having inherited such wonders, we can do no less than pass them on to our descendants in the best condition possible. But today these special places are at risk, threatened by human-caused and natural forces. Numerous articles and studies report the stress and strains our national parks and landmarks are under.

Threats to these resources originate both inside and outside parks and landmarks. Some dramatic threats are easily recognized. But other threats, whose impacts are often even more serious, are subtle and insidious. Our responsibility extends to all these special resources, and against all such threats.

Over 75 years ago when the National Park Service was established, park managers sincerely believed that they could ensure that national park resources would remain unimpaired by carefully managing actions within park boundaries. Today we know that national parks and landmarks are embedded in their larger ecosystems, and in their larger societal contexts. They are affected by forces from near and far. Today we realize that the forces endangering our national parks and landmarks are both more powerful and complicated than had been suspected. There is every reason to believe that such threats to our heritage will only become more complex as we learn more about them. Some threats are completely beyond our human control. But many other threats are very much within our power to counter. Public policy should strongly encourage communities and individuals around parks and landmarks to cooperate in their protection from careless, uncontrolled, and adverse development. The law should direct other Federal agencies to coordinate with national parks and landmarks so that Federal dollars aren't simultaneously spent to save parks and landmarks, while other spending adversely impacts such special resources. National policy can provide mechanisms to deal with emergency situations so that we can avoid the crises we encountered 3 years ago when the Manassas National Battlefield Park was under threat of becoming a suburban shopping mall.

For this reason, I ask Members to join me in providing a thoughtful and sensible framework for national park and landmark protection. The legislation is premised on cooperation rather than confrontation. This approach to national park and landmark protection combines a thorough knowledge of these special places and their needs, with careful management and cooperative efforts to prevent crises, and to provide emergency tools for those times crises cannot be prevented.

We need the political will to act on our deep concerns for our natural and cultural heritage as embodied within our national parks and landmarks.

Today I am introducing comprehensive legislation that furthers the protection of these resources so that the fundamental goals and objectives of their designation, their use, and their enjoyment might be optimized in perpetuity. The bill is similar to a measure introduced by my colleague, Senator DALE BUMPERS, chairman of the Senate Subcommittee on Public Lands, National Parks and Forests.

My legislation has five simple principles.

First, we must ensure that the National Park Service can manage the resources in its care in the most professional way possible, avoiding political interference. My legislation includes the Presidential appointment of a professional Director of the National Park Service with Senate confirmation and with clear authority over the organization. The National

Park Service should no longer be a political pincushion. The recent incident affecting regional National Park Service Director Lorraine Mintzmyer is only the latest in a series of political manipulations of the National Park Service and its personnel.

Second, we need to understand the conditions and needs of national parks and landmarks as accurately and fully as possible so that wise protection decisions can be made. The measure directs the National Park Service to research the condition of national parks and landmarks and to use this research in making appropriate management decisions.

Third, we need to establish cooperative mechanisms among national parks and landmarks and those organizations, individuals, and governmental entities that can be partners in their protection and public enjoyment.

Fourth, we must craft tools to handle emergencies when they arise. Once a bulldozer has scraped away archaeological resources or a species is extinct it is too late. The Congress cannot create natural or cultural resources. These are irreplaceable nationally significant resources and there are rare times when action to save them must be quick and effective.

Fifth, there should be consistency in Federal actions: Another Federal agency or its programs should not be able to damage the national parks and landmarks that the National Park Service is entrusted by law to protect.

This legislation includes all 361 units of the National Park System. It also includes the national historic landmarks and the national natural landmarks, places that have been designated for their national significance and physical integrity. These resources are irreplaceable. They contain some of the most precious treasures of America. They deserve our full care and attention. They are a natural and cultural legacy given to us by those who came before us; we must pass on that heritage to those who follow. Seventy-five years ago people with great vision established the National Park Service. Over 100 years ago we began to set aside these special places. The preservation and conservation of our natural and cultural resources—America's crown jewels—is recognized as one of the best ideas our Nation ever had. Let's build upon that heritage and not allow it to be destroyed. We all benefit from the vision that preserved this heritage for us today. This legislation is intended to help pass such vision on to future generations so that they too will be able to benefit from our national parks and landmarks—their American heritage.

TRIBUTE TO C.R. GIBBS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. NORTON. Mr. Speaker, in the past decade, a new and exciting emphasis has been placed on the history of African-Americans and the often pivotal role they have played in the great events that comprise our national legacy. Today I would like to pay tribute to a man, Carroll R. Gibbs, who has played no small part in this historic renaissance.

An author and lecturer, he has devoted the past 20 years to illuminating the rich contributions of African-Americans to our society and its culture through his lectures, exhibits, and films. Author of several books, including "The Friends of Frederick Douglass, Black Inventors, Black Explorers," and coauthor of "Black Georgetown Remembered," he is also an expert on black Civil War units. He has served as a consultant to the D.C. Public School System, Georgetown University, and the Smithsonian Institution, and has written many articles for both scholarly and popular publications.

On July 15, the friends of C.R. Gibbs and the Howard University Alumni Association wisely chose to honor not only his love of African-American history, culture, and literature, but his choice to share that devotion with the world at large. I know that my colleagues will join me in saluting the commitment and accomplishments of C.R. Gibbs.

EARLY TRADE BETWEEN INDIANS AND NON-INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a recollection of King Haglar, a member of the Catawba Tribe as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also:

YOU ROT THE GUTS OF OUR YOUNG MEN

Distilled liquor was the bane of Indian existence everywhere, wrecking family life, causing humiliating sprees of self-destruction, and insidiously used by corrupt whites to confuse Indians before trade or land negotiations. Here a mid seventeenth-century chieftain of the Catawbas—a large tribe inhabiting the Carolinas—scolds North Carolina authorities with a complaint frequently expressed by Indian leaders. Known as King Haglar by English colonists, the chief spoke these words on August 29, 1754. Although he continued to petition for years for an embargo on firewater, by the close of the eighteenth century liquor, along with successive epidemics of smallpox and attacks by the Iroquois, had decimated his people.

Brothers, here is one thing you yourselves are to blame very much in; that is you rot your grain in tubs, out of which you take and make strong spirits.

You sell it to our young men and give it [to] them, many times; they get very drunk with it [and] this is the very cause that they oftentimes commit those crimes that is offensive to you and us and all through the effect of that drink. It is also very bad for our people, for it rots their guts and causes our men to get very sick and many of our people has lately died by the effects of that strong drink, and I heartily wish you would do something to prevent your people from daring to sell or give them any of that strong drink, upon any consideration whatever, for that will be a great means of our being free from being accused of those crimes that is committed by our young men and will prevent many of the abuses that is done by them through the effects of that strong drink.

KING HAGLAR,
Catawba.

MARIA ANA ALVAREZ-REYES, A MIAMI DAILY POINT OF LIGHT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am please to call my colleagues' attention to the outstanding service rendered to the State of Florida and the United States by Dr. Maria Ana Alvarez-Reyes. Dr. Alvarez-Reyes has received the honor of being the 847th daily Point of Light for the Nation.

Dr. Alvarez-Reyes has served the United States for 11 years as an originator of the Ingles Practico—practical English—program. This program is intended to teach English to Spanish speakers as well as to promote cultural understanding. Dr. Alvarez-Reyes left a rewarding career as a psychologist to devote her energies to promote cultural understanding between ethnically diverse groups, as well as create opportunities for economic progress in the Hispanic community. Her efforts have included delivering lesson materials to homes and organizations and offering job referrals to her students. More than 23,000 courses have been distributed over the past 11 years.

Dr. Alvarez-Reyes volunteers 30 hours, 6 days a week, every week to teach three or four English classes a month. Additionally, Dr. Alvarez-Reyes trains the other teachers and oversees the Ingles Practico program out of her own home. However, Dr. Alvarez-Reyes' efforts to supporting lifelong learning for those individuals who only speak Spanish do not stop there. She also holds radio and television interviews and tapes public service announcements for her students.

President Bush has saluted Dr. Alvarez-Reyes for symbolizing success in serving and helping others. It is an honor for me to bring to the attention of the House of Representatives Dr. Alvarez-Reyes for her selfless dedication to promoting bilingual skills in the Hispanic community. She stands as a shining signal to the Hispanic community that doors need not be closed because of a language barrier.

MORATORIUM ON GRADUATION FROM THE MINORITY BUSINESS DEVELOPMENT PROGRAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LAFALCE. Mr. Speaker, today I am introducing a bill providing for a moratorium of up to 1 year on graduation from the Minority Business Development Program under section 8(a) of the Small Business Act. I am pleased to have Representative ANDY IRELAND, ranking minority member of the Small Business Committee, join as a cosponsor.

In 1988, when Congress reformed the Minority Business Development Program, Congress established the U.S. Commission on Minority Business Development. The Commission was charted with the responsibility to review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program, commonly referred to as the Section 8(a) Program.

The Commission's final report is anticipated to be delivered to the President and Congress during the month of August 1992. It proposes changes which, if enacted by Congress, could affect a small business' tenure in the program, and the type of technical and financial assistance offered by the Small Business Administration.

Our bill provides Congress with sufficient time to receive the Commission's final report, hold hearings and, if appropriate, offer legislation which would make the Section 8(a) Program a more effective tool for bringing our Nation's minority-owned firms into the mainstream of the Federal procurement process. Our bill has the support of the Hispanic Caucus, the Black Caucus, and of interested groups representing the minority business community.

The text of the bill follows:

H.R. —

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in 1988, Congress established the Commission on Minority Business Development;

(2) one of the duties of the Commission on Minority Business Development is to review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program established pursuant to section 7(j)(10) of the Small Business Act; and

(3) the final report of the Commission on Minority Business Development, which is anticipated to be transmitted to the President and Congress in August 1992, will propose changes to the Small Business and Capital Ownership Development Program which if adopted could affect the tenure of small business concerns participating in the program and the type of technical and financial assistance offered to small business concerns by the Small Business Administration under the program.

(b) PURPOSE.—It is the purpose of this Act to extend the participation of certain disadvantaged business concerns in the Small Business and Capital Ownership Development Program during a period in which Congress may consider changes to the program.

SEC. 2. EXTENDED PARTICIPATION BY DISADVANTAGED SMALL BUSINESS CONCERNS IN BUSINESS DEVELOPMENT PROGRAMS.

Section 7(j)(10)(C) of the Small Business Act (15 U.S.C. 636(j)(10)(C)) is amended by adding at the end the following:

"(iii) Notwithstanding clause (i), a small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 8(a) of this Act on the date of the enactment of this clause shall be permitted continued participation and eligibility in such program or activity until the latter of—

"(I) the 365th day following such date of enactment; or

"(II) the date on which such participation and eligibility expires under clause (i).".

VOTER FRUSTRATIONS—LETTER FROM THE ROWLEY'S

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RHODES. Mr. Speaker, each of us receive communications from our constituents reflecting the degree of voter frustrations and concern about the Congress and the domestic economy.

What follows is one such letter from Mr. and Mrs. Arden A. Rowley, constituents of mine from Mesa, AZ. The Rowley's believe a limit on congressional service is one way to get at the problems about which they speak. Although I do not support an artificial term limit, because I believe it would detract from our most cherished American freedoms, rights and responsibilities, the Rowley's asked that I share their views with the Members of the House of Representatives.

MESA, AZ,
July 11, 1992.

All U.S. Representatives,
House of Representatives,
Washington, DC

REPRESENTATIVES: Congress is supposed to work for us, the taxpayers. It's time to clean house! It's time to pass term limitation for all members of Congress.

The average reelection rate for incumbents over the last decade has been 95%, not because of the wonderful job you are doing but because you are able to spend hundreds of thousands of dollars of tax payers money to finance your reelection campaigns and gain financial support from special interest groups.

Jamie Whitten from Mississippi has been in Congress for 50 years. Over a dozen members have been there for 30 years and more. Our founding fathers did not intend for anyone to make a career out of public office. Citizen statesmen not professional politicians.

