SENATE—*Monday, May 15, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Lloyd John Ogilvie.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, whom to know is life's ultimate purpose, whom to serve is our deepest joy, and whom to trust is our only lasting peace, we commit to You the work of this Senate. You have made praise the secret of opening our minds and hearts to You, the key to unlocking the mysteries of Your will, and the source of turning difficulties into opportunities. When we praise You for even life's tight places and trying people, we are strangely liberated. You have made praise the highest form of commitment of our needs.

So we begin this week with praise to You for the blessings we could neither deserve or earn and for the problems in which You will reveal Your supernatural guidance and power.

We dedicate this week to be one in which we constantly give You praise in all things, especially the perplexities that force us to seek You and Your limitless grace. In Your Holy Name. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT—MOTION TO PROCEED

Mr. DOLE. Mr. President, it will be my intention momentarily to move to proceed to consideration of S. 395, the Alaska Power Administration bill. I understand there are objections to proceeding to the bill at this time. Therefore, Members should be aware that rollcall votes are possible this morning and throughout the day.

Mr. President, I move to proceed to consideration of S. 395, Calendar 111, the Alaska Power Administration bill.

The PRESIDING OFFICER (Mr. BROWN). The question is on the motion. Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I do object to moving to this bill at this time, although I understand the underlying bill has much in it that is important. I do not want to keep us from moving toward that. Section 2 of this bill is extremely important, critical. It has been under the jurisdiction of the Banking Committee for the last several years that I know of that I have been here. It has not been debated in that committee and I believe it should go back to that committee to be looked at.

It is an extremely important section that allows the lifting of the ban on oil for Alaska exports. It has tremendous impact to the west coast, and particularly to my State of Washington, as well as Oregon and California, and is a measure that should see much more light of day, particularly in the Banking Committee, before it is debated on this floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, I ask unanimous consent to proceed as in morning business.

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

VISIT TO THE SENATE BY MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF MEXICO

Mr. KYL. Mr. President, I rise to introduce to you and to especially welcome representatives from the Mexican Senate and House of Representatives who met with us in Tucson this last weekend as the delegation of the United States-Mexico Interparliamentary Conference.

It is my honor to present these ladies and gentlemen to you. I ask unanimous consent that each of their names be printed in the proceedings of the U.S. Senate, along with a copy of the joint communique, a communique that came out of that conference.

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

MEXICAN DELEGATION LIST

SENATORS

Senador Fernando Ortiz Arana, President (State of Queretaro—PRI).

Senador Jose Murat (State of Oaxaca—PRI).

Senador Guadalupe Gomez Maganda (State of Guerrero—PRI).

Senador Guillermo Hopkins Gamez (State of Sonora—PRI).

Senador Jose Luis Soberanes Reyes (State of Sinaloa—PRI).

Senador Fernando Solana Morales (State of Distrito Federal—PRI).

Senador Eloy Cantu Segovia (State of Nuevo Leon—PRI).

Senador Carlos Sales Gutierrez (State of Campeche—PRI).

Senador Gabriel Jimenez Remus (State of Jalisco—PAN).

Senador Luis Felipe Bravo Mena (State of Mexico—PAN).

Senador Jose Angel Conchello Davila (State of Distrito Federal—PAN).

Senador Jose Ramon Medina Padilla (State of Zacatecas—PAN).

Senador Hector Sanchez Lopez (State of Oaxaca—PRD).

Senador Guillermo Del Rio Ortegon (State of Campeche—PRD).

REPRESENTATIVES

Diputado Augusto Gomez Villanueva, Co-President (State of Aguascalientes—PRI).

Diputado Carlos Aceves Del Olmo (State of Distrito Federal—PRI).

Diputado Samuel Palma Cesar (State of Morelos—PRI).

Diputado Marco Antonio Davila Montesinos (State of Tamaulipas—PRI).

Diputado Victor M. Rubio Y Ragazzoni (State of Distrito Federal—PRI).

Diputado Rosario Guerra Diaz (State of Distrito Federal—PRI).

Diputado Carlos Flores Vizcarra (State of Distrito Federal—PRI).

Diputado Pindaro Uriostegui Miranda (State of Guerrero—PRI).

Diputado Ricardo Garcia Cervantes (State of Baja California—PAN).

Diputado Guillermo Lujan Pena (State of Chihuahua—PAN).

Diputado Miguel Hernandez Labastida (State of Distrito Federal—PAN).

Diputado Alejandro Diaz Perez Duarte (State of Distrito Federal—PAN).

Diputado Jesus Ortega Martinez.

Diputado Pedro Ettiene Llano (PRD).

Diputado Joaquin Vela Gonzalez (State of Aguascaliente—PT).

JOINT COMMUNIQUE, 34TH MEETING OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP, TUCSON, ARIZONA, MAY 13, 1995

At the conclusion of the 34th Interparliamentary Meeting between the Congresses of the United States of America and Mexico, held from May 12-15, 1995, in the city of Tucson, Arizona, the participating delegations determined by mutual accord to make known the scope of their discussions through this joint communique.

The Delegations recognized that ties between their peoples and governments are based on mutual respect and open communication, which form the foundation of good relations. The Delegations agreed to emphasize the importance of the active role that each Congress must play in strengthening a framework of understanding and joint endeavors. The discussions in Tucson were cordial, comprehensive, and candid, aimed at exchanging views on five principal subjects, expanding mutual understanding, and advancing a positive, practical agenda for improving relations across the board.

● 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

NAFTA AND HEMISPHERIC FREE TRADE

The Delegations discussed the expansion of economic relations among Canada, Mexico, and the United States under the North American Free Trade Agreement. The Delegations discussed ideas for the acceleration of tariff phase-out periods and the complete implementation of NAFTA and committed themselves to encourage the timely consideration of initiatives to expand free trade in the Americas.

ECONOMIC STABILIZATION

The Delegations discussed current economic conditions and measures established in Mexico's economic adjustment program and stressed that both countries have an interest in the complete and early recovery of the Mexican economy. In particular, the Delegations recognized that both Congresses will continue to review implementation, within their respective constitutional authorities, of the economic stabilization package being carried out under the "U.S.-Mexico Framework Agreement" and accompanying accords signed on February 21, 1995.

BORDER COOPERATION

The discussions in Tucson provided ample opportunity for the exchange of views on expanding border cooperation, including issues of tourism, customs, safe border crossing, health, and environment. The Delegations committed themselves to following through on initiatives to improve the quality of life of persons who live and work in communities along the 2,000-mile U.S.-Mexico border and to facilitate the growing commerce through regional ports. In addition, problems of port security and border crossings in violation of the law were discussed.

IMMIGRATION

The Delegations recognized the need to respect the fundamental human rights of all persons, as well as the sovereign right of all states to make autonomous decisions regarding domestic social programs and their territorial integrity, in accordance with the constitution of each country. When considering this issue, the Delegations agreed on the importance of utilizing the consultative mechanisms established in the U.S.-Mexico Binational Commission and other appropriate channels.

COMBATTING ILLEGAL DRUGS

In the strongest possible terms, the Delegations agreed that combatting illegal drugs is a priority for both countries. The Delegations acknowledged that current bilateral anti-drug cooperation is unprecedented in its scope and intensity, and that both governments must redouble their efforts and commit the necessary resources in order to strictly apply the law to criminals and to attack the drug problem more effectively in all its manifestations, including production, trafficking, and consumption. The Delegations agreed on the need to strengthen actions to fight organized crime, money-laundering, and corruption through cooperation and with absolute respect for the sovereignty of each country.

FOLLOW-UP MECHANISMS

The Delegations agreed to consider establishing special congressional working groups on bilateral issues, including a process to develop specific recommendations and follow-up actions for future interparliamentary meetings. They also agreed to consider holding a United States-Mexico-Canada Interparliamentary Meeting in the future.

CONCLUSION

The Mexican Delegation expressed its satisfaction for the atmosphere of frank, open, and candid dialogue that prevailed at the discussions in Tucson. The Mexican legislators thanked their U.S. colleagues for their hospitality and extended their best wishes to the people of the United States. The United States Delegation extended their thanks to their Mexican counterparts and best wishes to the Mexican people.

Senator FERNANDO ORTIZ ARANA,
Chairman, Mexican State Delegation.
Deputy AUGUSTO GOMEZ VILLANUEVA,
Chairman, Mexican Chamber of Deputies Delegation.
Senator JON KYL,
Chairman, U.S. Senate Delegation.
Representative JIM KOLBE,
Chairman, U.S. House Delegation.

Mr. KYL. Mr. President, this conference, which was the 34th meeting of the United States and Mexican parliamentarians, covered a wide range of topics. It focused in two general areas: On the economic and political issues.

On the economic issues, matters that were discussed included the implementation of NAFTA and other hemispheric free-trade issues, the issues regarding economic stabilization for the Mexican economy, border cooperation in a whole variety of different ways, problems relating to immigration and, most important, combating illegal drugs.

I might note just in that regard that the communique notes in the strongest possible terms, the delegates believe that both countries need to work even more closely together to solve this problem that is so critical to both of our countries.

We also included in the communique follow-up mechanisms that would enable us to continue our work together as parliamentarians, including the possibility that we would meet with our Canadian counterparts as well in a three-part kind of meeting.

Mr. President, the key, I think, to this meeting was a recognition that perhaps more than any other time in history, the Congresses of our two countries have changed dramatically. We are aware of the fact that for the first time in 40 years, the Republican Party now controls both Houses of the U.S. Congress, and that is creating great changes in our legislative policy.

By the same token, the Congress in Mexico is undergoing substantial change as well. In addition to the fact that you have four different parties in the Congress, the parliamentarians who met this weekend all noted that the role that the Congress is playing in Mexico is a much more active and robust role than has been true in years past. Therefore, the areas of cooperation between the two Congresses take on an even greater importance as both of our countries face the next few years and going into the next century.

So, Mr. President, it is with a great deal of pride and with a degree of humility that I appear with these members of the House and Senate of Mexico and present them to you and, again, express my very strong sense that this kind of meeting is critical to the future of our two countries which share a 2,000-mile-long border and have a very bright future together. We treat that border as an opportunity, and I think that was the keyword in the entire conference, was the opportunity that is presented by the working together of our two countries.

Mr. President, now we have the privilege of going to the White House and meeting with President Clinton. We know that that meeting will be fruitful as well. I note finally that there were seven Senators from the United States who attended that meeting, as well as both Ambassadors from the United States and Mexico. Therefore, it was a most productive conference.

Thank you, Mr. President.

The PRESIDING OFFICER. The Chamber is honored by the visit of our colleagues and friends. You are most welcome in this Chamber. We appreciate your visit very much.

Mr. KYL. Thank you, Mr. President

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

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Minnesota is recognized.

MINNESOTA TAX FREEDOM DAY

Mr. GRAMS. Mr. President, yesterday, on May 14, 1995, Minnesotans marked two annual occasions: one that millions of families look forward to each year, and one that millions of Minnesota taxpayers await with a mixture of anger and frustration.

First and foremost, of course, was Mother's Day, the day we all honor our mothers for the love and support they have given us.