Since most of you were elected to Congress for life, and this is essentially what happens today, you do anything you want collectively. You take pay hikes without a vote, bounce hundreds of thousands of dollars in bad checks with no worry, and live it up at taxpayers' expense!

Most of you can't even balance your own checkbooks. Is it any wonder that you can't balance the National budget?

You have written $25 million in personal checks against insufficient funds, and nearly $4 trillion against insufficient funds for the Nation. You call it deficit spending. No, you will never balance the National budget Unless you pass Term Limitation nothing will really change, because it is almost impossible to come anywhere near matching an incumbent's war chest.

In 1991 and 1992, you will spent more than $75,000,000 of taxpayer money on mailings to help get yourselves elected.

You will get more than 100 million dollars from Special Interest political action committees. Challengers will get less than $20 million. This sheer weight of dollars almost guarantees your reelection.

This is why Term Limitation is essential, if America is to be saved from bankruptcy and absolute disaster!

Perks for you are paid for by us taxpayers. This included the House of Representatives private bank and a hundred others that you know about. I don't need to reenumerate them here.

If I were to deliberately write checks against insufficient funds I'd probably be in jail. My bank would certainly not continue to cash my checks. These bounced checks amount to interest free loans—loans with no real requirement to be paid back. Some of you used these loans to help finance your election campaigns.

There is a free lunch (and a free dinner and a free breakfast, too) for you. You have set up 14 restaurants to serve 435 Representatives and 100 Senators, plus your staffs. Your eateries range from simple cafeterias to palatial dining rooms, with crystal chandeliers. The cost for a filet mignon served to you by black-tie waiters: $7.50. I pay twice that much at a restaurant here in Mesa, Arizona.

When it is all added up you spend more than $2,500,000,000 each year on yourselves. Almost anything you can imagine—from silk neckties to Polaroid cameras can be supplied to you, courtesy of the American taxpayer. In the basement of the House and Senate office buildings are located stores where you can buy for your offices, "Office Supplies" like Polaroid Spectra cameras, crystal candlestick holders, leather wallets, china vases, silk neckties—and much, much more.

Only you and your staffs are allowed to shop in these stores. The items are sold at big discounts, and can be bought with cash, or charged to your office expense account. Guess what? No one checks to make sure that item is being used for "legitimate official" purposes.

But leather wallets or even crystal candlestick holders are small subsidies compared to the millions of dollars paid to reelection campaigns of Senator Alan Cranston and other members in exchange for special favors for Washington's Special Interests. Charles Keating, President of the now defunct Lincoln Savings and Loan funnelled Cranston about $1 million in campaign contributions.

Cranston and others of you senators intervened on Keating's behalf with Federal regulators who were seeking to close Lincoln S&L. Later on the government did shut down this S&L, with this delay costing us taxpayers $2.6 billion. Your pandering to the Special Interests is on the verge of driving America into bankruptcy.

Your S&L bailout will cost taxpayers more than $400 billion.

The Senate Ethics Committee reprimanded Sen. Cranston for "Improper and Repugnant" conduct. Big deal! Cranston is still in the Senate. The Senator said he did nothing worse than many of you, his colleagues in Congress, have done. Here's what he told some of you, his fellow Senators:

"Here, but for the grace of God, stand you. I could cite example after example of comparable conduct to demonstrate that I violated no norms of conduct . . . the only difference between me and other senators was that they covered their tracks."

Tragically, the Senator is right on that one. You are riddled with corruption, and contempt for the average American.

These few examples of the abuse of power (and there are many more) illustrate a system which simply must be changed. It's a system that isolates you elected politicians from the everyday problems of working folks in this country. This system of "election for life" must be replaced.

I'm talking about Term Limitation: Limiting the number of terms that members of Congress can serve, then returning them back to their community to live under the laws which they have passed; not being exempt from them as they are from many while they serve in Congress. Term Limitation would make members of Congress live by the same rules that the President and most of our Nation's governors must live with.

The President is now limited to serving two terms (of 4 years each). Most governors are limited to two terms. I would propose that members of the U.S. House of Representatives be limited to 8 years (four terms of 2 years each). Senators would be limited to 12 years (two 6-year terms).

Term Limitation will clean house and the only way to save our country is to clean house and send you members of Congress back into the real world, where budgets must be balanced and checks can't be bounced legally.

This will give the citizens a chance to put Americans from the real world into office for a limited amount of time committed to doing the people's business and a lot less influenced by Special Interests and Political Action Committees.

In addition to Term Limitation there are three other reforms which must follow:

1. Give the President the line item veto so he may cut out senseless, expensive pork from your spending.

2. Reform of political campaign laws to eliminate contributions to candidates from outside of his/her area of representation thus giving all who wish to run for public office equal opportunity.

3. Pass a balanced budget amendment without any additional taxes to balance it but by cutting spending to balance it.

Until these four reforms are made Congress will continue to diminish in the eyes of the citizens of this nation and our nation will continue its march to bankruptcy. There is not one of you that does not believe this deep within your heart.

Sincerely,

ARDEN A. ROWLEY.
RUTH M. ROWLEY.

P.S. I do not deny that there are many of you who individually are trying to honestly do what is right for America but collectively, as Congress, you are a disaster for America and must make the changes which I, as well as millions of other Americans, have proposed.

A SPECIAL SALUTE TO BRENDA WELCH, EXECUTIVE DIRECTOR OF HITCHCOCK CENTER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. STOKES. Mr. Speaker, I rise today to salute Ms. Brenda Welch, an extraordinary person from my congressional district, who has made a difference in our community. Ms. Welch serves as Executive Director of Hitchcock House, the largest residential facility for female drug and alcohol abusers in the Cleveland area.

Brenda Welch is a hard working and talented individual who recognized the need for additional drug counseling centers and drug treatment programs in the community. In particular, she noted the lack of resources available to serve the female population.

Brenda Welch came to Hitchcock House in 1987. Since that time the center has grown not only in size but importance. Hitchcock House was once a halfway house with an annual budget of approximately $250,000. Under the leadership of Brenda Welch, Hitchcock House has a permanent home at a spacious former seminary, and a budget which now exceeds $1 million. The facility operates two satellite programs; a 30-day outpatient component, and a program which allows women to keep their children with them during treatment.

Mr. Speaker, Brenda Welch is committed to improving the lives of the women at Hitchcock Center. She is a compassionate and devoted individual who remains steadfast in her willingness to create a nurturing and positive environment for those in need. I want to share with my colleagues a recent article from the Plain Dealer concerning Brenda Welch and her many achievements. I am proud to bring her efforts to the attention of the Nation, and I wish her much continued success.

LEVELING THE FIELD FOR FEMALE ADDICTS

(By Nick Charles)

The deck was stacked against her before her first breath.

Brenda Welch's family came from the most abject of situations: Southern black poverty.

Her plight was compounded later in her life, when as a teen she had a child. Another came three years later when she was 20.

A single parent with minimal options. Welch went on welfare for 10 years.

But any resemblance between the Nashville, Ark., native and Ronald Reagan's fictional "welfare queen," is just that: fiction.

Welch, 43, executive director of Hitchcock Center, the city's largest residential drug rehabilitation facility for women, spent those 10 years on the dole in Cleveland earning three degrees.

"People tend to write off single women," said Welch. "I was the first welfare recipient in my family, but I thank God for welfare. It allowed me to establish my career."

Establish is an understatement.

Welch has a master's degree in social science from Case Western Reserve University, a bachelor's from Cleveland State University and an associate's degree from Cuyahoga Community College. In 1980, she began counseling drug and alcohol abusers and administering programs for them.

She spent the early part of her career working in co-educational drug counseling programs at Laurelwood Hospital and the West Side Community Mental Health Center. The last five years she has worked at Hitchcock Center.

Under her leadership the facility has grown in size and importance. It was once basically a halfway house, with a budget of about $250,000 per year.

Now its budget exceeds $1 million and the center has a permanent home at a spacious former seminary on Cleveland's East Side.

Fifty-four beds are filled; 70 are empty for lack of funds for staffing and supplies.

"I get very upset when people say there aren't any beds in the city. What we lack is funding," said Welch.

The center has two satellite programs: a 30-day outpatient component and one that allows women to keep their children with them during treatment.

The center treats only women, explained Welch, because more and more women need help with recovery from addiction.

"We've always had female alcoholism, but the family was able to hide that away. Now crack-cocaine is the first drug that women have embraced, and it's very hard to hide that addiction."

Hitchcock gives them an environment to talk about "shame-based issues," she said. "They tend to be abused sexually, and they tend to use sex to get their drugs."

It's important, Welch said, that women have female counselors and therapists who can be positive role models.

Most of the 45-person staff is female; half recovering addicts.

But that doesn't guarantee success, she said. "We are not the all-in-all for women."

Welch is relentless in her search to find ways to keep her operation afloat and expand it. The center has an alumni association that organizes fund-raisers.

Now that her youngest child is 14 and is pretty self-sufficient, Welch devotes most of her energies to her career, family—and garden. "I'm a florist and I do floral arrangements. It's good therapy," said Welch.

Most of the women she deals with aren't fortunate enough to have supportive families or leisure distractions, she knows.

Constant family and social pressures are among the reasons women will continue to use drugs and may seek help.

"Women have been put on a pedestal. We have been defined by men as to what we should be and those are difficult roles to live up to," she said.

"FAIR BRIBES" TO MOTIVATE KIDS

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. SANTORUM. Mr. Speaker, recently I received some thoughtful correspondence from a young resident of my district, Ms. Lisa Zambri. She expressed great conviction about the needs of young people today, and offered some suggestions about how to help kids avoid destructive behaviors and their related consequences. Her request of me was that I would help her "get the word out" to Congress. To help her do this I am providing the RECORD with the following excerpt from her letter, certainly worthy of consideration:

If you know kids (especially teens), you know that the more one preaches to them,

the less they listen. Boredom sets in and the word never gets across to them. I think I know how to get across to them.

Being an older teen myself, I know how my generation thinks. I know that to do something, we all need MOTIVATION. If somehow, organizations against AIDS and drugs would give kids something to motivate them to quit or not start, I believe kids would do it.

Nothing expensive, with the deficit that'll never happen. Maybe extra college help (financially or with grades and credits). Maybe free passes to events for those who really get involved, free passes are given away all the time anyway. Do you see? The more they get involved, the more they receive in help. I hate the word "bribe," but in a way it is a "fair bribe."

I know I would love to lead an organization or give speeches on this topic, and I am definitely going to try in my school district, my town, and possibly my city. But I can't go very far without governmental help. That is why I need you to please let Congress hear my word, my idea. I ask on behalf of me, my sister, and a large group of kids who are willing to start this idea off. I know there are a lot of people paid to keep Congress from doing things about this, but Congress must finally realize that its voters are dying off from drunk driving accidents or AIDS, or are too busy getting high or drinking to want to vote. I ask you to think about it. Thank you kindly.

THE NATIONAL ENDOWMENT FOR DEMOCRACY: OUR SHINING JEWEL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. FASCELL. Mr. Speaker, I rise to pay tribute to the National Endowment of Democracy [NED]. NED has been criticized by some but, since its implementation in 1983, we have witnessed the evolution of the democratic process in places we would not have imagined at the time of its inception. While NED is not primarily responsible for these events, it has played an important role in promoting the democratic process when the opportunity arose. I wish to commend our colleagues' attention to Tom Tiede's article which recently appeared in the Key West Citizen. It correctly recognizes NED as a sound and sensible investment.

GOVERNMENT'S SHINING JEWEL A BARGAIN

WASHINGTON.—As these things go in the capital, the National Endowment for Democracy is a decidedly piddly project. The privately run group—which is partially funded by Congress—employs a scant 30 people and operates on an annual budget ($27 million) that works out at less than two one-thousandths of a percent of all federal spending.

But the organization boasts accomplishments as grand as its name. It is sowing the seeds of self-determination from one end of the Earth to the other. Building democracy has become a growth business internationally, and the tiny, largely unknown endowment has without argument become one of the industry leaders.

Democrats and Republicans alike tend to pay it tribute. Big Business and organized labor have collected comfortably in its camp. Journalists claim it is a bright jewel on the otherwise tarnished governmental coronet. Not incidentally, it may very well be the best if not the only taxpayer bargain in Washington.

Margaret Ferry is the spokeswoman for NED. She says any U.S. money spent on liberty is a wise investment: "We wouldn't say we're changing the world alone. But we are making a significant contribution, and it's gratifying. Look at what's happening. The Cold War has ended. These are very good times for the planet."

COINCIDED WITH EFFORT

The good times, as it happens, have more or less coincided with the NED effort. The endowment was initiated a decade ago. Ferry says Ronald Reagan made a speech to the British Parliament at the time, regarding the promotion of civil pluralism; and, in 1983, the U.S. Congress responded by giving the mandate to NED

The mandate had its skeptics, to be sure. Ferry says some observers worried that the endowment would finance a politically ideologic crusade. The critics claimed America did not have either a right or responsibility to take private steps to establish conservative and capitalistic revolutions in foreign states.

Yet the majority held. And NED became a small bipartisan piece of the nation's foreign policy. The group now gives grants to free political parties, to cultural and educational associations, and to labor and trade enterprises; they in turn use the money to encourage democratic ruminations wherever necessary.

So far, the grants have totaled $160 million. Ferry says the money has been channeled to 300 groups advocating freedom in 75 countries. The cash has helped pay for independent newspapers in Central America, for the release of political prisoners in Africa, and indirectly for opposition to a totalitarian coup attempt in the old U.S.S.R.

THERE HAVE BEEN DEFEATS

Ferry adds that there have been defeats as well. Or at least delays in the grant-making work. The promotions have not yet worked in Cuba, for example; and many targeted states in Arabia also remain totalitarian. In this region, Panama demagoguery remains fast, and individual guarantees in Haiti have actually eroded.

Still, the good news predominates. During the 1990 elections in Nicaragua, NED contributed $7 million to Violeta Chamorro's campaign against the ruling and repressive Sandinista regime. She won, and it was the first time in a century that a national vote brought down a dictator and ended a civil war at the same time.

The endowment also funneled cash to the Solidarity labor movement, when the democratic elements in Poland were trying to bust loose from communist control and the Warsaw Pact. The freedom fighters eventually brokered a power-sharing agreement that led to a multi-party transition, and the Warsaw Pact is bad history.

NED funds have also aided the shift toward pluralism in a score of African entities. They include Benin and Botswana. The money was used for monitoring teams that contributed to Benin's democratic elections of 1991, and it has helped to assure that Botswana's emerging private sector has representation in the government.

CONGRESSMAN KILDEE SALUTES ST. JOHN STREET COMMUNITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. KILDEE. Mr. Speaker, I rise before the U.S. House of Representatives to urge my colleagues to join me in paying tribute to an important area of my hometown of Flint, MI, the St. John Street community.

A reunion of residents of the St. John Street community will be held on August 1, 1992 to celebrate the rich ethnic heritage of that neighborhood. This thriving community was the focal point in Flint for immigrants from throughout the world. People migrated to this area from Europe, Asia, Africa, and the deep southern region of the United States. The St. John Street community was a microcosm of the extensive ethnic growth in the United States at the turn of the century.

It was common on any given day to see various ethnic and racial groups including, Greek, Macedonian, Yugoslav, Bulgarian, African, Jewish, and Russian-Americans mingling at the various shops, restaurants, and businesses thriving in the St. John Street community. This area had its own energy that was created by all these ethnic groups. A hallmark of this area was the fact that all these diverse cultures lived together, side by side, in harmony and peace.

In many respects, the St. John Street community was the archetypal example of the bountiful opportunities available in this great Nation. Immigrants came from all walks of life to find their dream in America, and those who came to Flint found it to be a place where families could be raised, children could obtain a fine education, and breadwinners could provide for their families.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise today before my colleagues in the U.S. House of Representatives to pay tribute to this wonderful enclave of America. Our great Nation was founded on the principle of freedom and democracy. The many people who came to America and who were fortunate enough to come to Flint and live in the St. John Street community were blessed to make this neighborhood their home. The St. John Street community will forever live in the hearts and minds of all those who began their lives there. It was a community whose residents will never forget the role it played in their lives.

JOHN BEMIS VEACH

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. TAYLOR of North Carolina. Mr. Speaker, one of western North Carolina's most distinguished citizens, John Bemis Veach, recently broke ground for the Forest Discovery Center at the Cradle of Forestry.

The Transylvania Times recently ran a profile of Jack Veach which I commend to my colleagues.

(By L. Dorreene Anderson)

"If I live to the year 2000 I will have lived in three centuries," says John Veach, Born Dec. 12, 1899, come Dec. 2000, just eight years hence, he will achieve that goal. John's experiences during his 92 years have seen Western North Carolina evolve from beautiful forest land to a thriving area of multiple industries and tourist attractions.

Though born in Oil City, Pa., he graduated from Hill School in Pottsville, Pa. in 1919, and Yale University with the class of 1923 with an A.B. in business administration. He worked in the lumber industry in northwest Pennsylvania then moved to Robbinsville, Graham County. He was president of the Bemis Lumber company from August 1935 to 1972.

His grandfather Bemis ran the first steam operated sawmill in 1855 west of Albany, N.Y. Floated down the Chemung River to Campbell then by the first Erie railroad to Almira, N.Y., to Rochester and Buffalo, this lumber was used for bridge ties and switch ties.

On June 23, John and his wife will celebrate their 69th wedding anniversary. Their one son John Bemis Veach, Jr. is retired and lives in Asheville. Grandson John Bemis Veach III is a lawyer in Washington, D.C.

During ground-breaking activities recently at the Cradle of Foresty, John Veach wielded the gold shovel, an honor afforded him because of his long and distinguished years of participation with the United States Forestry Service.

In 1962 Jim Vessey, regional forester in the Southern United States, based in Atlanta, GA., and Vernon Rhoades, first supervisor of Pisgah National Forest, met and decided to do something to perpetuate forestry in the United States.

They were instrumental in getting Congress to designate the Pink Beds, so called because of the beautiful pink rhododendrons there, as the location of a permanent Cradle of Forestry. Two thousand acres were set aside and an appropriation from the United States Congress made possible the building that was dedicated in 1970. The original building burned and a new one was built.

The Interpretative Association of the Cradle of Forestry was established to promote and support the Cradle of Forestry, a national historic site.

The Cradle of Forestry property already had several old buildings on it that Dr. Carl Schenck used for his Forestry School.

Dr. Schenck was hired by Conelius Vanderbilt and brought to the United States from Germany to maintain his vast land holdings surrounding his Biltmore Estate. This was the location of the Biltmore School of Forestry started by Dr. Schenck in 1897. This was the first school of forestry in the United States and trained men to correctly operate the neglected forest.

Vanderbilt, who spent a great deal of his time in Europe, became familiar with European estates and forests. When he built his now famous Biltmore House he decided he wanted a forest that rivaled the big forests of Europe—Germany, Austria, Hungary, etc.

John Veach was one of the first people in the 1960s to want to create the Cradle of Forestry. He has been a member of the Cradle of Forestry Interpretive Board from 1970 on and off to the present.

John Veach has resided in Asheville for 42 years and is a member of the All Saints Episcopal Church in Biltmore.

"I am involved in the Cradle of Forestry in the United States to help our citizens realize the fact that trees grow," says John. "Like a corn field if they are not nurtured, no corn appears. So if trees are not properly harvested and replaced, we will one day be out of wood.

"I want everybody to know the importance of trees in our country. In North Carolina there is no oil, no coal, no minerals but we can surely grow trees which are the greatest natural resource that North Carolina has.

Expansion, including two wings to be added to the existing building at the Cradle of Forestry will create a 15,000-square-foot Forest Discovery Center. John Bemis Veach helped turn the first soil with the gold shovel. An honor indeed, but his devotion and continued interest earned this signal honor.

An Environmental Education wing, the Dr. Carl Schenck Education Center, will have classrooms and a meeting room where school groups and other organizations can discuss and learn about forestry. The Forest Discovery Center will be a monument to the vision and dedication of men like John Bemis Veach.

What a heritage to leave for future generations to enjoy and build upon.

THE SPINAL CORD LIVING ASSISTANCE DEVELOPMENT GROUP AND PEDRO RODRIGUEZ WORK TO ENABLE THE DISABLED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ILEANA ROS-LEHTINEN. Mr. Speaker, I would like to recognize the Spinal Cord Living Assistance Development Group [SCLAD] and its President Pedro Rodriguez. Formed in 1985, SCLAD seeks to integrate persons with disabilities into the community. SCLAD stresses rehabilitation and independent living supported by a reliable network of support services.

This October 2d, 3d, and 4th SCLAD will be sponsoring its second freedom fair and expo at the Miami Beach Convention Center. The freedom fair provides a forum for people with disabilities to display their abilities and meet with other disabled, service providers, and manufacturers of rehabilitation products. Among the important issues that will be discussed are: independent living and full participation in community life, career options, the workplace and the enforcement of the Americans with Disabilities Act.

The fair will also showcase the artistic and physical abilities of the disabled. The freedom fair will display paintings, sculpture, and crafts by artists with disabilities. The exhibits will include both local artists from south Florida and artists from around Latin America. Participants will be able to display their athletic abilities in the freedom 5K race and walk. Other activities include an official wheelchair slalom competition with athletes from south Florida and around the country.

Mr. Speaker, I commend the Spinal Cord Living Assistance Development Group and its President Pedro Rodriguez. Their story is a heartening example of the power of enthusiasm and ingenuity to overcome difficulties. I wish them much success in their upcoming freedom fair.

HELSINKI HUMAN RIGHTS DAY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. SWETT. Mr. Speaker, I rise today in support of House Resolution 508, legislation designating August 1, 1992, as "Helsinki Human Rights Day." The Helsinki accords, signed by 35 nations in 1975, set forth to promote human rights and peaceful relations among the sovereign States of Europe as well as the United States. Since 1975, 17 more nations have signed the Helsinki accords, and the world has experienced tremendous changes.

The Soviet Union is now a memory, and in the wake of its breakup into the Commonwealth of Independent States, there has been a great deal of turmoil and violence. In these turbulent times it behooves us, now more than ever, to abide by the spirit of the Helsinki accords.

Mr. Speaker, we must put aside our ethnic, cultural, and geographical differences which have polarized us for so long and begin working together as a world community. As has been clearly evinced by the recent fighting in the former State of Yugoslavia, we have a very long and arduous road to travel. Nevertheless, with cooperation and peaceful relations, fostered in part by the Helsinki accords, we can engender a better understanding of each other and create a more peaceful world community where the rights of all peoples and nations are respected.

Mr. Speaker, I urge my colleagues to support this resolution and in so doing, reaffirm our commitment, as well as this great Nation's commitment, to the protection of human rights for all peoples and the promotion of peace and understanding among nations.

CAMDEN, NJ

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to enter into the RECORD two letters which were recently written by two of my constituents. Both letters were written by residents of Camden, NJ because of an article about that city which recently appeared in Time magazine. That article portrayed only the negative side of Camden, and while Camden is ridden with many problems, these letters show the side of Camden which Time failed to see. The first letter was written to the mayor of Camden, Hon. Aaron A. Thompson, by a young lady named Maria Luna. The second was written to the editors of Time by a Camden High School student named Deshawn Bennett. I believe that because of young people like Maria and Deshawn, Camden has a bright future.

DEAR MR. MAYOR: Hello, my name is Maria Luna I attend Rafael Cordera Molina School. I am in the 5th grade.

I am sorry if I am disturbing you. I know you are very busy. The reason I am writing

to you is because I am very upset about what was written in the article in Time magazine about Camden. I've lived in Camden for five years and I do not think it is as bad as they say.

There are bad people every where you go. North Camden is one of those places. Not every one who lives in Camden is bad. My parents work hard and try to give me the best they can.

My mother is a nurse, she takes care of people who need help. I have two aunts who grew up on welfare they both went to school and worked hard to get off of welfare, and now, one of them works for the city of Camden and the other one works for a lawyer. I am very proud of my family and I want to be just like them. This article does not talk about the good people who live here.