The second, less well-known but equally significant event was Minnesota Tax Freedom Day, the day Minnesotans quit working to pay taxes at the Federal, State, and local levels of government and begin working for themselves. Every dollar my constituents have earned so far this year has gone to pay taxes. For a total of 134 days, Minnesotans have been working for the government; 85 of these days were spent paying off Federal taxes, while the remaining 49 days were spent paying off State and local taxes.

Tax Freedom Day comes much later in the year to Minnesota than it does

to the Nation at large, which means Minnesotans spend longer than most Americans working to pay off their tax bills.

For the average American taxpayer, Tax Freedom Day is on May 6, but Minnesotans must work more than a week longer for Uncle Sam and his cousins at the State and local levels.

My constituents are encumbered with the sixth highest tax rate in the country. The only States whose Tax Freedom Days come after Minnesota's are Connecticut and New York, who both mark Tax Freedom Day on May 24; Washington, DC, and New Jersey, on May 18; and Hawaii, on May 17.

For 2 years, the tax load borne by Minnesotans has remained constant, and Tax Freedom Day has fallen on the same day, May 14. But sadly, a lot has changed since President Clinton's 1993 budget package.

In 1993, Tax Freedom Day in Minnesota was May 9. In effect, the tax increases imposed in President Clinton's 1993 budget have forced Minnesotans to work an additional 5 days just to pay off those new taxes.

These 5 days could have been spent on a family vacation, but there is no time for fun when you are working to pay off the Government's spending splurges.

The average per capita income of Minnesota is $24,403, 36.6 percent of which goes to pay taxes.

Translated into dollar terms, the average annual tax bill for every Minnesota taxpayer this year will be $8,926, or over one-third of their hard-earned income.

Americans face a veritable cornucopia of tax burdens in their day-to-day lives, overflowing with the income taxes and payroll taxes which represent the largest component of the average American's tax bill.

In addition to these more visible taxes, the cost of nearly all goods and services are inflated by sales and excise taxes. There are property taxes, estate and other business taxes, and let us not forget the corporate income taxes which are passed along to consumers and employees in the form of higher prices and lower wages.

The perverse thing about our current progressive income tax system is that as national income increases, the tax burden increases along with it, more than proportionally. As a result, economic contractions tend to reduce American's tax burden while economic expansions tend to increase it.

It makes no sense that taxpayers should be penalized for robust economic growth by extracting more money from their paychecks.

This is why I support tax cuts—real tax cuts—that help American families keep more of what they earn. The $500 per child tax credit goes a long way toward that end. Middle-class families could save more, or they could spend more—they would be given the freedom to do whatever they want with their money because it belongs to them.

We may never see Tax Freedom Day coincide with New Year's Day or even Valentine's Day, but let us face it: We are about to begin debate on a new budget resolution, one that can counteract the onerous effects of Clinton's package of tax hikes 2 years ago. Let us not miss this opportunity to offer tax relief to America's families. Let us ensure that Tax Freedom Day comes a lot earlier next year than it did last year.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 395

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that at 12 o'clock noon the Senate turn to the consideration of calendar 101, S. 395 regarding the Alaska Power Administration.

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

Mr. MURKOWSKI. I thank the Chair. 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. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from South Dakota is recognized.

THE BUDGET

Mr. PRESSLER. Mr. President, there has been much discussion about the budget of the United States that will be brought to this floor by Senator DOMENICI and the Budget Committee soon. I believe strongly we must do something in this country or Medicare will go broke and our country will go broke. That is the alternative on one side. The alternative on the other side is to do something about it.

Those are two rather grim alternatives. Because if we continue down the road with a $4.8 trillion debt in a $6.9 trillion economy, our money will soon become worthless. We are already seeing signs of this: the decline in the value of the dollar, particularly the unexplained collapse of the dollar against the yen and against the German mark. So something is wrong in our economy. In fact, I predict that at some point in the next 5 or 10 years we will have a cataclysmic event, economically speaking, in our country if we do not do something now about the Federal deficit.

We also have learned that Medicare will go broke by the year 2002 unless something is done. I have been a champion of senior citizens. I would ask our senior citizens, would we rather have a Medicare system that is broke, or would we rather have one that is solvent even though we may have to make certain changes? So that is where we stand as a country, basically, with this budget coming to the floor. It is a historic turning point in our country's history. We have to make a decision as to whether or not we are going to face up to the facts.

We had a debate on this Senate floor about the balanced budget amendment recently. The Democrats pointed out that our side of the aisle had no plan. They said, what is your plan to balance the budget? We do have a plan. It is the Domenici plan that will come to this floor. It has a lot of cuts; some cuts I do not personally agree with, but I am going to support the Domenici budget plan, generally speaking, because in part it is the only game in town.

The Democrats do not have a plan. Yet, they are criticizing our plan. That is unfortunate. The Democrats have the White House. They are supposed to provide leadership in this area also. But they do not want to. So it is our burden in the Republican majority to provide commonsense leadership, to take the hits, to make the tough votes.

Mr. President, one of the newspapers in South Dakota this morning reported that the Federal Government—the Treasury—released how much my State would suffer if some of the budget cuts were made. I say to my fellow South Dakotans, that is the oldest trick in the book by the Federal bureaucracy. They release how much people are going to suffer, and how much money is going to be lost. They do not say that they might have to reduce the number of bureaucrats in Washington or at the Denver regional headquarters. They do not say that they are counting as part of the budget impact the elimination of bureaucrats and regulators whose work may involve South Dakota, but actually live in Washington, DC, or Denver. They merely say, "Your State is going to be hurt this much," and, "Senator, if you vote to cut us, you are hurting your State." Those numbers that are released in such a timely fashion show how skillful the Federal bureaucracy is at trying to protect themselves by politically hurting Senators and Congressmen who vote for cuts in the budget.

So I urge all South Dakotans, and all Americans, to take a close look at exactly what they are talking about.

In conclusion, Mr. President, on the budget, we face a very painful choice. On the one hand, we can go broke as a nation and see the value of the dollar decline and leave a great debt for future generations. We also can keep spending in Medicare at the same level without making changes and have it go broke by the year 2002.

On the other hand, we can take a responsible course. We can follow the outline of PETE DOMENICI's budget, which he is bringing to this floor.

The Republicans in the Senate have a plan. The Democrats do not. They are criticizing our plan. That is fine. We will take the criticism. But I want to say to the people in my State and to this country that I hope they give us the understanding and the credit for taking leadership, for taking the tough votes we will soon take, because the other side is merely throwing rocks at us as we are trying to climb up the hill.

Let us remember that our country is at a historic point. We could choose to go bankrupt, with a $4 trillion debt this year. With many programs such as Medicare going broke, we can keep doing what we are doing, and if so, it is going to lead to a cataclysmic event. Or we can take some tough medicine, and take some tough votes.

In the next 6 months, I believe that I will be casting the toughest votes of my Senate career. I ask for the understanding of my constituents because it is not easy. I would rather be voting to give everybody everything. It must have been fun to be a Senator in the 1960's, when you could vote for amendments without having any budget offset. Now, with every amendment we have, if we add something to the budget, we have to say where we are taking it from. We have to state under the budget rules what this is going to do to the Federal budget.

So the whole tone of the next 6 months in this Chamber is going to be a very difficult one. We are going to see Senators struggle in their votes. It is going to be easier to demagog and to say let us wait until next year, or delay it 3 or 5 years. But the time has come to stand up and be counted. I believe that we can do a great deal for the future of the United States if we do so.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I ask unanimous consent to speak for a period not to exceed 10 minutes as if in morning business.

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

Mr. BRYAN. Mr. President, I thank the Chair.

PRAIRIE ISLAND DRY CASK

Mr. BRYAN. Mr. President, I would like to bring to the attention of my colleagues a little noticed, but I think significant, event that occurred last week.

Last Thursday, Northern States Power transferred spent nuclear fuel from its reactor pool at Prairie Island into a new dry storage cask located at the reactor site.

Prairie Island, near Red Wing, MN, is the location of two of Northern States Power's three nuclear power reactors.

Licensed to operate starting in 1973 and 1974 respectively, Prairie Island 1 and Prairie Island 2 share a spent fuel storage pool.

Today, 20 years into the 40-year licensed life of the reactors, the pool is filling up.

Northern States Power needed to find more storage for the waste generated at Prairie Island. Fortunately, licensed technology, dry cask storage, was available which would allow the utility to move the oldest spent fuel assemblies out of the pool.

NSP proposed to locate the casks at the reactor site.

Thursday's announcement of final NRC approval to load the casks is the final chapter in a prolonged political and public relations effort by NSP to resolve until the year 2002 its Prairie Island waste problem.

The public outcry that erupted after NSP proposed to expand on-site storage is every utility executive's nightmare, and led to the perception of the Prairie Island situation as the poster child of the nuclear power industry's current propaganda campaign for interim storage of high-level nuclear waste in Nevada.

In spite of the obvious solution available to NSP, on-site dry casks, the Prairie Island situation has, for several years now, been held up as the prime example of why Congress must immediately reopen the Nuclear Waste Policy Act to speed up progress on moving high-level nuclear waste to Nevada.

Twenty percent of the Nation's electricity power supply, we have been told, is at risk if Congress does not act soon.

Reactors will shut down, cities will go dark, and electricity rates will skyrocket, if Congress does not take the waste off the hands of the utilities soon—according to the nuclear power industry. The nuclear power industry's shameless campaign to get the Federal Government to take responsibility for its waste is not new.

In 1980, at the same time Congress was considering options for the permanent disposal of high-level waste, the nuclear power industry was pushing for away-from-reactor storage, or AFR.

Without a Federal AFR facility, according to the industry, reactors would begin closing by 1983.

Of course, no Federal AFR was built, and no reactors closed for lack of storage.

Besides creating the misleading impression of a crisis, of impending doom, the nuclear power propaganda campaign has always sought to create the impression that there is only one solution, one option for avoiding the supposedly catastrophic consequences of reactor shutdowns: move the high-level nuclear waste to Nevada. That is the only proposal that is offered.

First, we as a State were targeted for a permanent repository.

That program is an acknowledged failure.

Now we are targeted for interim storage.

For the nuclear power industry, that means 100 years, subject to renewal. That amounts to de facto permanent storage.

According to the nuclear power industry, interim storage in Nevada is the only salvation for the future of nuclear power.

Nevadans have made it crystal clear that we want no part of the nuclear power industry's solution to its waste problem. Nuclear waste is not welcome in Nevada.

Nevertheless, the nuclear power industry, and its surrogate for this matter, the Department of Energy, has been relentless in its efforts to force Nevadans to bear the health and safety risks of solving a problem we had no role in creating.

Mr. President, there are solutions to the nuclear waste storage problem that do not include Nevada. Last weeks events at Prairie Island make that abundantly clear.

For all their propaganda, and all their complaining to Congress, the nuclear utilities find a way to handle their waste, and keep reactors open and running.

The CEO of Northern States Power, John Howard, has said "Resolution of interim storage for spent nuclear fuel from our country's commercial power plants has reached crisis proportions."

Mr. Howard's assessment—that interim storage of nuclear waste is an impending crisis, and, thus, Congress must act to move this waste to Nevada as soon as possible—is a common theme in the nuclear power industry.

As the Prairie Island situation demonstrates, however, the crisis scenario is simply not true from a technical or scientific perspective.

Of course, I do not expect many of my colleagues will hear much about the resolution of the supposed crisis at Prairie Island.

The resolution of the Prairie Island waste situation simply does not track with the contrived crisis scenario developed by the nuclear power industry and its lobbyists.

To admit that nuclear utilities can find ways to take care of their own waste would shatter the carefully constructed fiction that interim storage in Nevada is the only possible alternative to shutting down the reactors.

It should be acknowledged that Northern States Power paid a price for the approval of additional storage at Prairie Island.

The debate over increased storage was intense, and many are still not happy.

NSP was forced to make concessions, such as building more renewable energy sources.

Other utilities are not anxious to go through what NSP went through.

The unfortunate fact for nuclear utilities is that nuclear power, and nuclear waste, are not popular.

The public relations and political problems associated with expanding storage capacity at reactors is an inescapable cost of nuclear power.

Northern States Power also paid a financial price for expanding storage at Prairie Island.

As other utilities do the same, especially after the 1998 goal for operation of a permanent repository included in the 1982 Nuclear Waste Policy Act, some action ought to be taken to provide some relief to the ratepayers who have paid in the first instance into the nuclear waste fund and who are not receiving the storage at that fund which they contemplated would be operational by the year 1998.

I might say parenthetically, as the distinguished occupant of the chair knows, under no scenario, under absolutely none, will a facility be opened by the year 1998.

So I believe as a matter of fairness that ratepayers are entitled to some relief in terms of payment into the nuclear waste fund.

I have reintroduced in this Congress, as I have on previous occasions, legislation which this year bears the number of S. 429 which will provide a credit against nuclear waste fund contributions for utilities forced to build on-site storage after 1998.

Under S. 429, ratepayers will not be financially penalized for the misguided and mismanaged efforts of the nuclear power industry and the Department of Energy to build a permanent repository in Nevada.

I urge my colleagues to reject the nuclear power industry's newest assault on the people of Nevada, and support S. 429.

I yield the floor.

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

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. 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. COCHRAN. Mr. President, I understand there are two bills due their second reading.

MEASURE PLACED ON THE CALENDAR—S. 761

The PRESIDING OFFICER. The clerk will read the first bill by title.

The assistant legislative clerk read as follows:

A bill (S. 761) to improve the ability of the United States to respond to the international terrorist threat.

Mr. COCHRAN. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. That bill will be placed on the calendar.

MEASURE PLACED ON THE CALENDAR—S. 790

The PRESIDING OFFICER. The clerk will report the second bill by title.

The assistant legislative clerk read as follows:

A bill (S. 790) to provide for the modification or elimination of Federal reporting requirements.

Mr. COCHRAN. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

DISASTERS

Mr. COCHRAN. Mr. President, last Friday, President Clinton declared a major disaster for the State of Mississippi, due to damage resulting from severe storms, flooding, and related problems, weather problems that occurred on May 8 and during the days following. This declaration is deeply appreciated by the people of Mississippi and the State of Mississippi because very severe damage has occurred in our State as all of us know who had an opportunity to watch television and read about the devastating floods that occurred all across the gulf coast, from New Orleans to Mobile and beyond. Included in this area of severe weather damage was my State of Mississippi. All of the coast counties and some of those counties that are more inland received severe damage.

This declaration makes it possible now for the Federal Emergency Management Agency, led by James Lee Witt, to provide private, individual assistance to those disaster victims who qualify under Federal legislation. The letter also states that additional public assistance may be added at a later date.

It is my understanding that the Governor's office and his staff are working with Federal agents at this time in Mississippi, to try to ensure that all possible assistance, emergency and otherwise, is made available to these disaster victims. I commend the Governor and his staff for the fine work they are doing.

Mr. President, I ask unanimous consent a copy of the President's letter to our Governor, Kirk Fordice, be printed at this point in the RECORD.

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

THE WHITE HOUSE,
Washington, May 12, 1995.

Hon. KIRK FORDICE,
Governor of Mississippi,
State Capitol, Jackson, MS.

DEAR GOVERNOR FORDICE: As requested, I have declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act) for the State of Mississippi due to damage resulting from severe storms, tornadoes, and flooding on May 8, 1995, and continuing. I have authorized Federal relief and recovery assistance in the affected area.

Individual Assistance will be provided. Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs in the designated areas.

The Federal Emergency Management Agency (FEMA) will coordinate Federal assistance efforts and designate specific areas eligible for such assistance. The Federal Coordinating Officer will be Mr. Michael J. Polny of FEMA. He will consult with you and assist in the execution of the FEMA-State Disaster Assistance Agreement governing the expenditure of Federal funds.

Sincerely,

BILL CLINTON.

Mr. COCHRAN. Mr. President, this also brings to mind legislation that I introduced recently to bring under the purview of the Public Safety Officers Benefits Act the employees of FEMA, the Federal Emergency Management Agency, as well as employees of State and local emergency management and civil defense agencies.

Senators may not realize this, but State and local police officers, firefighters, State and local rescue squads and ambulance crews, Federal law enforcement officers and firefighters, are all covered under the Public Safety Officers Benefits Act, which provides death benefits and permanent disability benefits for those who are injured with some traumatic injury while in the line of duty.

Excluded under this act are those who work for civil defense agencies and the employees of the Federal Emergency Management Agency. This had been brought to my attention a few years ago, and during the confirmation hearings in our Governmental Affairs Committee of James Lee Witt, the current FEMA Director, I asked him his reaction to legislation that would expand coverage of this act and his responses were very favorable.

I introduced the legislation. It was not adopted in the last Congress, but I have recently reintroduced the bill and it is now pending in the Senate as S. 791. I hope Senators will take a look at this bill and consider cosponsoring the legislation, or supporting its passage.

I am today sending a letter to all Senators, inviting their attention to

this legislation and the circumstances of it. The enactment of this bill will provide these civil defense employees and emergency management employees with the same kind of assurance that others who are similarly employed will have, should death or disabling injury result from the performance of their duty. Their families would receive survivor benefits, and they could be made eligible for disability benefits.

Mr. President, I ask unanimous consent a copy of my "Dear Colleague" letter to which I have referred be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, DC, May 15, 1995.

DEAR COLLEAGUE: I recently introduced S. 791, a bill to extend coverage under the Public Safety Officers Benefits Act to employees of the Federal Emergency Management Agency (FEMA) and employees of State and local emergency management and civil defense agencies.

The Public Safety Officers Benefits Act provides benefits to the eligible survivors of a public safety officer whose death is the direct result of a traumatic injury sustained in the line of duty. The Act also provides benefits to those officers who are permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.

The Act now covers State and local law enforcement officers and fire fighters, Federal law enforcement officers and fire fighters, and Federal, State, and local rescue squads and ambulance crews. However, an employee of a State or local emergency management or civil defense agency, or an employee of FEMA who is killed or permanently disabled performing his or her duty in responding to a disaster is not covered under the Act.

Enactment of S. 791 will remedy this situation by extending the Act to those employees. This will ensure that the survivors and family members of an employee killed in the line of duty will receive benefits and that an employee permanently and totally disabled as a result of injury sustained in the line of duty will also receive disability benefits of the Act.

During his confirmation hearing in the last Congress, FEMA Director James Lee Witt said that emergency management and civil defense employees put their lives on the line just about every time they respond to an event. Enactment of this legislation will provide them with some assurance that, should death or disabling injury result from the performance of their duty, their families will receive survivor benefits or they will receive disability benefits.

If you would like to cosponsor this bill, please have your staff contact Michael Loesch at 4-7412.

Sincerely,

THAD COCHRAN,
U.S. Senator.

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

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

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 395, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 395

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

[TITLE I

[SECTION 101. SHORT TITLE.

[This title may be cited as the "Alaska Power Administration Sale Act".

[SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

[(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority.

[(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Department of Energy and the Eklutna Purchasers.

[(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

[(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

[(e) There are authorized to be appropriated such sums as may be necessary to prepare or acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the asset to be sold.

[SEC. 103. EXEMPTION.

[(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et. seq.).

[(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into between the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

[(3) Nothing in this Act or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

[(b)(1) The United States District Court for the District of Alaska has jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

[(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date of which the Program is adopted by the Governor of Alaska, or be barred.

[(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the program, or be barred.

[(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

[(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

[(A) at no cost to the Eklutna Purchasers;

[(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

[(C) sufficient for the operation, maintenance, repair, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including land selected by the State of Alaska.

[(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued uses of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with current law.

[(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selection of, those lands are invalid or relinquished.

[(4) With respect only to approximately eight hundred and fifty-three acres of Eklutna lands identified in paragraphs 1. a., b., and c. of exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey, to the State, improved lands under the selection entitlements in section 6(a) of the Act of July 7, 1958 (Public Law 85-508), and the North Anchorage Land Agreement of January 31, 1983. The conveyance is subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

[(d) With respect to the approximately two thousand six hundred and seventy-one acres of Snettisham lands identified in paragraphs 1. a. and b. of Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior

shall convey to the State, improved lands under the selection entitlement in section 6(a) of the Act of July 7, 1958 (Public Law 85–508).

[(e) Not later than one year after both of the sales authorized in section 2 have occurred, as measured by the transaction dates stipulated in the purchase agreements, the Secretary of Energy shall—

[(1) complete the business of, and close out, the Alaska Power Administration;

[(2) prepare and submit to Congress a report documenting the sales; and

[(3) return unused balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

[(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

[(g) Section 204 of the Flood Control Act of 1962 (Public Law 87–874; 76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, when all Snettisham assets have been conveyed to the State of Alaska.

[(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152 (a)) is amended—

[(1) in paragraph (1)—

[(A) by striking out subparagraph (C); and

[(B) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E) respectively;

[(2) in paragraph (2), by striking out "the Bonneville Power Administration, and the Alaska Power Administration" and inserting in lieu thereof "and the Bonneville Power Administration".

[(i) The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigation in Alaska, is repealed.

[(j) The sales of Eklutna and Snettisham under this Act are not considered a disposal of Federal surplus property under the following provisions of section 203 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 484) and section 13 of the Surplus Property Act of 1944 (50 U.S.C. app. 1622).]

TITLE I

SECTION 101. SHORT TITLE.

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority successors.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this Act as "Eklutna Purchasers"), in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

(d) Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as may be necessary to prepare, survey and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

SEC. 103. EXEMPTION AND OTHER PROVISIONS.

(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b)(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date of which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended).

(e) Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152 (a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1994, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

TITLE II

SEC. 201. SHORT TITLE.

This title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

"(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

"(1) Subject to paragraphs (2) and (3), notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over a right-of-way granted pursuant to this section may be exported.

"(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the

International Emergency Oil Sharing Plan of the International Energy Agency, the oil shall be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.".

SEC. 203. SECURITY OF SUPPLY.

Section 410 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 594) is amended to read as follows: "The Congress reaffirms that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to ensure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States.".

SEC. 204. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following: "In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration District 5 have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 205. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 206. EFFECTIVE DATE.

This [Act] *title* and the amendments made by it shall take effect on the date of enactment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the Senator from Washington and I have been in discussion. It is my understanding that the Senator from Washington has agreed to taking up the debate on the bill at this time.