For example, what they put in the article "It is the story of girls who dream of becoming hair dressers but wind up as whores" this is not true of all girls I want to be a hairdresser too, but because my parents are working hard to raise me the right way. I believe my dream will come true. With all due respect I think that they should not be talking about people unless they can do some thing to change things.

We are not rich but we live in the best way, we do not have a lot but we have something I think that what they say about teenagers being involved in drugs and crime, may be true but if they had more activities, schools, park. It might resolve some of the problems. I think if you can help Camden City. It would be a better place to live in and look much much better, and have a better future.

Sincerely,

MARIA LUNA.

JANUARY 24, 1992.

DEAR EDITOR: When I recently read an article that was written about Camden, New Jersey in your January 20th edition, I became a bit confused. I couldn't distinguish whether its purpose was to hurt or help the city. You portrayed Camden in such a negative way. I read your article twice, analyzing each paragraph closely in search of just one positive statement, however there were none. I just don't understand your objective of taking a city that's limping and kicking its crutch out from under it. The feelings of the residents of Camden are probably irrelevant to you. You get paid to do a job whether people's emotions are hurt or not. Well I hope you got a pat on the back for a job that was half done. There are two sides to every story, however you only told one side. You listened to all the negatives but, didn't list the positives, which I don't think was fair. Unfortunately some of the things you stressed in such an exaggerated nature were true.

Camden is a city struggling to rebuild itself and articles such as yours do not help. Articles like this shatter people's confidence and hope, in making Camden an improved environment. In your article you didn't mention that 55% of Camden City graduates go on to post-secondary schools, and that the percentage of college graduates is increasing rapidly. You said Camden is a city of broken wings. Who broke those wings? You said yourself that Camden's suburbs used to treat their own sewage, but now they pump all of their waste to Camden. Why Camden? The county treats Camden like a garbage can and you expect some of the people to not feel like trash. How could you write articles like this and expect the youth to have self-esteem?

How would you feel if you were a juvenile resident of Camden and read an article such as yours? Would you feel like you had a chance in life? However, I'm thankful that we do have some strong youth that have their goal set, and will not let poor journalism stray them off their course to success. You interviewed a prostitute named Nikkeya, and a drug dealer named Minute Mouse. Why didn't you come to high schools and interview honor students? I'll tell you why, because you didn't come to Camden looking for anything positive. You came looking for something negative and you found it.

All that I ask for, is that when Time Magazine is ready to write a positive article on the youth in urban high schools, that you come back to Camden High School.

Yours truly, highly upset.

DESHAWN BENNETT.

CAMDEN HIGH SCHOOL.

A SALUTE TO PARTICIPANTS IN THE JOBS FOR OHIO'S GRADUATES PROGRAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. STOKES. Mr. Speaker, I am pleased to rise today to bring to the attention of my colleagues the Jobs for Ohio's Graduates [JOG] Program, a most exciting and innovative program which has proven successful in my congressional district and throughout Ohio.

A statewide, school-to-work program operating in 15 Ohio cities, JOG assists high school seniors in developing such necessary job-related skills as employment interviews, decision making, public speaking, and telephone techniques. More importantly, the JOG Program instills in our youth the confidence, determination and incentive essential to enter today's competitive job market.

I am pleased to salute such an outstanding program and would like to recognize those students and career specialists who took part in the 1992 Career Development Conference sponsored by the Jobs for Ohio Graduates Program.

Aviation High School—students: Renaldo Cedeno, Delilah Dervic, Chris DeMarco, Anita Horvath, Tanisha Redding, Jim Kearns, Harley Wright, Steven Pace, Frank Vazquez, and Edwin Cedeno. Career specialist: George Skalsky.

Cleveland Heights High School—students: Monique Sims, Erica Evans, Darrell Johnson, Michael Wren, Leah Bland, and Larwou Korvah. Career specialist: Theresa Gantous.

Garfield Heights High School—students: David Pell, Charlotte Kolesar, Joe Chmielewski, Tammy Pauly, Sharon Motley, Joe Royer, and Leslie Smith. Career specialist: Greg Benedetto.

Health Careers Center—students: Anquinette Hardman, Albert Saxton, Lashawn Pate, Keisha Garner, Enver Vajuci, Dwight Taylor, Nina Clegatt, Laticia Thomas, Walisa Brown, Yalsha Dozier, Angela Cardaman, Melinda Jackson, Tasha Daugherty, and Toshima Mathis. Career specialists: Elanine Iadeluca and Stephanie Phelps.

Jane Addams Business Careers Center—students: Monique Tinsley, Nerandai Seokaran, Robbie Ivory, James Patton, Tiffany Jones, Jimmy Prince, and Angelique Holden. Career specialist: Joann Levy.

Parma High School—students: Dave Fuglein, Dave Chovanik and Thomas O' Connor. Career specialist: Steve Farkas.

Shaw High School—students: Michael Oatman, Lisa Marie Wiggins, LeRashaun Spencer, Larzell Cowan, Kip Saunders, and Ingrid Pipher. Career specialists: Jacqueline Williams.

INTRODUCTION OF SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT OF 1992

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. PASTOR. Mr. Speaker, today, I am introducing the Southern Arizona Water Rights Settlement Act of 1992. This bill seeks to end what has been a long dispute involving the city of Tucson, the U.S. Government, the Tohono O'odham Nation, and the allottees of the San Xavier District. In 1982, Congress recognized the need to settle this dispute and passed the Southern Arizona Water Rights Settlement Act [SAWRSA].

It is now 10 years later, Mr. Speaker, and the controversy has yet to be resolved. Countless hours of debate and discussion, as well as tens of thousands of dollars have been spent in attempts to forge a compromise that is suitable to the parties involved. What I and my colleagues are seeking is a just resolution to what has become a very bitter and polarizing feud. Too much time has passed, too many harsh words have been spoken, and too little has been accomplished.

The collection of amendments to the 1982 SAWRSA that I am introducing as a bill would preserve, in its basic form, the original agreement with the following exceptions:

The cooperative fund would be continued.

All provisions tied to dismissal of the lawsuit against the city of Tucson would become effective obligations without regard to a dismissal.

The Secretary of the Interior would be required to rehabilitate and extend the allottees' farm as well as the other farms, or pay penalties. The amount of settlement water that the allottees would be allowed to use on these farms would be determined by the Secretary's decision on farm extension.

The amendments would clarify the extinguishment of the water rights of the nation and the allottees. Both parties would have the opportunity to settle disputes in the claims court only.

Limited in lieu storage of ground water not pumped within a given year would be allowed, with specific guidelines set for withdrawals of stored ground water in San Xavier.

The nation would be allowed to use a given amount of water within its territorial jurisdiction outside of the Tucson Active Management Area [AMA]. In addition, the nation would be allowed to make short-term leases of its water outside of the AMA subject to certain requirements.

With this said, I would like to mention, Mr. Speaker, that a great deal of apprehension on the part of the allottees surrounds the introduction of the Southern Arizona Water Rights Settlement Act of 1992. I consider this bill a first step in an attempt to forge a fair compromise that will enable this major water claim to be settled without having to resort to lengthy and costly litigation in Federal court. This latter course would only serve in impeding the economic development of the San Xavier District and the Tohono O'odham Nation, as well as complicating the city of Tucson's future.

In short, Mr. Speaker, I expect this bill to undergo numerous changes and revisions as it is discussed and its provisions debated and negotiated. Yes, I would like to see a resolution of the claims. I also want to ensure that the allottees are guaranteed the water that they are entitled to and that is necessary to their continued economic development.

I particularly want to acknowledge the cooperation and contributions of Congressman JIM KOLBE and other members of the Arizona congressional delegation. Their support is an indicator of the importance of this issue to the State of Arizona.

I look forward to working with the San Xavier District and the Tohono O'odham Nation in forging an agreement, and with my colleagues in framing a legislative solution that is fair to all parties. Let us end this dispute and move on to the more important tasks of building better communities and stronger economies.

INTRODUCTION OF LEGISLATION TO RENEW THE CHARTER OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. OAKAR. Mr. Speaker, I rise today to introduce legislation to renew the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992. The bill embodies the work of the Subcommittee on International Development, Finance, Trade and Monetary Policy, which held a markup on July 30, 1992, and approved a committee print on this subject, as amended.

LEGISLATIVE HISTORY

The administration communicated with the House and Senate on April 27, 1992, proposing that the Export-Import Bank charter be renewed for a period of 6 years and other provisions.

The subcommittee held a public hearing on May 6, 1992 on the subject of charter renewal. We also conducted hearings on April 11, 1991 and May 2, 1991, which developed valuable information on various aspects of the Bank's programs. In the course of the 1991 hearings, we asked the General Accounting Office to study the issues relevant to charter renewal, and received the GAO report at this year's hearings. The subcommittee also consulted widely with associations concerned with international finance and trade from the standpoint of large and small exporters, industry, labor, banking, insurance, State government and nonprofit organizations.

IMPORTANCE OF EXPORTS AND THE EXPORT-IMPORT BANK

The subcommittee found that exports are increasing rapidly. U.S. exports expanded from $227 billion in 1986 to $422 billion in 1991, an increase of 85.6 percent. According to the Bank's 1991 annual report, these exports support at least 7 million jobs and a considerable proportion of U.S. economic growth. We also found that requests for funding assistance from the Export-Import Bank have risen rapidly. In 1991, the Bank used up all of its authorized resources and still could not satisfy the demand.

Very heartening, also, is the judgment of the export community, as expressed in our hearings by Thomas Mullany of Rockwell, International Corp., representing the coalition on employment through exports, that: "Under the superb leadership of current Eximbank Chairman John Macomber, the Bank has become more responsive and innovative in its efforts to promote U.S. exports."

As a result, I believe that charter renewal is "consensus legislation" that all Members can support. When the bill reaches the floor, I would hope for a strong endorsement by this House, as a signal of congressional support for the Bank's efforts to help American firms pursue the historic new trade opportunities of this post-cold war era.

The alternative is that the Bank will run out of authority to make commitments on October 1, 1992, placing U.S. exporters at a severe competitive disadvantage.

CONTENTS OF LEGISLATION

For these purposes, the subcommittee drafted a streamlined bill, containing two titles. A third title was then added in the markup by amendment.

Title I, on the charter renewal, would extend both the general authority and the war chest authority of the Bank for 5 years, increase the Bank's aggregate ceiling for total financing, support the continued use of the Commercial Bank Guarantee Program, encourage the use of U.S. insurance companies in providing maritime insurance on Eximbank-financed exports, provide for "one-stop" centers to assist small- and medium-sized exporters with financing assistance, and seek to tie the Bank's programs into overall export strategy.

Title II of the print repeats title VI of H.R. 3428, with a couple of minor technical and clarifying amendments, one of which represents agreement between the Committees on Foreign Affairs and Banking with respect to a provision of common concern. These provisions are carried over from our international financial institutions bill, H.R. 3428, which has already been approved by our subcommittee, on September 25, 1991, and by the full Banking Committee last month, on June 18, 1992; House Report 102–657.

Title III also transfers excepts from H.R. 3428 on the enterprise for the Americas initiative, especially as it relates to the role of the Export-Import Bank.

GEORGE BUSH'S "THREAT-AND-FORGET" APPROACH IS NO ANSWER TO SADDAM HUSSEIN'S "CHEAT-AND-RETREAT TACTICS"

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ASPIN. Mr. Speaker, I rise again to discuss the ongoing problem of Iraq's non-compliance with U.N. resolutions and the continued erosion of the United Nation's authority in Iraq. Saddam Hussein's methods are well known. Even the Bush Administration has identified his "cheat and retreat" tactic. In response, however, the Administration has countered only with "threat and forget."

But when Saddam Hussein cheats and retreats, he doesn't retreat all the way. And when George Bush makes a threat and then forgets it, Saddam gets a little bolder. It's a new war of nerves and inches, and we're losing it.