I ask the Chair for unanimous consent that the committee amendment be adopted and considered to be the original text for further amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MURKOWSKI. Mr. President, in view of the objection, it would be my intent to announce to the body that I would move to table. I want to accommodate my friend from Washington, but I will suggest that at 2:30 I will move to table the committee amendment at that hour.

Mr. President, let me begin with my opening statement relative to S. 395.

Mr. President, on February 13, the senior Senator, Senator STEVENS, and I introduced Senate bill 395. Title I of this bill provides for the sale of the Alaska Power Administration—known as the APA—the assets of that and the termination of the Alaska Power Administration once the sale occurs.

Further, title II would allow exports of Alaska's North Slope oil, referred to as ANS crude oil, when carried only on U.S.-flag vessels. It is my understanding that Senator FEINSTEIN and Senator KYL later cosponsored S. 395.

On March 1 the committee heard testimony from the administration, from the Lieutenant Governor of Alaska, the State of California, the California independent producers, maritime labor, and other proponents of Senate bill 395. The administration testified in support of lifting the Alaska North Slope crude oil export ban, and they indicated that the bill should be amended to provide for an appropriate environmental review to allow the Secretary of Commerce to prevent anticompetitive behavior by exporters and to establish a licensing system. And then on March 15, after agreeing to work with the administration on these concerns prior to bringing the bill to the floor, the committee adopted Senate bill 395 by an overwhelming vote. The vote on that was 14 to 4. So it was truly bipartisan support relative to the merits of S. 395.

Further, Mr. President, Senator JOHNSTON and I were pleased to offer a committee substitute. We propose that now as in the original bill. Title I would provide for the sale of the assets of the Alaska Power Administration and title II would authorize exports of Alaska North Slope crude carried on American flag vessels with changes to satisfy some Members and administration concerns.

Title I of S. 395 provides for the sale of the Alaska Power Administration's assets and the termination of the Alaska Power Administration once the sale is completed.

Further, I am pleased to state that the Department of Energy has testified in support of the Alaska Power Administration's asset sale and agency termination.

In addition, on April 7, 1995, the administration submitted legislation to Congress substantially similar to title I of S. 395. The transmittal letter says:

This legislation, which is proposed in the President's FY 1996 budget, is part of the administration's ongoing effort to reinvent the Federal Government.

The Alaska Power Administration is quite unique among the Federal power marketing administrations. First, unlike the other Federal power marketing administrations, the Alaska Power Administration owns its power-generating facilities, which consist of two hydroelectric projects.

Second, these single-purpose hydroelectric projects were not built as a result of the water resource management plan as is the case or was the case with most other Federal hydroelectric dams. Instead, they were built to promote economic development and the establishment of essential industries.

Third, the Alaska Power Administration operates entirely in one State, the State of Alaska.

Fourth, the Alaska Power Administration was never intended to remain indefinitely under Government control. That is specifically recognized in the Eklutna national project authorizing legislation. The Alaska Power Administration owns two hydroelectric projects, one near Juneau at Snettisham and the other near Anchorage at Eklutna. Snettisham is a 78-megawatt project located 45 miles from Juneau to the south. It has been Juneau's main power supply since 1975, accounting for up to 80 percent of its electric power. Eklutna is a 30-megawatt project located 34 miles northeast of Anchorage. It has served the Anchorage and Matanuska valleys since about 1955 and accounts for 5 percent of its electric power supply.

The Alaska Power Administration's assets will be sold pursuant to the 1989 purchase agreement between the Department of Energy and the purchasers. Snettisham will be sold to the State of Alaska. Eklutna will be sold jointly to the municipality of Anchorage, Chugach Electric Association, and the Matanuska Electric Association.

For both, the sale price is determined under an agreed upon formula. It is the net present value of the remaining debt service payments that the Treasury would receive if the Federal Government had retained ownership of the two projects. The proceeds from the sale are currently estimated to be about $85 million. However, the actual sales price will vary with the interest rate at the time of purchase.

S. 395, in a separate formula agreement, provided for the full protection of the fish and wildlife in the area. The purchasers, the State of Alaska, the U.S. Department of Commerce, U.S. Marine Fisheries, and the U.S. Department of the Interior, have jointly entered into a formal binding agreement providing for postsale protection, mitigation and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. The agreement makes that legally enforceable.

As a result of the formal agreement, the Department of Energy, the Department of the Interior, and the Department of Commerce will all argue that

the two hydroelectric projects warrant exemption from FERC licensing under the Federal Power Act. The August 7, 1991 purchase agreement states in part that

The National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the State agree that the following mechanism to develop and implement measures to protect and mitigate damages, to enhance fish and wildlife, including related spawning grounds and habitat, obviate the Eklutna purchaser and the EAE to obtain licenses.

This agreed upon exemption from the Federal Power Act's requirements to obtain a FERC license will save the purchasers and their customers as much as $1 million in licensing costs for each project plus thousands of dollars in annual fees.

The Alaska Power Administration has 34 people located in my State of Alaska. The purchasers of the two projects have pledged to hire as many of these as possible. For those who do not receive offers of employment, the Department of Energy has pledged that it will offer employment to any remaining Alaska Power Administration employees although the DOE jobs are expected to be in other States.

Let me turn to title II, Mr. President, the Trans-Alaska Pipeline Amendment Act of 1995.

Title II of S. 395 would at long last allow exports of Alaska's North Slope crude oil when carried on U.S.-flag vessels. This legislation will finally allow my State to market its major product in the global marketplace and let the marketplace determine its ultimate usage. The export restrictions were first enacted shortly after the commencement of the 1973 Arab-Israel war and the first Arab oil boycott. At that time, many people believed that the enactment of the export restrictions would enhance our Nation's energy security. Indeed, following the major oil shock of 1979, Congress effectively imposed a ban on exports.

Well, Mr. President, much has changed since then. In part, due to conservation efforts and shift to other fuel sources, total U.S. petroleum demand in 1993 actually was lower than in 1978. However, in the last 2 years, our consumption of oil has significantly increased and our productive capacity has declined. Our dependence on foreign oil sources has now gone up. We now produce almost 3 billion barrels a day less than we did in 1973. Employment in the oil and gas production industry has fallen by more than 400,000 jobs since 1982. Production on the North Slope has now entered a period of sustained decline. Throughput in the Trans-Alaska pipeline has dropped from 2.2 million barrels a day in 1989 to about 1.5 million barrels a day currently. In California, small independent producers have been forced to abandon wells or defer further investments to increase production. By precluding the market from operating normally, the export ban has had the unintended effect of discouraging, discouraging, Mr. President, oil production in California and Alaska. Lifting the ban on Alaska North Slope crude oil exports is the first step, the first step toward stopping the decline of this Nation's oil production. ANS oil exports will increase our oil production capacity by opening new reserves to production. This is oil production that our country can count on if it needs it. With an efficient market brought about by exports, we would not have this increased production and resultant increase in energy security. With this market distortion eliminated, producers will make substantial investments, will make investments in California, they will make investments on the marginal field on the North Slope that will lead to additional production. Every barrel of additional oil produced in California and on the North Slope is one less that would have to be imported from the Mideast or elsewhere in the world.

In an effort to quantify the likely production response and to evaluate benefits and costs of Alaska oil exports, the Department of Energy has concluded a very comprehensive study last year on the matter. In its June 1994 report, the department concluded "Alaska oil exports would boost production in Alaska as well as California by approximately 100,000 to 110,000 barrels per day by the end of the century." The study also concluded ANS exports could create up to 25,000 jobs. These are new jobs that will be created in California and to a lesser degree Alaska. Now, Mr. President, some Senators have expressed concern that lifting the ANS oil export ban will jeopardize the supply of ANS crude on the west coast. This is just simply not the case. Washington and California are and will remain the natural markets for ANS crude. Washington and California ports are the closest to Alaska and the ANS crude will continue to be supplied to those refineries. The economics simply dictate that as the closest point from Alaska and the closest point to significant distribution capability because of the populations in those areas near those west coast refineries.

Furthermore, the only major refinery that opposes lifting the ban is one that has a 5-year contract with British Petroleum to keep their refinery supplied. It is my understanding there is still approximately 4 years left on that contract, so there is no immediate suggestion that this or any other refinery is about to have its operation jeopardized by this action.

Further, the lifting of the oil export ban would relieve pressure that forces some of the ANS crude oil down to Panama, where it is unloaded, transported across Panama via a pipeline, and then reloaded onto vessels to take it to the gulf coast. It simply makes no economic sense to handle the oil that many times and transport it that long distance. That oil is the oil we are talking about, the available oil from 75,000 to 200,000 barrels a day that would be exported. The market in our opinion should determine the price and destination of the ANS crude oil.

Mr. President, there has been a long concern in the domestic maritime community that lifting this ban would force the scrapping of the independent tanker fleet—these are U.S.-flag vessels that make up the significant portion of the U.S. maritime fleet under the American flag—and this lifting of the ban would destroy employment opportunities for merchant mariners who remain a vital contributor to our national security.

In recognition of this concern, the proposed legislation before this body would require, and I emphasize require, the use of U.S.-flag vessels to carry the available oil that would be exported. This is not the first time the law was changed. Some would suggest that this is an issue of precedent, but it is not. The law was changed to allow the export of ANS crude oil in 1988 when Congress passed legislation to implement the United States-Canadian Free-Trade Agreement.

It agreed at that time to allow the 50,000 barrels a day of ANS crude to be exported to and subject to the oil being carried on Jones Act, that is U.S.-flag, vessels.

Mr. President, we have been trying to lift the oil export ban for some time. In the past, maritime unions opposed our efforts because they believed it would increase job losses in that industry. Last year, the maritime unions came to the realization that their unions were facing virtual extinction if Alaska oil production continued to decline; in other words, there would be no oil to haul and, as a consequence, no ships to man. So they initiated support for lifting the ban to help both Alaska and California production if—and I want to emphasize this—if it were transported on U.S.-flag vessels with U.S. crews.

Mr. President, this current ban no longer makes economic sense. For far too long, it has hurt the citizens of my State. It has severely damaged the California oil and gas industry and has precluded the market from functioning normally. In other words, you have a free market out there. It should function as a free market. If this ban is left in place any longer, there is no question that it will further discourage energy production. It will destroy jobs in California, or the prospects for jobs, as well as in my State of Alaska, and it will ultimately be the end of our seafaring mariners, the independent U.S. tanker fleet and, as a consequence, the shipbuilding sector of our Nation because, under the current law, these vessels are required to be built in U.S. shipyards. And, clearly, if there is no oil to haul, you are not going to need

any ships, regardless of the mandate that they be U.S. vessels with U.S. crews.

I am sure we are going to hear from some of our colleagues today expressing concerns that prices will go up, gas prices, gasoline prices, on the west coast, if exports of ANS oil are authorized.

Well, Mr. President, there is no indication that this is the case. The Department of Energy carefully studied this issue and concluded that consumers would not see a discernible increase in the price at the gas pump. The DOE showed that west coast refineries enjoy the widest refiner gross profit margins in the country. Some would ask: Why? Well, we will get into that later on in the debate, I am sure.