It has been going on since the Gulf War ceasefire. Four times in the last year Saddam Hussein's pattern of non-compliance has escalated into a major showdown with the United Nations and the gulf war coalition partners. Each time President Bush has threatened military action to bring Saddam to heel. In some cases the threats produced some concessions from Saddam. In others, the threats achieved nothing at all. But in no instances have these threats produced full Iraqi compliance with all U.N. resolutions.

Let's look at the record:

SHOWDOWN NO. 1—JULY 1991

U.N. Resolution 687 explicitly demands that Iraq provide a full and complete accounting of its unconventional weapons programs, and authorizes anywhere, anytime inspections of Iraqi facilities. Iraq's initial reports, however, grossly underestimated its chemical, biological, and missile programs and flatly denied the nuclear program.

This underreporting was known because Iraqi defectors had conformed what Saddam Hussein would not report—not only did Iraq have a nuclear weapons program, but it was much larger than anyone previously suspected and Saddam actively sought to block discovery of the evidence of its existence. The showdown of the summer of 1991 over this obstructionism began to take shape in late June.

On June 23, a group of inspectors demanded entry to facilities at Abu Ghurayb—a site identified by defectors as part of the covert nuclear program. The Iraqis refused.

On June 28, again acting on an intelligence tip, the UNSCOM inspectors demanded access at the military transport compound al-Fallujah. The Iraqis again refused, but by climbing a water tower U.N. inspectors spotted and photographed a convoy of over 100 trucks leaving the facility. When the inspectors began photographing the departing convoy, Iraqi guards fired shots to try and make them stop and then tried to seize the film—fortunately they failed. The record of this great getaway was preserved.

After these actions, Secretary of State Baker accused the Iraqis of "extraordinarily serious" efforts to deceive the United Nations.

When asked what the United States might do in response, he said "stay tuned." President Bush the same day said that the United States had "incontrovertible evidence" of violations of the U.N. resolution by Saddam, whom he called a "brutal bully," and declared that the United States "certainly won't" tolerate his obstructionism.

On July 8, the Iraqis formally disclosed some details of their nuclear enrichment programs, but this declaration was far from complete. The Iraqis still refused to acknowledge they had a nuclear weapons program. Exasperated by Iraq's piecemeal disclosure of its nuclear program and its obstruction of inspections, the U.N. Security Council issued an ultimatum on July 12: full disclosure on the weapons of mass destruction by July 25 or potentially face military action.

Between July 14 and 19, U.S. officials clearly brandished the possibility of military action. When asked what would happen of Saddam did not comply, U.S. ambassador to the United Nations said, "He has not seen everything that is going to happen yet."

As the deadline approached, however, Bush administration officials soft-pedaled the notion that Iraq's failure to comply would prompt United States action. White House Press Secretary Fitzwater said on July 23 that the July 25 deadline did not imply a "deadline for action."

On July 25 the deadline passed, Iraq made no additional declarations and the United States did nothing. On the same day the Security Council began informal discussions—not of how to enforce Resolution 687, but on a plan to allow Iraq to sell some oil for food and medical supplies.

In the first, crucial showdown the United States backed down, not Saddam Hussein. The United States simply dropped the subject when Saddam refused to be cowed by our threats. To this day Iraq has not submitted a complete accounting of its unconventional weapons programs as required under the U.N. resolutions.

SHOWDOWN NO. 2—SEPTEMBER 1991

Saddam began his major September challenge to the United Nations with a preliminary skirmish over helicopters. He took issue with the use of helicopters by U.N. inspectors. On September 18, President Bush said that he was "fed up" with Saddam's resistance and suggested that he would send warplanes to protect the helicopters as well as an additional Patriot battery to Saudi Arabia. On September 19, President Bush said, "We are prepared to use military action to see that he does comply."

It was cheat and retreat in the familiar pattern. On this occasion, the Iraqis backed down and, on September 23, told the U.N. that its helicopter flights would be permitted. But even as Saddam retreated on one front, he cheated on another when he tried to prevent U.N. inspectors from taking evidence of prohibited—by the U.N. resolutions—activity. This led to the notorious Baghdad parking lot incident.

On September 23, a large contingent of nuclear inspectors followed another intelligence lead and found conclusive proof of Iraq's nuclear weapons program in a downtown government building. The Iraqis held the inspectors for 13 hours and then forcibly retrieved the documents they had discovered in one of the buildings.

On the following day, inspectors, still acting on intelligence leads, entered another building and found another trove of incriminating evidence. This time, however, the inspectors refused to hand over any documents or microfiche from the second building. The Iraqis tried many means of intimidating the inspectors, including drummed-up demonstrations, but the inspectors held their ground. What resulted was a 5-day siege of the inspectors in a Baghdad parking lot. The seige was lifted by a compromise that allowed mutual copying of the material from the second building. But Saddam never delivered a complete set of the documents found in the first building. Cheat and retreat had paid off again for Saddam.

The Bush administration had blustered during the helicopter crisis, but had relatively little to say during the parking lot standoff. Moreover, during the parking lot episode, the United States position was undermined by its ally in the Gulf, Saudi Arabia. On September 26, United States. Air Force transport planes carrying additional military materiel to Saudi Arabia had to turn around in midair after the United States received a message from the Saudi Defense Minister that there was no need for it. It was a signal that Saddam could only welcome.

SHOWDOWN NO. 3—MARCH 1992

This third showdown erupted when Saddam Hussein again refused to allow the U.N. inspectors to do their job in Iraq, and blatantly challenged the right of the United Nations to dismantle his mass destruction weapons.

On February 18, 1992, U.N. Special Commission [UNSCOM] Chairman Rolf Ekeus reported to the Security Council that "Iraq has no intention of meeting its obligations * * * in resolution 715" and that Iraq is not fully complying with resolution 707. United Nations Security Council Resolution 707 had found Iraq to be in material breach of its responsibilities regarding full disclosure of Iraq's weapons of mass destruction. Resolution 715 had offered detailed plans for the dismantlement and long-term monitoring of these weapons.

On February 28, UNSCOM recalled its inspection team from Iraq after waiting in vain for Iraqi permission to destroy parts of Iraq's missile production facilities. On the same day the Security Council issued an ultimatum demanding that Iraq explain itself and comply with all resolutions within 2 weeks or face "serious consequences."

In response to this demand Saddam Hussein sent Foreign Minister Tariq Aziz to New York on March 11 to 14 for meetings with the Security Council. The meetings, however, produced little progress. By March 16, President Bush was again stressing that "all options are open"—this now familiar precursor for making military threats.

In the usual pattern, Saddam eventually relented and by the end of March inspectors were permitted to destroy the targeted missile facilities. But also as usual, Saddam had made partial, grudging compliance seem like a concession on his part. He has still not fully agreed to the provisions of Resolution 715 and he has still failed to produce a comprehensive report on weapons of mass destruction.

SHOWDOWN NO. 4—JULY 1992

This summer's high-profile showdown with Iraq over inspection came over access to the Ministry of Agriculture, but it was only a small part of what is probably Saddam's broadcast challenge to the U.N.'s authority in Iraq, a challenge that is largely succeeding. Since June, Iraq has:

Rejected the border demarcation recommended by the U.N. Boundary Commission and stopped attending meetings of the Commission.

Blocked U.N. relief efforts by blocking visas and transportation and refused to sign an extension of the memorandum of understanding [MOU], which expired June 30, for U.N. and relief personnel in Iraq.

Engaged in a growing terrorist campaign against U.N. personnel in the Kurdish enclave.

Launched a new military offensive against the Shi'a in the south, including attacks with fixed-wing aircraft.

None of these major infractions of U.N. resolutions, however, prompted serious response from the United Nations or the United States. It took a new parking lot incident outside the Ministry of Agriculture to get the attention of the President. Even so, the standoff was 18 days old before a U.S. official began rattling the usual saber, saying that "we are not ruling out any option, including the use of military force."

My colleagues in the House will recall this most recent parking lot confrontation. Again acting on tip, inspectors sought access to the Ministry. That access was denied and the standoff began. This time, however, Saddam drummed up increasing violent demonstrations against the inspectors that eventually drove them off.

The Bush administration again resorted to the "all options are open" rhetoric, but only after the inspectors had been driven off, giving Saddam's henchmen time to sanitize the Ministry. But Saddam scored a bigger victory than merely securing a chance to get rid of incriminating evidence. He succeeded in negotiating the conditions of an inspection, something he has no right to do under the provisions of the cease-fire that ended the gulf shooting war. And he succeeded in negotiating the membership of the inspection team, which now excludes inspectors from the United States and the United Kingdom. The Ministry has now been inspected, but at an enormous price and to no avail. Not surprisingly, no incriminating evidence was found.

The Bush administration at first appeared relieved at this compromise. On July 27, administration officials had announced the dispatch of another carrier, the U.S.S. *Kennedy*, to the region. By the next afternoon, the carrier had turned around and Marlin Fitzwater, the White House spokesman, said the crisis had been "diffused". Defense Secretary Cheney was stressing that the use of force was not imminent.

Now, in retrospect, the Bush administration seems unhappy with the resolution of this showdown. The United States reportedly is pressing the United Nations to step up its inspection activity. The apparent reason for this is to precipitate another showdown with Iraq, presumably one that we'll be better prepared for.

With every showdown the United States and the United Nations loses ground to Saddam Hussein. Why does this worry us?

First, these showdowns and their outcomes reinforce Saddam rather than undermining him. This goes directly against George Bush's stated goal of getting rid of Saddam Hussein.

Second, each showdown has eroded more of the United Nations' authority and encouraged Saddam Hussein to do it again.

Finally, by dragging his feet and chipping away at the U.N. resolution Saddam Hussein may well outlast the international support for sanctions and inspections. In that case Saddam will again rebuild the weapons of mass destruction that we have struggled so vigorously to eliminate.

It is abundantly clear that making threats of what we will do if Iraq does not comply fully with the U.N. resolutions, and then forgetting about them when Saddam Hussein cheat is not working. It is better to make no threats at all, than to make empty threats, with a thug like Saddam Hussein. We need to think through now—before the next showdown—precisely what we want Saddam Hussein to do, how long we will give him to do it, and what we will do if he doesn't comply. If we don't have good answers to these questions, we shouldn't be talking about trying to precipitate another showdown.

TRIBUTE TO DR. D. EDWARD FRANK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to Dr. D. Edward Frank, a fine physician, humanitarian, and long-time family friend.

Dr. Edward Frank was born in Bath Beach, NY, the son of Celia and Meyer Frank. Edward was the youngest of six boys and his childhood was spent in the Bronx, and later moved to Riverside Drive in New York City, where he graduated from De Witt Clinton High School.

At the age of 16, he entered the University of Pennsylvania in Philadelphia. Even at that young age Edward had decided that he wanted to study medicine, being determined to go into a profession where the dream to help his fellow man could be accomplished.

Edward Frank did his undergraduate and graduate work at the University of Pennsylvania. When he graduated and received his M.D. degree in 1934, he became licensed to practice in New York. He opened his first office in New York City and had a general practice there for a few years. He was associated with the New York Poly Clinic Hospital. Early in his career Dr. Frank decided to specialize in the field of allergy. His research in the field was widely respected.

Edward met his wife of 50 years, Esther, a native Angeleno. Their courtship was mainly carried on by long distance correspondence. They were married in New York on March 30, 1941 and went on a wedding trip to Washington, DC and Florida.

Having met all the requirements for a California medical license, Edward and Esther moved to California in May, 1943. Dr. Frank has served as president of the Los Angeles Society of Allergy and as president of the U.S.C. Faculty Association.

In 1945, Dr. Frank was asked to become a clinical professor at the U.S.C. School of Medicine in the department of allergy. He served in the allergy clinic for more than 30 years. Before his retirement, he did a great deal of research in the field of allergy, as well as volunteering to treat patients of little means. His mate, Esther, assisted him and the other doctors at the clinic.

Aside from being a fine physician and human being, Edward was an accomplished artist and there proudly hangs a portrait of Eleanor Roosevelt in her collection at Hyde Park; as well as a portrait of President Carter in his library in Atlanta.