In other words, the west coast refineries have been able to buy crude oil for less per barrel than anywhere else in the country because of the proximity of the refiners to the origin of the oil in Alaska, yet they are selling the gasoline or other refined products for more than anywhere else in the country.

In 1993, the refiners' gross margin on the west coast was more than $4 higher than the U.S. average, according to the Department of Energy. Wholesale gasoline prices in California are consistently 3 or 4 cents higher than in New York, despite the fact that California refiners are purchasing cheaper crude than the foreign crude oil shipped into the east coast. One wonders why.

Another concern we will probably hear today is ANS oil exports will create environmental hazards, including increased chances of oilspills. However, the DOE study has taken that into consideration and found that exports of Alaskan oil will actually decrease tanker traffic in U.S. waters. And this is the simple reality. Furthermore, any tankers exporting ANS oil exported from Alaska will proceed some 200 miles off our coast and stay 200 miles or more off our coast while proceeding overseas. In other words, this oil, a small amount, in excess, will move from the Port of Valdez and go straight across the ocean, we assume, to refiners in perhaps Japan, Korea, and Taiwan, as opposed to this oil going down to the west coast of Alaska, the west coast of British Columbia, the west coast of the State of Washington, the State of California, and Oregon, as well.

So to suggest that there is an increase in environmental hazards of oil spills is simply not true because we are simply not moving this oil down the west coast. It is much safer, as a matter of fact, to transport it across the ocean than down the west coast of the United States.

It is interesting to point out, Mr. President, that this oil, this excess oil, would ordinarily have gone all the way down the west coast beyond California and into the pipeline at the Pacific isthmus in Panama, where it would have been unloaded, gone across Panama in the pipeline, and then again reloaded on smaller United States-flag vessels to be delivered to the refineries in the gulf coast. The economics of this double handling is the reason this is no longer a viable alternative and why we have this excess oil on the west coast.

Now there are other concerns that exporting ANS crude will decrease work for the U.S. shipyards. However, in my opinion, it will have the reverse effect, simply because more tankers will be needed to trade, it will be necessary to bring a few more ships out. The lay-up fleet will provide significantly more jobs in the maritime market. The reason for that is you are moving the oil further and when you move it further, it takes more time and, as a consequence, you need more ships.

Now, the question that somehow this will result in tankers being repaired overseas if the ban is lifted, I think bears some examination. Because if Alaska crude oil production continues to decline, in part because of the depressed prices caused by the export ban, there will be more tankers put in lay-up and unavailable for repair. And I would further advise the Chair that, as far as the threat of tankers being lifted overseas, there is a 50-percent surcharge that must be paid to the U.S. Government for tankers that are lifted in foreign yards.

So, Mr. President, the reality is that it simply makes no sense to continue this ban at this time. And the lifting of the ban will, in my opinion, increase jobs, certainly increase domestic oil production without any cost to the country. It will be of great benefit to the country.

Mr. President, I would like to refer a little bit to a little of the history relative to this matter and try and put into perspective the situation in the State of Alaska as it exists today.

We are all aware that Alaska was a pretty good bargain when we purchased it from Russia and we paid a favorable price for it.

But, you know, we are a little unique in having come into the Nation of States in 1959. We have a population of some 560,000 people spread out over a vast area roughly one-fifth the size of the United States. Until a few years ago, we had four time zones in our State; now we have three, simply to make it simpler living in Alaska. We have some 33,000 miles of coastline.

We have a unique ownership of our land. We have 365 million acres. But if you look at the ownership of that land, you find that the Federal Government still owns over 65 percent of that land. Our State of Alaska, the State government itself, has about 28 percent. The native people, the aboriginal people of our State, have some 12 percent, and the private ownership in our State is somewhere in the area of 3 to 4 percent.

Our State has been producing nearly 25 percent of the Nation's total crude oil for the last 16 or 17 years. That production was as high as 2 million barrels a day. Now it is about 1.6 million barrels a day.

Coming into the Union in 1959 with the State of Hawaii, while we had camaraderie and a friendship, we in many ways did not have much in common. We were a large land mass federally owned; Hawaii, a much smaller island land area.

We were separated by the Nation of Canada from the continental United States and, as a consequence, as we began to develop, a rather curious set of circumstances came about. We found ourselves subject to pretty much the whims of the Federal Government with regard to development, because the wealth and resources of our State, unlike many other States, were not controlled by private individuals or private groups in residence. We found ourselves subject to outside ownership and outside control.

So, as we look at Alaska today, we really have to look at what constitutes the ownership of our resources, what contributes to our economy, where they are domiciled, where our jobs come from in relationship to the development of those resources.

As we look at who owns Alaska today, setting aside the 65-percent Federal Government ownership, and identify our industries, we first look at our oil industry and find that our oil industry, which is such a significant factor, is not an Alaska-based industry. It is based in Texas, it is based in California, it is based in England, as a consequence of large international companies and not independents domiciled in our State.

Our second-largest industry, fishing, for all practical purposes, is controlled by interests out of the State of Washington, primarily in Seattle, and Japan, where a large percentage of the ownership is concentrated. Very little of our fishing industry, as far as the processing is concerned, is domiciled with ownership in our State. We have a significant number of fishing vessels in our State, but many of the fishing vessels that fish in our State are domiciled in other States.

Timber, which is our third-largest industry, is primarily controlled by the Japanese and interests in the State of Oregon and, to a lesser degree, in the State of Washington.

Mining, which is a tremendous resource potential for Alaska, is primarily situated in British Columbia, in England, and in Utah.

Our airlines, Mr. President, our largest carrier, Alaska Airlines, is domiciled in the Washington State area in Seattle. We are serviced by Delta, Northwest, United. As a consequence,

the point I am making is virtually everything that comes in or goes out of Alaska goes through the State of Washington. Even our shipping, and virtually everything we use in our State, comes through the State of Washington. Sea-Land is associated in the Seattle area, yet it is a New Jersey corporation. Tote, which is a carrier that brings two to three ships a week in Alaska, is also domiciled in the State of Washington. Previous to that, the State was dependent on transportation by Alaska Steamship Co.

Some of the more senior Members will undoubtedly recall the ongoing debate that occurred for many years between the late Senator Gruening and the Alaska Steamship Co. which he claimed had a vice grip on Alaska, its transportation system and, as a consequence, controlled, to some degree, the level of Alaska development.

As we look at everything we consume in Alaska—virtually everything—our foodstuffs, our beverages, our mattresses, our light bulbs, our toilet paper, everything comes up through the State of Washington.

We find many of our oil rigs or activities on the North Slope relative to oil and gas production are fabricated in the State of Louisiana and brought up. We have our own transportation system, a ferry system, which sails out of Bellingham, WA, to Alaska. It has been estimated that as much as 20 percent of all the economic activity in the State of Washington is directly associated with activities in Alaska. So one can say anything that happens in Alaska stimulating the economy also has a multiplying factor on the State of Washington. Even our oil tankers that haul oil go to shipyards, not in Alaska, but shipyards in Portland and San Diego, and those ships are not crewed with Alaskan crews, but rely on crews supplied from Washington, Oregon, and California.

Our cruise ships that come up to our State during the summer months sail out of Vancouver, BC, where they are supplied and crewed. They are owned by Florida and British interests.

So as we look at Alaska coming into the Union after all the rest of the States have established their land patterns, and so forth, we found that we had a rather curious set of circumstances. We have the reality that we are dependent, in a sense, for supply by our States to the south. The benefits are primarily concentrated in the State of Washington.

I think perhaps a little further history is appropriate as we look back on how some of these policies developed, and it is fair to say that back in the twenties there was a fear from the State of Washington, the Seattle area, that perhaps Vancouver, BC, or Prince Rupert, BC, might begin to supply the frontier country of Alaska. To ensure this profitable business activity generated through the State of Washington was not lost, there was an action by the Washington State delegation. That delegation was basically responsible for getting the Jones Act passed.

This was a rather interesting piece of legislation that said that goods and services that moved between two U.S. ports had to go in U.S. vessels with U.S. crews, built in U.S. shipyards. This action basically eliminated the British Columbia supplying Alaska goods originating in the United States and carrying them to ports in Alaska.

The question is, Who was Jones? You may have guessed it. He was a U.S. Senator from the State of Washington. He served in this body 23 years, from 1909 to 1932. Some would say, why, he was doing his job, as some of the opponents today of this legislation can certainly justify, but we have to question, if you will, in Alaska that we were theoretically at that time denied an opportunity to let the market dictate the transportation modes to our State.

I wonder how the Senator from Alaska would be treated today if I were up here suggesting Washington and Oregon not be allowed to export their timber products to the markets of the world or that Boeing would not be allowed to sell their airplanes outside the United States or perhaps people in the State of Washington have to eat all their own delicious apples. This is a part of the issue as some of us in Alaska see it.

Our Washington State opponents say oil export of Alaska's surplus oil that has been on the west coast, formerly went through the Panama Canal, would harm Washington State because the excess oil on the west coast would not make it favorable for one of their major independent refiners in that area to be able to buy this oil at perhaps a favorable price that is pending.

They say the refinery jobs are threatened. I really think this argument has no foundation in reality. As I stated earlier, this refinery in question has 5-year contracts and 4 years remaining with British Petroleum to supply the amount of oil that it needs to that refinery. Perhaps we will get into refinery returns a little later in the debate. But it is fair to say the consumers of Washington State are not benefiting by the abnormally high rate of return on investment in comparison to the refining industry as a whole in this area.

In other words, the profits are not necessarily passed on to the consumer. That is really a case for the Washington delegation to address. But it certainly appears that way from the information supplied us by the Department of Energy, which I will make a part of the RECORD at a later date.

Further production of Alaska oil will always find its natural markets in the nearest area where there is a refining concentration simply because of the costs of transportation; and that equates to the existing refineries on the west coast, which are the closest source of Alaskan oil.

Oregon's opposition is a little different. Washington State does not have, as I understand it, shipyards with the capacity of lifting many of the larger U.S.-flag tankers. Several years ago, the Portland area, on the basis of the assumption that there would be perhaps more oil produced in Alaska, floated a public bond issue and bought a large dry dock from the Columbia River and solicited business of hauling out and dry-docking Alaskan tankers that were in the Alaskan trade as well as other commercial shipping.

As we look at the merits of the volume of oil, a quarter of all U.S. production, except a small amount, goes to the Virgin Islands—I might add, in foreign vessels—that is exempt, and it goes in in these U.S. tankers moved down from Alaska to ports in Washington, California, and Panama. The Oregon delegation fears that some of this excess oil that used to move through the Panama Canal, now with the proposed legislation that would allow it to move into foreign markets, the free market, even though it would still have to move in U.S. ships with U.S. crews, these ships might be dry-docked in foreign shipyards, even though there is a more, I think, protective piece of legislation in place that addresses this. As I have said before, this requires U.S. owners to pay a 50-percent penalty to the U.S. Government on top of the foreign shipyard bill.

So what we have here is understandable sensitivity. But not much is said by our Oregon neighbors as to where their shipyard was built. It was built in Japan. That is obviously a question that they saw fit to purchase that yard there rather than build it in the United States. Unfortunately, that shipyard has had its ups and downs. It has been out of work from time to time. And in making some inquiries, we found that most of the tanker traffic that used to be repaired in Portland is now being repaired in San Diego because we can only assume that yard appears to be more competitive, even though, at our urging, the tanker industry has contracted for the repair of two tankers in the Portland yard recently, and we will continue to support that yard as much as possible.