Throughout all his endeavors, Dr. Frank enjoyed the warmth and support of his loving wife, Esther and their children. Michael Frank, the eldest son, has been happily married for 18 years to Laura Osher Frank. Michael is a marriage and family counselor, currently studying for his Ph.D. in clinical psychology. Laura is an artist and an elementary school teacher. They are the proud parents of Sara Michelle, age 11, and Linnea Rebecca, age 14. Linnea has been invited to attend the Hamilton High School for the Performing Arts in Los Angeles. She is an accomplished vocalist and also sings in the choir at Temple Adat Ari El. According to her grandmother, Sara is a very enthusiastic participant in life, enjoying athletics, dance, and animals. Mark Frank, their second son, is a contractor and self-taught wood carver and inventor, who has a patent on a kit he devised to build a canoe. Karen Frank, Edward and Esthers' youngest adult child, has a masters degree from U.S.C. in special education. A few years ago Karen wrote and produced her own musical show, "A Perfect Day Dream" which was enjoyed by many.

It is a pleasure to share the memory of Dr. Edward Frank with my colleagues in the U.S. House of Representatives. I ask that they join me in recognizing Edward Frank's gifts to his family and society.

TRIBUTE TO TELE-TECH PROJECT PARTICIPANTS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. BAKER. Mr. Speaker, I rise today to offer my congratulations to the East Baton Rouge Parish School System for hosting the Project TELE-TECH conference in Baton Rouge, LA, and to pay tribute to the teachers from around the State who will take part in this unique program.

Teachers from the State of Louisiana who participate will be introduced to state-of-the-art information in the use of instructional television technology and English as a second language methodology to meet the educational needs of limited English proficient students and their parents. This instruction will be helpful because an examination of the Louisiana Education Assessment Program in 1991 showed that over 75 percent of the LEP students fail the math, science and social studies components of standardized tests.

Training activities will involve 560 math and science classroom teachers each year for a total of 1,680 trained by the end of the project. Those teachers trained the first year will have a positive impact on 14,000 limited English proficiency students. Over a 3-year period, 42,000 Louisiana students will benefit from effective instruction in these content areas.

I wish all TELE-TECH participants the best of luck, and I sincerely admire their dedication to the teaching profession.

TRIBUTE TO MS. CARY DE LEON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Cary de Leon on her recent appointment as head of the Dade County Commission on the Status of Women. As a community activist and business woman, Ms. de Leon has given a voice to the battered women of south Florida who have repeatedly been silenced by abusive mates.

Some 33 years ago, Cary de Leon learned that her maid in Cuba was a battered wife. This revelation incensed Ms. de Leon, moving her to take action against this cruel abuse. In the years that have transpired, Cary de Leon has devoted much time and energy toward getting women's issues noticed. Ms. de Leon recognized that battered women, for the most part, remained quiet; she, however, was determined to give them a voice.

Aside from heading the Dade County Commission on the Status of Women, Ms. de Leon also chaired Miami's Commission on the Status of Women from 1990 to 1991, the first Hispanic to lead both groups. These honors are well deserved, as Ms. de Leon's devotion to this cause is unmatched. She keeps herself well occupied around the clock. It is because of such dedication that women's issues have begun to receive the attention they deserve.

The 27-member commission studies issues that affect Dade County women. They present their findings to the county commissioners, and lobby for legislation to meet women's needs. Some of the issues Ms. de Leon plans to deal with during her 2-year term as chairwoman of the commission include housing for older women, bringing more women into politics, and her long-time concern: battered women.

Upon moving to Miami 12 years ago, Ms. de Leon was encouraged to head the public relations department for Coconut Grove's Mayfair Shops. At this time, she also helped to establish the Latin Business and Professional Women's Club. Ms. de Leon now works as a victim-witness coordinator at the Dade State attorney's office.

Mr. Speaker, I now ask you to join me in commending Cary de Leon for generous serv-

ice to her south Florida community. Women everywhere depend on people like Ms. de Leon to represent them in society. Ms. de Leon's devotion has brought these issues to the forefront of our society. It is women like herself that make society realize that these are more than simply women's concerns—they are everyone's concerns. I congratulate her on her recent appointment as chairwoman of Dade County Commission on the Status of Women, and wish her success with this and all future endeavors.

MART GIBSON GUGGENHEIM'S REPORT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. JACOBS. Mr. Speaker, my coworkers and I are most fortunate. We have a friend named Mart Gibson Guggenheim to whom God gave a brilliant mind. She is a writer of lean and precise language.

The following is her report on David McCullough's "Truman."

McCullough heads PBS 26 The American Experience.

Ms. Gibson Guggenheim's report covers interviews on Richard Heffner's Open Mind, PBS 26, July 15 and July 22, 1992.

The report is a consequence of one viewing of each program and as can be seen by the following words, it is concise and delicious.

TRUMAN'S CAMPAIGN FOR THE PRESIDENCY

He traveled 22,000 miles by train, made up to 13 speeches a day, most extemporaneous from the train's rear platform. Big city speeches were prepared in advance—Truman telling his adviser: Let's just say what we mean! Not eloquent as FDR had been, but was always understood and "left people feeling better." (Sam Rayburn said Truman talked with the Congress, not at it.)

His message sounded like Perot's, "You are the government, not the politicians, journalists and experts. (TV had just arrived in 1948.) Vote your self interest, that of your children and grandchildren. Build the country you hope for."

TRUMAN'S PROGRAM

He sent the first-ever Civil Rights message to Congress. His grandparents had owned slaves and, from old habit, he could use the word 'nigger,' but he was the first presidential candidate to campaign in Harlem and the first to address an NAACP meeting. He said, "It's right. If it costs me the election, let it." He desegregated the Armed Forces.

The Medicare Bill, passed during the Johnson Administration, originated with Truman.

He made repeated hard decisions: With 80,000 to 100,000 lives at stake, Truman said yes to dropping the A Bomb, and no to MacArthur's wish to use atomic weapons in Korea. When MacArthur disregarded other orders, Truman fired him.

HARRY TRUMAN, THE MAN

He "loved to read," had a sense of history—not only regard for the past but for how his present, perhaps unpopular decisions, would be judged in the future. He believed in the system and in continuity—wanted the aura of the Presidency maintained. No reverse snob, he made Dean Acheson, ("Groton, Harvard, elegant eastern gentleman") his Secretary of State, a major voice in the White House, and vital to Truman's second term. Their correspondence continued for twenty years after Truman's retirement. At night, in the old White House, Truman had heard footsteps of earlier Presidents—asked himself, was it Adams? Lincoln?

He was a man of courage and optimism—and understood the value of these traits in a leader. He saw the President's job as setting the tone—dealt in reality—asked: What is needed? How much does it cost? How to get there?

Like Kennedy, he would today control press conferences. He would say, "You're not asking the right questions. The point is not the opposition—but what about the homeless? Medical programs? Haitian policy? McCullough believes Truman would today "sweep the country". He would say, "Forget the hokum. Get the job done!"

"God was watching over us—a great and good man with plenty of flaws but responsible, principled, capable of moral leadership, who knew where he wanted to take the country. He was a wit. He believed in common sense and common decency, in working hard and doing your best. Always he more than rose to the occasion. He believed in keeping your word, not being too big for your britches, casting your vote, crossing when the light was green, and he had wonderful vitality. He was physically very strong and emotionally very tough, had inner balance and knew who he was."

Truman was "exactly the President the Founding Fathers had in mind. His own life reflected the experience of the American people and made him an affirmative symbol of American participatory democracy. This is us, then and now."

THE EVENTS

Truman's Senate Committee had been rooting out corruption in war contracts. He had no desire to be the Vice President for Franklin Roosevelt's fourth term. FDR's illness was recognized, discussed. Both James Burns and Henry Wallace, then Vice President, wanted the job. But "the bosses," headed by Ed Flynn of the Bronx, favored Truman—a man with no education beyond high school, who came up through the Pendergast "organization" to become a second-term Senator from Missouri. Roosevelt simply went along, saw Truman seven or eight times, "told him nothing about anything including the atomic bomb."

Then, on April 12, 1945, some eighty days after coming to office, the country still at war, Truman became President. He had no advisers—took the people already there—George Marshall, Eisenhower, Dean Acheson, Averell Harriman and others, and promised to continue Roosevelt's policies.

In July he was at the Postdam Conference. The British, reassured, were then convinced here was "a man who could take it."

MART.

IN HONOR OF TED J. BALESTRERI AND BERT P. CUTINO

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. PANETTA. Mr. Speaker, I rise today in honor of Ted J. Balestreri and Bert P. Cutino as they are inducted into the California Restaurant Association Education Foundation Hall of Fame. Ted and Bert have been instrumental in the success of the foundation, a nonprofit public benefit corporation, which has awarded more than $125,000 in scholarships and grants to hospitality students, educators, and trade schools.

In 1968, Ted and Bert created the Sardine Factory Restaurant in the Cannery Row area of Monterey. The restaurant has since been the recipient of many prestigious awards including the "Nation's Restaurant News Hall of Fame Award," "California Top 10 Restaurants," and the "Knights of the Vine Gold Vine Award." In 1981 and again in 1984 the Sardine Factory had the honor of being 1 of the 50 restaurants in the United States to serve at President Reagan's inauguration.

In September 1986, Ted and Bert established the "Balestreri and Cutino Scholarship Fund" which is administered through the California Restaurant Association Education Foundation. The interest from this fund has been used to award scholarships to deserving students whose career objectives are in food service. They have also been leaders and have given countless hours to the community of Monterey.

Mr. Speaker, the story of these two men is the story of this Nation. They were both raised in the Monterey area. They were willing to invest in a business that is special to them and to the people of Monterey. In their success, they have given back a part of themselves and their abilities to the community. They both have wonderful wives and families. They truly are the American success story.

Mr. Speaker, I now ask my colleagues to join me in recognizing my friends, Ted Balestreri and Bert Cutino in their outstanding support to the community and to the food service industry.

OPERATION SAFE NEIGHBORHOOD—GARY, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with special honor that I rise today to recognize the latest crime prevention efforts within the city of Gary, IN. The coordinator of Operation Safe Neighborhood, Ms. Louise Ivey, has announced the committee's event of the year, America's ninth annual National Night Out, August 4, 1992.

Operation Safe Neighborhood's participation in this year's National Night Out marks yet another effort to eliminate crime from the streets of Gary. The mission of this organization is to send criminal offenders in northwest Indiana the message that the citizens of Gary, in a concerted effort with the Gary police department, are working diligently against crime. The organization presents a unified front against criminal activity and works to increase public awareness as to methods to identify and respond to suspicious behavior in their respective neighborhoods. Such projects are particularly instrumental in rejuvenating pride in Gary,

and creating a safe and fearless environment for our neighbors and children.

The city of Gary is the only city in the State of Indiana to receive a national award for crime prevention participation. Operation Safe Neighborhood, in conjunction with the National Association of Town Watch, will continue to effectively heighten crime and drug awareness, generate support and participation in local anti-crime efforts, strengthen neighborhood spirit and police community relations, and send the message to criminals that our neighborhoods are organized and fighting back. My hope is that the message will be received by communities nationwide.

It is my privilege to recognize the distinguished efforts of the International Association of Police Community Relations Officers, Inc.; the Honorable Thomas V. Barnes, mayor of the city of Gary; Marvin Exum, director of public safety; David Wade, chief of police and the Men and Women in Blue; and Louise Ivey, director of police community relations. Their endeavors are certainly admirable and I commend the determination and genuine concern displayed by city of Gary officials and community members for their fine display of citizenship.

As Representative for the First Congressional District of Indiana, I am proud and honored to acknowledge August 4, 1992 as National Night Out and the month of August as Operation Safe Neighborhood Month. I am confident their endeavors will be as rewarding this year, as they have proven to be in the past.

HELEN MEHR, PIONEER AND HUMANITARIAN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. EDWARDS of California. Mr. Speaker, for over 40 years, the residents of Santa Clara County lived a little better, were better informed and were persuaded to be more compassionate thanks to the contributions of Helen Margulies Mehr. It saddens me today to bring news of her passing.