I hope that we can address the concerns of the Oregon delegation because we are quite sensitive to the fact that they floated a bond issue and those bonds are still being retired, and without an adequate volume of business, the ability to retire those bonds is questionable. So we want to assist in every way possible, and we are working with the Oregon delegation at this time to try to work out some accord.

I do not want to mislead the President about the real issue. There is an effort to stop Alaska from exporting its

excess oil, and I wanted the RECORD to reflect on the real story and the reasons why.

Now, the issue of why excess oil on the west coast needs relief now deserves a brief, expanded explanation. When we were at an all-time high of our production—some 2 million barrels a day—we simply had to move this excess oil because the west coast refineries could not consume it; the markets were not big enough. So a pipeline was built, and it was very interesting. I went down for the opening of it. It was built by the Government of Panama in partnership with Northfield Industries, which is an east coast firm, and Chicago Bridge & Iron. It was built to move the excess oil, so the oil would go down from Valdez to the Pacific isthmus in U.S.-flag vessels, unloaded, and moved in the pipeline. I might add, that pipeline was simply a cat trail in the jungle, and the pipe, for the most part, was on the surface. But it did the job.

In any event, once the oil was unloaded, the Pacific isthmus went through the pipeline, reloaded on U.S. small ships and was taken into the Houston refineries in the Gulf of Mexico. Well, as one can easily ascertain, the economics of that double handling is no longer efficient. As a consequence, they can bring in oil in the gulf and Houston refineries from South and Central America, offshore Louisiana, and Mexico as well, so they are not interested in taking the volumes of the United States oil which is no longer competitive in that market. That is the reason we have this excess on the west coast today.

Now, letting the Pacific rim market absorb the excess oil also deserves a brief explanation. First of all, we are not talking about very much oil. The excess is estimated to be somewhere between 75,000 to 200,000 barrels per day. The rest of our 1.6 million acres is consumed on the west coast refineries and will continue to be. So if one looks at the economics of this excess oil, it is a pretty tough set of facts, because it will have to compete on some rather difficult terms. I ask the Chair to just compare the costs of marketplaces such as Korea, Japan, and Taiwan, to take the oil from Alaska, shipped in United States-crewed tankers that operate at obviously much higher costs, when those same countries can bring in oil much cheaper in foreign tankers than they can bring in oil from the Mideast.

So there you have an analysis of the economics associated with the merits of getting some of this excess oil off the west coast. But the real concern is the stimulation of oil production in California and bringing on the small producers that have been down for some time. And once this excess is removed, you have the capability of this relatively large volume of small producers being able to bring their oil in because of the close proximity and reduced transportation costs associated with bringing that oil into the California refiners.

So there you have the real issue before this debate. Alaskans, of course, are sensitive to the significance of sovereignty as it applies to what a State produces in the free market system, having the capability of making a determination of just where those resources will be utilized.

Furthermore, Mr. President, I have some more detail that I would like to present to substantiate our concerns over this legislation. I think the best way to do it is to go into some detail relative to the background associated with the support for this legislation.

Last year, for the first time, imports met more than half of our domestic consumption because the domestic production has drastically declined. By precluding the market from operating, the export ban has had an unintended effect of discouraging further energy production.

With this market disorientation eliminated, producers would make substantial investments in California and the North Slope that would lead to additional production.

Every barrel of additional oil produced in California and on the North Slope is one less than would have to be imported from the Middle East or elsewhere in the world. As I have said before, Mr. President, Washington and California are the natural markets for crude. Washington and California ports are closest to Alaska, and the ANS crude will continue to be supplied to their refiners.

It simply no longer makes economic sense to handle the oil as many times and transport it the long distance that has previously been the disposition of that oil on the west coast of the United States. That is the oil that we are talking about. That is the excess.

Let me refer to a report from the Department of Energy that addresses this issue. Lifting the Alaska crude oil export ban would, one, add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000. It would allow California to earn as much as $230 million during the same period. It would increase U.S. employment, U.S. jobs, by some 11,000 to 16,000 jobs by 1995 and 25,000 new jobs by the year 2000. It would preserve as many as 3,300 maritime jobs. It would increase American oil production by as much as 110,000 barrels a day by the year 2000. It would add 200 to 400 million barrels to Alaska's oil reserve.

Now, Mr. President, these are not figures that have been put together by the Senator from Alaska. These are figures released by the Department of Energy.

Mr. President, as we address further consideration of the issues covering Alaska's oil export, I think we have to again rely on the credibility of the information. I was very pleased that the Department of Energy did such an exhaustive study relative to this issue, before the administration took a position.

I am pleased to say that the President of the United States supports this legislation because this legislation is good for America. It is good for America because it decreases our dependence on foreign imports. By so doing, we basically keep our dollars home and keep our jobs home.

As a consequence, Mr. President, we find that this report by the Department of Energy, in substantiating our efforts, keeps America in a position of ensuring that we can, through the incentives offered by this legislation, keep our production again flowing from marginal wells that previously have not been capable of being competitive in the marketplace.

I am told that several fields in Alaska adjacent to Prudhoe Bay that are currently marginal at this time would be brought into production. When one begins to add up all the benefits of this, why, clearly, it benefits the maritime industry as well.

As a consequence, Mr. President, I note that the maritime unions, without exception, support this legislation. As a consequence, they are urging Members to evaluate the merits of the legislation before this body.

I have already addressed at some length the issue of increased oil production. I want to talk very briefly now as to the position of the administration in supporting the lifting of the North Slope crude oil export ban. Inasmuch as their indication that the bill, as proposed, should be amended to provide for an appropriate environmental review, now the question of an environmental review would be to allow the Secretary of Commerce to address anticompetitive behavior by exporters, and to establish a licensing system of some kind.

We have addressed those concerns in the committee amendment. Before making his national interest determination, the President would be required, under this legislation, to complete an appropriate environmental review.

In making his national interest determination, the President could impose conditions other than a volume limitation. The Secretary of Commerce then would be required to issue any rules necessary to implement the President's affirmative national interest determination within some 30 days.

If the Secretary later found that anticompetitive activity by an exporter had caused sustained material oil shortages or sustained prices significantly above the world level, and that the shortages or high prices caused sustained material job losses,

he could recommend appropriate action by the President against the exporter, including modifications of the authority to export.

Under Senate bill 395, the President would retain his authority to later block exports in an emergency. In addition, Israel and other countries, pursuant to an international oil sharing plan, would be exempted from the United States-flag requirement. The compromise also would retain a requirement of an annual report by the President on the ability of the refiners to acquire crude oil, and a GAO report assessing the impact of ANS exports on consumers, independent refiners, shipbuilders, and ship repair yards.

Now, Mr. President, let me be specific on some of the principal benefits. The principal benefit, of course, is increased oil production. The Department of Energy, as I have stated, projects Alaska and California production will increase by 100,000 to 110,000 barrels per day by the end of the decade. Thus, by the end of this decade, exports would stimulate an additional 36.5 million to 40 million barrels per year.

And it would create energy sector jobs. Specifically, some 25,000 jobs on the west coast, as well as an undetermined number in Alaska. Revenues for the Federal Government, according to the Congressional Budget Office scoring, raising $55 million to $59 million over 5 years. It would raise State revenues.

Using different assumptions, the Department of Energy concluded that the ANS exports would generate up to $1.8 billion in revenues for California and Alaska by the end of the decade.

It would decrease net import dependence. It would reduce, as I stated, tanker movements by stimulating onshore production in California. Enactment of the bill would actually reduce tanker movements off the California coast, and it would preserve repair opportunities by helping preserve the independent fleet that otherwise would be laid up for scrap.

The bill would provide shipyard repair work for shipyards in Portland, California, and others, that would be lost with the death of the fleet.

So, the importance of continued production from Alaska is absolutely vital to the continuity of America's merchant marine. And the fact that this legislation would provide relief for the excess oil speaks for itself.

Let me now draw your attention to some charts that I think explain this in detail, so we will have a little better understanding of just what the issues are before us. This is the area in Alaska. I wonder if I could have the staff provide me with a pointer, if there might be one available at this time, so I can continue my presentation? I think it will be a little more beneficial to have it.

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What we have here is a chart that depicts in detail the disposition of Alaska's north shore crude oil.

Let me give this to my associate over here and perhaps he can point out where the oil begins, the production area in Prudhoe Bay, which went into production in the 1970's. An 800-mile pipeline was built across the breadth of Alaska. At that time that pipeline was one of the engineering wonders of the world. It was first estimated to cost somewhere in the area of $900 million. By the time it was completed, it was somewhere in the area of $7 to $8 billion. There are numerous pump stations along the 800 miles of pipeline. The terminus is the Port of Valdez, and that port handles 25 percent of the total crude oil that is produced in the United States.

Let us look at the destination of this oil. Alaska, my State, consumes 70,000 barrels a day in three relatively small refineries. That oil is used in our State for jet fuel, for heating oil, diesel, gasoline, and other purposes.

Then, first of all we ship from Valdez to our neighboring State of Hawaii directly, in U.S.-flag vessels, some 60,000 barrels per day. That is utilized in the refinery outside of Honolulu.

The second route is a rather curious one. This was by congressional action, where we authorized a small amount of oil to go in foreign-flag vessels to the Virgin Islands, to the refinery at St. Croix, that is the Amerada Hess refinery in the Virgin Islands which is currently under U.S. flag, obviously, but is not considered a U.S. port in the interpretation of the Jones Act. Some 90,000 barrels of oil go that great distance around Cape Horn, the southern point of land of South America.

Then we go to the next half circle. This is the oil we are talking about allowing free market flow, to be exported. This is oil that moves down to Panama. The reason it moves to Panama is, simply, these tankers cannot go through the Panama Canal, so they built a pipeline across Panama, and it goes to the gulf coast.

As a consequence of developments in Colombia, which is down below, developments in Venezuela and other areas, including Mexico, the economics of moving this Alaskan oil this great distance, unloading it, moving it across the pipeline and loading it again, and taking it into the gulf coast, when other oil is available, as I have stated, from Central America, South America, and Mexico to the gulf coast—it is simply no longer competitive. So we have this excess of some 75,000 to 200,000 barrels a day.

Let us look at where this oil goes, remaining, in the larger areas. The State of Washington receives some 440,000 barrels per day from Alaska. A good portion of Washington—I would say somewhere in the area of 95 percent of Washington's consumption is Alaskan oil—as it should be because of the proximity.

The rest of the west coast, down in California where we have, in the San Francisco area and Los Angeles area, large accumulations of refined product. I am told California is currently consuming about 770,000 thousand barrels a day. I am very pleased to note the Senator from California, Senator FEINSTEIN, is with me on this legislation to allow this export, because she and other Californians recognize the significant impact of relieving this excess, what it would do to stimulate the small operators, and for the creation of new jobs.

So that is where the oil goes. I just want to make one more point. As Alaska oil declines, the obvious alternative is for these areas to look toward imported oil. That imported oil would not be in U.S.-flag vessels. It would come in, in foreign vessels, as some of it currently does to California and, to a smaller extent, the State of Washington. So that is where the oil goes. It goes in U.S.-flag vessels.