Helen Mehr established the first clinical psychology practice in Northern California, no small feat for any medical professional at that time, let alone for a woman. She co-founded the California Psychological Association, helping to enact the first licensing laws for the profession in the state.

In concert with her work with her optometrist husband, Edwin, Helen Mehr wrote several tracts on care for the partially blind and helped to establish the Vision Rehabilitation Center of Santa Clara County.

As founder and first Secretary-Treasurer of the Peace Psychology Division of the American Psychological Association and as a member of Psychologists for Social Responsibility, the social action committee at Temple Emanuel, the Fellowship for Reconciliation and the Interfaith Peace Coalition, Helen's deep compassion extended beyond her patients. It is this commitment to the advancement of all humankind that made her work important.

Helen was a model activist, always willing to lead by example, always reasoned, never contemptuous. Whether organizing an assembly or a letter writing campaign, her influence and authority was distinct.

Her opinions were frequently published throughout the bay area and were both expected and welcomed in my office. During the Persian Gulf war, Helen spoke to me of her dream that dialogue and sensibility would prevail over bloodshed.

We still have a long night ahead before her dream of peace and fellowship will be realized. But I pledge to you and to all those who are fortunate enough to have known Helen Mehr, that I will continue to work for that dream. Her spirit will not be forgotten.

DELUCAS TAKES GIANT LEAP FOR ALABAMA AND AMERICA

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. ERDREICH. Mr. Speaker, I rise today to pay tribute to one man who has truly made a giant leap for Alabama and America. Dr. Larry DeLucas, the associated director of the Center for Macromolecular Crystallography at the University of Alabama in Birmingham, is Alabama's newest astronaut.

During his 14-day journey in space, Dr. LeLucas experimented with and grew several sets of protein crystals. These crystals are being used to help develop treatments for diseases that affect our immune system such as AIDS and diabetes. Doctors will one day use these protein crystal experiments to help ensure a healthier America.

The University of Alabama in Birmingham has been experimenting with these protein crystals for the past 6 years. Their contributions to the science field have been invaluable. NASA and Dr. DeLucas will add greatly to these contributions as a result of this flight.

Mr. Speaker, I, along with all Alabamians congratulate Dr. DeLucas on this historic flight. We are all proud of him, and he is the only Alabamian that can say he has orbited the Earth 221 times.

INTERSTATE COMMISSION ON COMMUTER TAXES

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. GUARINI. Mr. Speaker, commuter taxes have been a source of recurring friction between States. This has been particularly true for the tristate area of New Jersey, New York, and Connecticut.

This is an issue of fairness. When commuter taxes are proposed passions run high with threat of retaliation. This friction can be very detrimental to relations between States, threatening to disrupt interstate commerce, start border wars, and create an uneven playing field. What is needed is a neutral forum to address and try to resolve these issues.

My legislation would establish an interstate taxation commission to address commuter taxes in the tristate area of New Jersey, New York, and Connecticut. This Commission will be composed of representatives from New Jersey, New York, and Connecticut. It will provide a neutral forum to work to bring all parties together, to make recommendations on any proposed commuter tax, and to help avert any potential border war which would serve no one's interest.

FEDERAL HOUSING ADMINISTRATION REFORM

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. DEFAZIO. Mr. Speaker, I strongly support efforts to reinvigorate the Federal Housing Administration [FHA] by raising FHA loan limits and eliminating the 57 percent limit on the financing of closing costs include in this year's VA/HUD/Independent Agencies appropriations bill.

The 1990 Housing Act went too far by dramatically limiting the FHA's role in assisting young families purchasing a home. The FHA loan limits imposed by the 1990 act have driven away potential home buyers in droves. And the limit on financing closing costs has raised down payments to the point where most potential borrowers are priced completely out of the housing market. During these tough economic times, young families simply can't afford these out-of-pocket expenses.

In just 2 years, FHA activity has dropped off considerably as a result of these restrictions. FHA statistics show that lending to first-time home buyers in the section 203b program fell 24 percent between 1990 and 1991. During that same period, FHA activity in Oregon dropped by nearly the same amount.

Raising the FHA loan limit to keep pace with nationwide housing markets will not put the FHA on shaky ground. In my district, the average loan size is just $65,000 compared to the FHA's maximum loan amount of $89,000. Clearly, it will take a lot more than raising the loan limit to endanger the solvency of the FHA in Oregon.

In order to be effective, FHA must be accessible to low- and moderate-income families. Families throughout southwest Oregon have enough trouble gathering necessary cash to make a downpayment on their first home without the Congress reaching into their pockets for a little bit more. I urge my colleagues to support the FHA reforms included in this bill.

I'm submitting an article for the RECORD from the February 29, 1992 Washington Post describing this situation. I encourage Members to read it.

FHA HIGHER COSTS LINKED TO SALES DROP

CRITICS BLAME BUYER LOCKOUT ON CLOSING FEES

(By Ann Mariano)

The number of moderate-income Americans buying homes dropped by nearly a third in the first six months after the Bush administration imposed higher fees for Federal Housing Administration-insured mortgages, according to a new study.

Housing industry officials said the decline is alarming because these are buyers with income levels that will make it difficult for them to get home loans elsewhere.

Until last July, the FHA allowed buyers of homes valued at less than $50,000 to make only a 3 percent down payment. Now buyers also must pay 43 percent of their closing costs in cash, an increase of several hundred dollars in most instances, where previously they could finance all of their closing costs over the life of the loan.

The Mortgage bankers Association of America said its study showed that 32,566 people buying homes costing $50,000 or less used the FHA loan program in the last half of 1991, a 31 percent drop from the same period in 1990. The association said that represents 14,522 buyers who could not buy homes as result of the FHA fee increase.

But other groups of potential buyers with higher incomes also have been hurt, putting the overall decline in use of FHA mortgages at 12 percent when compared with loans insured by the agency during the last half of 1990.

Among more affluent purchasers, the number of loans dropped by 16 percent. On a $70,000 home in a state with typical closing costs of 2 percent of the mortgage amount, a buyer's down payment increased by $572, according to the bankers' association.

Both Republican and Democratic members of Congress have worried publicly that Americans are being locked out of homeownership because of the new FHA rules.

The Bush administration "is taking what is a well-performing program and literally running it into the ground." said Rep. Bruce F. Vento (D-Minn.), member of the House housing and community development subcommittee. "These policies have brought us to the point where the program is absolutely crippled."

Vento said Congress "is going to have to act" to rescue the FHA before "it becomes a liability on the federal government." Because of the increased fees, Vento and others said, the FHA is no longer getting a cross-section of buyers, but is attracting only purchasers "who can't get credit any place else," exposing the fund to a much higher default rate.

A community development bill introduced by Rep. Henry B. Gonzalez (D-Tex.), chairman of the House Banking, Finance and Urban Affairs Committee, includes provisions reversing some of HUD's changes. The measure would prohibit the HUD secretary from limiting the amount of closing costs that can be financed in an FHA-insured loan and reverse the current HUD policy of charging higher premiums for refinancing mortgages than those required of new purchasers.

Sen. Pete V. Domenici (R-N.M.), head of a Senate Republican task force on real estate, introduced legislation this week to raise the $125,000 limit on homes the FHA can insure in high cost areas such as California and several locations on the East Coast including the Washington region.

Domenici said 33 percent of first-time buyers in California cannot get FHA insurance because the state's high housing costs push many homes above the FHA limit. His legislation also would require the FHA to "develop new programs to better serve low-income minorities and first-time home buyers," the senator said.

The FHA's goal would be to increase the share of low-income and minority housing it insures from 15 percent of all its loans to 30 percent and must report to Congress within one year on how it plans to reach this goal. Domenici said.

HUD's changes in the FHA add several hundred dollars to the amount of cash home buyers must have to cover settlement costs. Buyers must pay a new one-half percent annual premium and come up with cash to cover 43 percent of their closing costs when a sale is completed.

A buyer with a $100,000 mortgage and $2,500 in closing costs now must pay about $1,000 more in cash, according to the mortgage bankers' calculations. Closing costs include fees for inspections, appraisals, attorneys, real estate brokers and title insurance premiums.

GROUPS CRITICIZE HIGHER FHA COSTS

While the FHA's costs increased and many borrowers went elsewhere for insurance, the Department of Veterans Affairs registered a 7 percent increase in the number of mortgages it guaranteed and loans covered by private mortgage insurance companies jumped by 45 percent, according to the mortgage bankers' study.

"I don't like the idea that you're kicking out" a group of prospective home buyers by "attaching extra cost to those who can least afford it," said Michael A. Stegman, professor of city and regional planning at the University of North Carolina. He said this may be actuarially sound but "I'm not so sure it's sociologically sound."

Stegman, who has studied and reported on a variety of HUD programs, said the department's stance on the FHA is in contrast to the initiative for helping public housing residents buy their units and aiding other low-income people with home purchases.

HUD is "giving away buildings without worrying about" the financial resources of the buyers, Stegman said. "There is a total inconsistency between this and what is happening to FHA borrowers.

HUD requires public housing tenants who buy their units to pay part of the purchase price. They pay what they can afford and HUD subsidizes the remainder, said John C. Weicher, HUD's assistant secretary for policy development and research. HUD also pays a portion of tenants' utility costs for the first five years, he said.

In a letter sent to mortgage bankers last month, HUD Deputy Secretary Alfred A. DeiliBovi said the department's changes have strengthened the FHA and "hopefully directed it toward stability" while opening the door "for other mortgage entities to serve traditional FHA markets." He added that the FHA continues to have some benefits not available from private mortgage insurance.

In an interview this week, Weicher said that the decline in FHA business is "about in line" with the overall housing market.

"We think, fundamentally, that it is too early to draw conclusions" about the effects of the administration's extra fees, Weicher said.

FHA loan applications increased by 60 percent in January over the previous month and rose 30 percent in January over the same month in 1991, when the United Sates was embarking on the Persian Gulf War, Weicher said. He also said the department "tried to design reform to bear as lightly on [middle-income buyers] as we could."

C. Austin Fitts, the first chief of the FHA in the Bush administration, said HUD changed the program's pricing formulas "in a way that doesn't make sense."

The bulk of any premium increases should be charged at the time the loan is paid off, she said. "Instead, they decided to balance the budget yet again on the back of the FHA," she said.

Angelo R. Mozilo, a Pasadena, Calif., banker and president of the mortgage bankers group, believes the administration wants the FHA to play a far smaller role in helping Americans buy homes, and may even hope to abolish the agency.

The National Affordable Housing Act passed in late 1990 made the changes in the FHA that Mozilo said "brought serious consequences the American people don't deserve, particularly low-income people" by weakening the agency.

SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT AMENDMENTS ACT OF 1992

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. KOLBE. Mr. Speaker, today, along with the other members of the Arizona delegation, I am pleased to introduce the Southern Arizona Water Rights Settlement Amendments Act of 1992. I understand that a companion measure is also being introduced today in the Senate by Senators DECONCINI and MCCAIN.

This bill seeks to extend and adjust deadlines, alter certain terms and conditions, and provide clarification to the original Southern Arizona Water Rights Settlement Act [SAWARSA]. Today, as when it was originally enacted in 1982, SAWARSA represents a critical component in the comprehensive resolution of water rights claims in Arizona. Its history began in 1975 when the Papago Tribe—now the Tonono O'odham Nation—the United States, and two Indian allottees filed a lawsuit against the city of Tucson and other upper Santa Cruz Basin water users. That lawsuit sought to enjoin future ground water use as well as damages for prior misuse.

To avoid the expense, delay, and uncertainty of litigation that would cloud future water rights in southern Arizona for years, the parties entered into extensive settlement negotiations. A legislative settlement agreement was reached and ratified by Congress in 1982 as the Southern Arizona Water Rights Settlement Act [SAWARSA]. The SAWARSA calls for the tribe to receive farm improvements, 66,000 annual acre-feet of water, and a $15 million trust fund.