What we are talking about, if this legislation is approved by this body, and we do move that surplus out, is a chart very similar to the this one, although you will note there is no oil moving through the Panama Canal. We should have included the Virgin Islands as continuing to receive their oil, which they will.

But the point is the west coast—Washington, Oregon, California—clearly are going to receive the same amount of oil. Hawaii will receive the same amount of oil. And this excess that previously went down here is going to be available in the Pacific rim. We have no idea what the dictate will be, other than it will have to go in U.S.-flag vessels and we have reason to believe that those countries have an interest in this oil because of its viscosity and it will be acceptable in the marketplace.

Mr. FRIST assumed the chair.

Mr. MURKOWSKI. Let us see what we have next. These are some rather interesting charts. I talked some time ago about refined gasolines and the price relative to the east coast and west coast. Of course, the east coast is dependent on oil coming in from various places around the world. Virtually no Alaskan oil comes on the east coast. It is oil that comes from Central America, Venezuela, the Mideast, and other places. What we have is the average wholesale price of unleaded regular gas from California versus New York.

We notice in 1985, California was slightly higher than New York; in 1986 the margin was again substantially higher, 4 cents a gallon; in 1987 it equalized; in 1988 it equalized. Then, in 1989 we found that New York was higher. In 1990 we found New York was higher. In 1991 we found New York was higher.

One would expect the east coast to have higher costs simply because of longer transportation to market, bringing that oil in through the Mideast and other areas.

Then, in 1992 we saw a rather curious change. In 1992, we saw New York at 66 and California at 69.

When I say California, I am talking about the entire west coast average as opposed to a specific State. When we are talking about New York, we are talking about the entire east coast.

In 1993, we saw a differential gain where it was more expensive on the west coast than on the east coast. In 1994, again we saw 57 compared to 60.

So the point is that California was higher in the wholesale price of unleaded regular gasoline. When one considers that we have had a surplus of oil on the west coast, during that time that we have close proximity from the standpoint of Alaskan oil coming down to the refiners, one may begin to question why that is the case.

This chart attempts to compare—unfortunately, we could not get more current figures than 1993—the refiner growth margins in 1992 dollars per barrel. This chart was a consequence of information that was provided us by the Department of Energy. It lists PADD V average, which are the distributors of the west coast U.S. refiners. It shows their growth margins vis-a-vis the U.S. average. As one can see, the west coast gross profit margin per refiner is rather interesting in comparison to the rest of the country. I have no hesitation to point out that the business community is entitled to what the traffic will bear. But it is interesting to see comparisons of one part of the country vis-a-vis another.

This chart actually belonged to the one earlier when we were comparing New York and California or the east coast vis-a-vis the west coast. But as you can see, the spread lengthened over here in 1992 when California wholesale price exceeded that of the east coast price. Maybe we will have a chart that will give us a little further explanation.

I would like to defer a little bit to address a concern that we have in Alaska. It is evident as we address future years. Clearly, you can see the projections of Alaskan North Slope production. We are here in 1995, and we are somewhere around 1.6 million barrels per day. That production, if you will look at the light gray, continues to decline. So this shows how, if we can significantly reduce the decline in the Trans-Alaska Pipeline oil production, the pipeline will be economically viable for a longer period of time. That is what we are talking about here, trying to bring this margin of reserves on line and provide more jobs and import less oil, all of which I think everyone would agree makes good sense and is in the national interest of our Nation.

We have had discussions that would suggest that Alaska North Slope exports will increase consumer prices at the gas pump. The reality dictates otherwise. The Department of Energy I think carefully studied the issue and found that the consumers would not see any discernible increase in the price at the gas pump. The Department of Energy showed that the west coast refiners, as I have shown on the chart—this is the Department of Energy talking—enjoyed the widest refiner growth margin in the country. West coast refiners are buying crude oil for less per barrel than anywhere in the country. Yet, they are selling their gasoline and other refined products for more than anywhere else in the country. Wholesale gasoline prices, as I have said, in California are consistently 3 or 4 cents higher than in New York.

Some say that energy production will not go up, that Alaska North Slope exports will not increase oil production in California and Alaska. Again, I would defer to the Department of Energy report which carefully studied the issue and concluded that oil production would increase by 100,000 to 110,000 barrels per day by the end of the decade. Both California independents and British Petroleum testified on March 1 that they expect substantial production increases in California and Alaska.

Some believe that there will be an increase in oil spills if ANS crude is exported. The reality is that the DOE carefully studied the issue and found that the exports will actually reduce tanker traffic in U.S. waters, especially in California as a result of the increased on-shore production.

Furthermore, any tankers exporting ANS oil exported from Alaska will proceed as I have said to cross the ocean and not along the shore.

Mr. President, I think the Senator from Alaska—I would be happy to yield to the Senator from Alaska, if I may retain my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mrs. MURRAY. Mr. President, parliamentary inquiry: Does that take a unanimous-consent?

Mr. STEVENS. Will the Senator use the microphone, please, so we might hear what she is saying?

The PRESIDING OFFICER. Unanimous consent is required.

Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Alaska has the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the President.

I am saddened to see the opposition that is coming to the proposal to deal with the distribution of Alaska's oil in the fashion that we are facing right now. I am one of the few Senators who was here at the time the original Mondale amendment passed that restricts the export of Alaskan oil. I remember commenting on it at the time that I did not think we would ever sell Alaskan oil to Japan. At that time, we were working on a theory that would have established a crude stream internationally so that Alaskan oil would not be sold to Japan but it would be delivered to Japan, the Saudi Arabian oil would not be sold to our east coast but it would be delivered to our east coast, that we would reduce the transportation distance for tankers on the oceans of the world by establishing a crude stream theory, that the crude oil would be delivered to the closest port where it could be utilized, and the sales would take place through arrangements that were made throughout the world with accommodation being made to every producer for the savings on transportation. We were never allowed to establish that concept for a lot of reasons.

Just as we still have in place in Alaska the Jones Act that restricts transportation to Alaska of all goods and services from Seattle and other places in American-built ships, we are the only place in the United States where the export of oil is prohibited, and it is only prohibited really as far as the oil that is transported in the Alaskan oil pipeline. I have always said it was unconstitutional. I would invite anyone to read the Constitution. It is not constitutional to require that the products of one State be exported only through the ports of another State, and that is exactly what happens to Alaskan oil. Alaskan oil goes to the west coast; it goes to Washington; it goes to Oregon and California, and it is refined there and then the products are exported. They do not consume our oil. It is amazing to see this kind of reaction. I wonder what would happen if we said that the corn produced in Iowa can only be exported through a Chicago exporter. This is the same kind of restriction. It makes no sense.

Interestingly enough, the author of the amendment that originally led to this prohibition is now the United States Ambassador to Japan, and he is seeking the removal of the prohibition, as I understand it. We come to the time now where the question is whether there can be an exception made for the export of Alaskan oil in U.S.-made vessels, U.S.-manned vessels, entirely in accordance with the current situation, and have some of the surplus oil that has been developed on the west coast be exported.

At the time we passed this amendment, the projections were that what

was then known as district 5, the west coast, would be short of oil during this period. To the contrary, because of other imports that are coming into the west coast, there is a surplus of oil in southern California and along the west coast in general. It now appears it would be to the best advantage of our Nation if there is this authority to export a portion of the oil that comes through the oil pipeline.

Mind you, Mr. President, that will not apply to any oil discovered in Alaska that is now transported through the Trans-Alaska oil pipeline. It was one of the conditions we had to agree to at the time we got the Trans-Alaska Pipeline, authorized by one vote, I might add. It was the vote of the then Vice President which broke the tie that developed when we considered the Alaskan oil pipeline amendment to the Right-of-Way Act, when that act was originally passed.

I find myself in the strange position of wondering why, after so many years, we still have this opposition to Alaskan oil production. It is a strange thing that the area of the country that has benefited most, more than Alaska has ever benefited—Seattle, WA, and Washington State have benefited more from Alaskan oil production than we have in terms of jobs and in terms of basic income—it does seem to me it is an odd thing that there is opposition to having it go where market forces would take it. I wish we could go back to the concept of the crude stream that we were working on at that time. It still makes no sense to me to see Middle Eastern oil go around the horn or through other mechanisms to get to the Far East, travel all that distance on the oceans by tanker, and have Alaskan oil reverse that and go down the west coast and through the pipeline and up into the east coast of the United States.

That is the system which was brought about by the Mondale amendment that prohibited the export of oil from the United States that had been transported by the Trans-Alaska oil pipeline. I do think it is time we recognize that is an unconstitutional restriction on the export of oil from Alaska only, and remove the obstruction to the export of that amount that would be exported in American-flag vessels.

Now, Alaskans do support the concept of American-flag vessels. That is, we like the idea that the American-flag vessels are the vessels that come to the Prince William Sound to receive Alaska's oil for transport. This is a period of time, I think, when we have to recognize that the maldistribution has led to a strange pricing system on the west coast and clearly it will be in the best interests of the United States if we modify this law now.

I was most pleased to see the vote on this bill, the amendment to this bill, as it came from the Energy Committee, and I congratulate my colleague and good friend, Senator MURKOWSKI, for the work he has done in shepherding this amendment through the committee and to the floor. This was really the subject of the bill that Senator MURKOWSKI and I introduced. S. 395 was introduced in February of this year, and the bill has, for all intents and purposes, been added to the bill which deals with the subject of the Alaska Power Administration sale. This is an amendment that I think is timely, as I said. We are now in a situation where the pricing of oil is changing drastically. I am sure we have all read the forecasts that are coming now. There is no question that the concepts of the projections that were made in the 1960's when we considered this Alaska oil pipeline originally have not now been proven accurate.

I do believe that conditions have changed. They have really improved to a great extent. In 1978, world crude reserves were estimated to be 649 billion barrels. But last year, the reserves that had been proven reached 1,009 billion barrels. That is a 55-percent increase in the world's known reserves of oil.

As a consequence, prices have reflected that increase in reserves. The oil price has dropped. If you put it on a deflator basis and carry it through from the times we were debating this basic Mondale amendment, oil prices are substantially lower than they were then, even at today's nominal values.

I do believe the Senate ought to take note that even the Washington Post reported last year gasoline has never been cheaper than it has this year compared with what people pay for other goods and services. In other words, the distribution system for oil has changed with the discovery of reservoirs for production of oil throughout the world. We have maintained a protection against a sudden shortage or stoppage such as we had at the time we had the Arab oil embargo. We now have a strategic petroleum reserve that has about 600 million barrels of oil. We have other reserves under the control of the Federal Government. There is no reason for us to have a prohibition against the export of Alaskan oil based upon a worldwide shortage of reserves.

That is also what was talked about back at the time the Mondale amendment was approved. We thought we were running out of oil and oil was so finite it would not meet the demand of the industrial economies over the period ahead, so there was a necessity, they felt, to maintain the oil to be produced from Alaska's North Slope for U.S. markets.

Those U.S. markets have been satisfied now, many of them, for years, from oil from outside the United States at a much lower price than any oil is produced in the United States. And that is why we are buying it from overseas.