Since 1982, new circumstances have arisen that threaten the viability of the original SAWARSA agreement, including pending deadlines related to dismissal of the lawsuit against the city of Tucson and other parties. Because of objections by the San Xavier District and the allottees, efforts have been ongoing to try to resolve these objections and reach agreement. To date, no agreement has been reached and dismissal has not occurred.

In addition, the SAWARSA requires that, after dismissal, the United States is obligated to pay penalties if water is not delivered by October 1992. Although the United States is capable of providing water, the facilities necessary to accept the water have not been constructed.

As a result, these amendments are necessary to allow SAWARSA to fulfill its promise. The SAWARSA is too important to fail. It

will provide certainty for allocation and use of water resources and allow for accurate resource management and economic planning. Residents of the Tribe, the city of Tucson, and the State of Arizona will realize these benefits. All those entities support this proposal.

I must acknowledge that some individual allottees in the San Xavier District oppose this bill on the grounds that the settlement and amendments thereto do not fairly and adequately compensate the San Xavier allottees for water losses. I understand their calls for fairness and I encourage them to join the legislative settlement process that we begin today with the introduction of this bill. I respect the allottees' claims and would hope to see those claims satisfactorily resolved. Few people, if any, in Arizona will benefit from protracted and uncertain litigation. Failure to reach a legislative settlement not only puts in jeopardy the considerable benefits of SAWARSA but has serious long-term negative implications for all water users in southern Arizona.

FULL RECOGNITION FOR ALL AMERICAN FIELD SERVICES PERSONNEL

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. TANNER. Mr. Speaker, I am today introducing legislation to provide relief for a much deserving group of Americans, the members of an organization known during World War I and II as the American Field Services.

This organization originated as a group of American volunteer combat ambulance drivers. The U.S. Government sponsored this group as a wartime service to American and allied troops in the Africa, Europe, and India-Burma campaigns. At its peak, the American Field Services consisted of 3½ companies with 437 ambulances and 891 men. Deployed on army orders of battle, AFS units conducted an estimated 714,000 ambulance evacuations of wounded soldiers.

During the period 1942–45, AFS ambulance drivers were registered by the State Department under Article 10 of the Geneva Red Cross Convention as a responsibility of the American Government and as members of the American Army medical service. They were then attached to allied army units where they served under U.S. War Department control or U.S. Army command.

On the surface, it appears that the service of these courageous men was straightforward, and that subsequent recognition of that service would be forthcoming as it was for all of those brave men and women who served in the world wars. Unfortunately, that has not proven to be the case.

At the conclusion of the war, these men did not receive U.S. military discharges.

Consequently they were not eligible for recognition by the Veterans' Administration. Over the years, efforts have been undertaken to obtain that recognition to no avail.3

In 1977, however, the Congress enacted Public Law 95–202 creating a process through which any civilian group could apply to have its deployment in wartime considered active military service. The Secretary of the Air Force has been designated by the Secretary of Defense as the executive agent in the administering of this process.

To make a long story short, the AFS applied under this process for recognition. In an August 30, 1990 decision, the Secretary of the Air Force recognized only a portion of those who served in the AFS of World War II which meant that about 1,100 AFS members received credit for their service and about 1,000 did not. The Secretary decided, based upon a DOD directive, that recognition was to be based on the extent to which the group was under the control of the U.S. Armed Forces.

Given the great sacrifice these men made during a time when U.S. military forces were committed to a worldwide, allied effort to overcome the forces of tyranny, it is unfair to suggest that only a portion of those who served in the AFS were deserving of full recognition as military service. To illustrate how inequitable this decision is, at least one AFS member was awarded two Purple Hearts for wounds received on the battlefield. Yet he is among the 1,000 AFS members whose service is not considered equivalent to military service.

There are other examples like that. The point is we can, and should, take the opportunity—even this belated one—to extend recognition to all AFS personnel who provided a vital and, in many cases, a life saving service to the soldiers of America and her allies.

We are, this year, beginning what is sure to be a lengthy commemoration of the 50th anniversary of many momentous battles of World War II. As we undertake those observances, much will be said about our national steadfastness in a monumental time of world crisis and our determination to defend freedom.

Let us also take the time to make sure we have properly recognized all of those who stepped forward in that time of darkness to pledge their very lives to the cause of freedom. All members of the American Field Services rightly deserve such recognition.

Since the Secretary of the Air Force has refused, thus far, to alter his earlier decision, this legislation specifically providing for recognition of the service of the AFS as military service is necessary. It deserves the consideration of this body and the full support of all our colleagues.

TRIBUTE TO SMSGT. DONNA RENEE HAMMILL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mrs. SCHROEDER. Mr. Speaker, I rise today to recognize SMSgt. Donna Renee Hammill, who will be retiring from the U.S. Air Force on August 21, 1992.

Renee entered active duty with the Air Force in 1971, shortly after graduating from high school in Mt. Holly, NC. She was an 18 year-old trailblazer, entering military service when women comprised only 2 percent of the Air Force. Renee met each new challenge she faced with energy and enthusiasm, and excelled in her duties to achieve the next to the highest rank possible for an enlisted member. During her 21 years of active duty, she served at Air Force bases in Texas, New Hampshire, California, Colorado, Delaware, and Maryland and completed overseas assignments in Turkey and the Philippines.

In addition to performing her military duties, Renee aggressively pursued her education, obtaining an associate's degree, a bachelor's degree, and a master's degree; a feat accomplished by less than one-half of 1 percent of Air Force enlisted personnel. Renee's determination and dedication is an example for all young servicemen and women to follow. She has served with great distinction and has earned our respect and gratitude for her many contributions to our Nation's defense. My colleagues and I wish SMSgt. Donna Renee Hammill great success in her transition to civilian life.

IN RECOGNITION OF EMS VICTIMS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Ms. DELAURO. Mr. Speaker, in 1989 a drug that had been banned for nearly two decades killed more than 30 unsuspecting Americans and injured thousands more. The drug was L-tryptophan, and the disease it caused was eosinophilia myalgia syndrome.

EMS victims suffer from severe muscle and nerve pain, paralysis, pulmonary and respiratory problems, severe skin diseases, and brain dysfunction. The several million Americans who used L-tryptophan trusted the FDA to safeguard their lives; unfortunately, the agency did not fulfill its mandate of protecting the public from tainted products like L-tryptophan.

In 1973, the FDA ruled the sale of L-tryptophan as a dietary supplement illegal. Since then it has done little to restrict the sale of this and other over-the-counter amino acids. Two lawsuits in the late 1970's both failed; the FDA then simply abandoned all hope of regulation during the 1980's. Canada, which shared the FDA's concerns about L-tryptophan, aggressively restricted its sale and only 11 cases of EMS were reported there, 10 of which were imported from the United States. Had the FDA acted with equal vigor, this painful episode that has ruined so many lives could have been averted.

Showa Denko, the Japanese petrochemical firm that produced and marketed L-tryptophan since 1982, billed its product as a genuine, all natural elixir. Its marketing promised, among other things, that the product would relieve stress, reduce depression, relieve premenstrual syndrome, increase mental acuity, and promote weight loss. Nowhere were there any warnings concerning L-tryptophan's known dangers.

The victims of this neglect have nowhere to turn. Medicine has no cure. Showa Denko KK is working hard to postpone settlements at the expense of American citizens, and the FDA had already washed its hands of any responsibility.

In order that such a painful catastrophe never happen again, the FDA must end its policy of neglect. We must strive to find the proper balance between the sale of safe and effective drugs and the protection of American consumers. Finally, our Government should take appropriate actions to ensure that Showa Denko KK meet its responsibility to the victims of this tragic affair.

TRIBUTE TO THE DESCENDENTS OF JACOB GEIGER

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 31, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the descendents of Jacob Geiger as they celebrate their 75th annual family reunion. The descendents of Jacob Geiger take great pride in their heritage, which has lasted for over 200 years here in the Lehigh Valley.

The origin of Jacob Geiger is somewhat of a mystery since there is no evidence documenting his arrival in America. According to John J. Geiger, author of "Geiger Family and History of Heidelberg Church," it is believed that Jacob Geiger was a native of Wurtenburg, Germany, who arrived in Philadelphia, PA, on September 14, 1751, on board the ship *Duke of Bedford*. However, there is not one shred of evidence that proves any of these facts.

According to "Over Two Centuries of Geigers in America," compiled by the Rev. Elwood Semmel, there were Geigers on 19 different ships that arrived in the port of Philadelphia between 1732 and 1751. To make it even more difficult, there were Jacob Geigers on at least five ships up to 1751, and if he arrived before he was 16 years old he most likely would not have been listed.

However, there is another theory that Jacob Geiger actually arrived in the port of Philadelphia in September 1743, aboard the ship *Robert and Alice*. The rationalization behind this theory is that on this same ship arrived the Baer family, who later settled near Neffs, PA, and were neighbors of Jacob Geiger, their ancestor. In addition, it is also known that Jacob Geiger II married a Baer.

Needless to say, the descendents of Jacob Geiger do know that, on March 1, 1755, their ancestor along with his wife Catharina took possession of a vacant tract of land in, what was then, Heidelberg Township in Northampton County and is now, Washington Township in Lehigh County, PA. After 30 years of developing and improving the land, he received title to it from the receiver general's office in Philadelphia, PA, on June 11, 1785.

The Geigers were similar to the other new settlers in America in that they had to adjust to the hardships of the New World. The Heidelberg area in which they resided was a relatively calm area during the 1750's, despite the conflicts between the settlers and the Indians that arose in the surrounding settlements of Gnattenhutten, which is now Lehighton and Lynn Township. The Geigers were fortunate enough to avoid conflicts with the Indians. They simply worked hard to develop their land and in more trying times came to the aid of others who were victimized by Indian attacts.

The Geigers were not simply just Pennsylvania Germans, they were the craftsmen, the farmers, and the merchants who contributed to the foundation of our great Nation. As a matter of fact, living one mile from the Geiger homestead was one of Heidelberg Township's most celebrated citizens, Heinrich Geiger. He served as a second lieutenant in the French and Indian War, in 1757, and later became the justice of the peace in the newly formed Heidelberg Township in 1764. He also served as a colonel in the 3d Batallion of the Northampton County Militia in 1778. In addition, Jacob Geiger was listed in the 1st Census of the United States, which was completed in 1791. The Geigers were true Americans who worked hard to make our great Nation into what it is today.

Over the years the Geiger family has grown and migrated across the country. In order to keep the family bond strong over the years, Joel P. Geiger decided to bring the family together for an annual event. So on August 1, 1914, the descendants of Jacob Geiger held their first family reunion and it soon blossomed into a yearly tradition. You could almost say that it is the 79th annual family reunion, except they did not hold a reunion during the years 1942 to 1945 because of World War II.

The site of the family reunions has changed over the years from its origin at Neffs Grove to today's site at Egypt Memorial Park, but the traditional festive atmosphere has not. According to Ernest Neimeyer, chairman of the Jacob Geiger Family Historical Committee, the entertainment has consisted of various bands, magicians, clowns, novelty speakers, dancers, and family members. There have been dances, games, and skits with family participation. Such skits as "The Astronauts," "The Carpenter's Helper," and "Groggy Geiger's Hill Billy Band" by the Neimeyer brothers have been hits with the family in the past.

For the evening meal each family brought their own food. This was done until the 50th reunion when it was decided by the president at that time, Herman Geiger, that it would be better if they had a smorgasbord where each family contributed their own traditional dish. It was so well organized that you could tell who was missing by what food was missing.

Mr. Speaker, I am proud to represent the descendants of Jacob Geiger and the area in which his proud legacy and family tradition originated and continues to blossom. In a time when family values have been put to the test, the descendants of Jacob Geiger have continued to gather together and rejoice in their strong family lineage. I ask you and my colleagues to join me in congratulating Ernest Neimeyer, Mrs. Russel Rupp, Paul W. Moyer, George Schmeltzle, David Neimeyer, Raymond C. Geiger, and Calvin Geiger, and the rest of the Geiger family for preserving such a fine tradition. I wish them many more years of happiness and joy together.