I do not support the concept that we should not have a basic oil and gas industry in this country to produce oil and to meet our needs. I do think we should do everything we can to stimulate that industry so it has the productive capability to meet our needs and to continue, along with the strategic petroleum reserve, to meet our needs even in times of crisis or embargoes against our purchase from offshore.

There is no question that the production of Alaskan oil has changed the overall structure of oil pricing for the great benefit of the United States, as a matter of fact. We have had considerable impact on the pricing from abroad, and I think that will continue.

This is not a bill to bring about the total export of all production of Alaskan oil. It is to allow exports on the basis of them being transported out of the United States by American-flag vessels at considerable cost difference to the prices paid for transportation by foreign producers of oil that are bringing oil into the United States.

I think that at this time right now, when we need to spur the creation of jobs in the United States, this is a good way to do it. If Congress approves this oil export legislation, we believe it will spur the creation of new jobs, spur energy production, and raise revenues for both the Federal and local governments.

Small, independent, and other oil producers, maritime labor, and independent tanker owners hope Congress will enact this bill as quickly as possible, because they have told us just that. It will create jobs. It will give an incentive to additional energy production and raise Federal and State revenues and enhance our basic economic security.

I think that energy security is a subject we ought to explore sometime. This is part of that concept of spurring the economy to go further into exploration and discovery of oil. In particular, I think it will spur the restoration of the stripper oil wells in the southwestern part of the United States. The Department of Energy has concluded that if we do export a portion of Alaskan oil, it would result in a substantial net increase in U.S. employment, stimulating about 25,000 new jobs by the end of the decade.

As we review this bill, I hope people from throughout the country will understand that approving it will mean that Congress has taken action to preserve the independent tanker fleet and to maintain the thousands of skilled maritime industry jobs that will be required as we go into this new phase of distribution of Alaskan oil, and it will be done at no cost to the taxpayers. This is a segment of the American merchant marine. They face a bleak future unless there is a stimulus to export some of this oil. The Alaska North Slope exports will help solidify the demand for this tanker fleet.

The act of Congress making these exports possible, the Department of Energy has concluded, would raise royalty revenues for the Federal Government and tax and royalty revenues for the States of Alaska and California. Federal revenues are projected to increase by $99 billion to $180 billion in terms of 1992 dollars between 1994 and the year 2000. The Congressional Budget Office [CBO], has told us that this legislation will raise a net revenue of $55 million. It is a revenue-sound proposal.

By lifting this ban, Congress will, as I said, restore demand in California and in the Southwest region of the United States. The Department of Energy projects that oil production will increase by at least 100,000 barrels per day by the end of the decade in that part of the country. That is because the independents face a squeeze in terms of the price, due to the fact that there was an excessive amount of oil in southern California, in particular. And the stripper wells, the small producing wells, have gone out of production.

We believe that, by giving an incentive to produce, it will bring these new jobs and will give us the chance to have a signal from Washington that we believe enhanced drilling activity should take place in that part of the country and create new jobs in the area.

There is very little, if any, impact of this proposal on the east coast or the gulf coast of the United States. The oil has been going through the Panama Canal pipeline, the oil that would be exported, and there, too, the markets that the Alaskan oil goes to now have a surplus of oil due to the increase of imports in the United States from the Middle East and other parts of the world.

My point, Mr. President, is that this is a different oil world than we had when we considered the Alaska oil pipeline amendments in the 1970's. There is a much greater reserve of oil worldwide, a proven reserve, and there is a much different distribution pattern. The effect of the current distribution pattern is we have created surpluses on the west coast where, at the time, we had projected that there would have been a shortage if it were not possible to limit Alaska's oil production to distribution to south 48 demand only.

The administration has supported this bill. The Senate Energy and Natural Resources Committee is in support of this legislation. I think we should act on it as soon as possible.

The difficulty that I have, really, with the bill is it should have happened a long time ago. We have tried at times to remove this prohibition. As the Senate knows, over the years, we had a series of votes on the subject, and always the opposition came from the same source.

I hope that the Senate now, with new information, with support of the Energy Department, with the administration's overall support of the legislation, with the concept of American industry now understanding what it means to them—we now have support from the west coast industries; we have support from the independent tanker operators; we have support from the maritime unions; we have support from the maritime industry in general; and we certainly have support from people who understand what this will mean in terms of restoring jobs along the west coast, as I said, an estimated 25,000 jobs—will support this legislation.

This bill also has the sale of the regional Power Marketing Administration, as originally proposed, strangely enough, about the same period of time that the Alaskan oil pipeline amendments were adopted, as offered by Senator Mondale, which restricted the export of oil transported through the pipeline. The administration at that time recommended that the Alaska power authority be sold.

We still are working toward getting that approved. The sale of these assets will generate between $1.6 and $4.9 billion in terms of the Department's sale of the regional power marketing administrations. We now have Alaska's marketing agency, a portion of a national plan, and I am hopeful that the Congress will approve the national plan, which will go ahead with the recommendations I originally made to the Senate in behalf of the administration in 1973.

I think that this will reduce, by the way, the responsibilities of the Department of Energy. There will be a substantial reduction in cost to the taxpayers to maintain these regional power marketing administrations, and it makes sense for us to do this now, to take advantage of the circumstances that exist throughout our country and take the Federal Government out of the business of running regional power marketing administrations.

On permitting export of Alaskan crude, there has been this glut that has been created on the west coast. It keeps the crude oil price artificially low. It has meant, as I said, the small stripper wells, even some of the medium-sized operators, have gone out of business. They have had no incentive to develop new reserves or to really reach out in wildcat areas of great promise.

We believe the Mondale amendment has brought about a dependence upon the southwestern area of the United States on cheap oil that comes about because of the cost of transporting that oil beyond California down to Panama through the Panama Canal pipeline, onto another tanker and taken up to a market someplace in the south 48 States in the eastern part of our country.

The result of that long trip for the Alaskan oil to reach a market, under the prohibition against export, cannot be sold except in the United States, is that the sales have been taking place in California far below the market price of oil. It has established, as I said, a glut of oil on the west coast. It has kept the prices there so low that they have lost their own industry. We now feel that the California people understand that the result has not been good for that State nor for the Nation. We need the ability to produce from the areas that have capability of producing oil in times of crisis when there is a stoppage, when there is a shortage, and this bill before us now will give us that incentive.

The Department study that was released in June 1994—I am sure my colleague has talked about it already—has indicated that this will be the case. It has been tested in many places. I do not see anyone discounting the study that was made by the Department of Energy that led to the conclusion that it was in the national interest to pass this bill. There are a few local spots where there is a willingness to prevent the enactment of legislation in the national interest because of some special or private interest on their part. That was an interest that was created, in my judgment, by an unconstitutional provision to begin with, one that should be eliminated. If I had my way it would be a bill to eliminate it altogether.

But this legislation will give authority to export under specific conditions. It is a concept that would be consistent with the American merchant marine concept of requiring that our oil be exported in American-flag, American-crewed, American-built vessels. I do believe there is a great benefit to the American people as a whole. It is a step that should have been taken a long time ago.

It is an interesting thing, I think, to go back and examine some of the history of Alaska's oil industry, Mr. President. When we were seeking statehood, there were a great many people who opposed statehood for Alaska because they said such a vast area could not afford self-government. And so a series of people made suggestions as to how we might be able to finance our own future, and one of them was to increase the amount of land that Alaska received as compared to other States.

The State received from the Federal domain section 16 and 34 out of every township. They had to wait until those townships were surveyed, and we find the strange situation that California still is waiting for a substantial amount of its land, and Utah also and Nevada, because the lands have never been surveyed. When we looked at the situation for Alaska, when we realized people were willing to allow Alaska to have a greater land grant, and we did obtain a greater land grant, Mr. President. Congress approved the transfer of 103.5 million acres to Alaska out of our

375 million acres. What we did, however, is we permitted Alaska to select its land from vacant, unappropriated, unreserved lands, and the net result was that we had the opportunity to decide the lands we wanted for our future.

The difficulty developed in what we call (D)(2), section 17(D)(2) of the Alaska Statehood Act required us to have a study of the portions of our State that should be set aside in the national interest. We then proceeded to produce what is known to us as ANILCA, Alaska National Interest Lands Conservation Act.

That lands act restricted our right to the lands we could have and required a substantial portion of Alaska to be set aside in national withdrawals and no longer available to us for selection.

In the process, unfortunately, we have gone back to, again, a real delay factor in the surveying of lands that we have selected. The last time I had an estimate, it would be 2050 before all of the lands we have selected are surveyed and the native lands, Congress subsequently passed an act which confers on Alaska Natives a substantial amount of land, almost 45 million acres of land, in satisfaction of claims against the United States for the taking of their lands at the time Alaska was acquired from Russia.

The reason I mention these delays, Mr. President, is that we have a series of sedimentary basins in Alaska that are capable of producing oil or gas. Only three of them have been drilled so far. I believe there are 17 of them—I think 15 of them are onshore—that are capable, these areas are capable of producing oil and gas. This bill before us has nothing to do with additional exploration or use of Federal lands, but if you just look at the lands that the State of Alaska has, the lands that the native people have a right to under legislation that has been passed by Congress previously, the great difficulty that we have is establishing a mechanism for transport of that oil to market, and beyond that establishing a demand for it.

As long as there is a surplus of oil on the west coast, I do not perceive that there will be a demand for development of the oil and gas capability of the State of Alaska lands or Alaska Native lands. But I do believe that if we can have a bill such as this passed and have that glut be removed and restore the incentive to the industry to explore for and develop oil in the promising areas of the west that are not on Federal lands, they are not in any way restricted by Federal Government policy, then I think we will have a different future for our State.

That was the intent of the people who brought about the amendments to the Alaska Statehood Act to increase the amount of land to be given to our State. I think that our State, in surveying the lands that we would select, tried to select the lands that had potential resource value.

However, that resource value is really not predictable now because of this glut of oil. No one really wants to put money into developing oil and gas opportunities on Alaska State or Native lands so long as there is an existing restriction on the export of oil produced in those slopes.

Incidentally, that oil is produced from State lands. Many people think the oil is from Federal lands. The State of Alaska owns the land from which the Prudhoe Bay oil field is produced. We view it as an unconstitutional restriction on our State's powers to have this restriction against the export of oil produced from lands owned by the State of Alaska.

Again, one of the things that makes us so interested in this legislation is the future viability of the lands that we own. Those lands are valuable for oil and gas, and I do believe we will see the day, when this bill passes, that the independent oil industry will come to Alaska and start inventorying these potentials because of the fact that there will be a potential increase in demand for the oil and gas from our State.

We are in a very strange circumstance here, apparently, and that is that we want to try to get this bill to a vote. I, particularly, very much would like to see that.

Mr. President, I am having a little discussion with staff as to the accuracy of a comment I made. My memory is that it was the Mondale amendment. My staff says the amendment that was finally enacted by the Congress at the time was the Jackson amendment—the amendment that was finally adopted by the Senate in July 1973. They are right. But I am also right that it was Senator Mondale that raised the subject. I had a debate at length with him at the time, and his amendment was subsequently modified by the former Senator from Washington. It was the Jackson amendment that finally passed. The initiative for the restriction on the export of Alaskan oil originated with Senator Mondale. I have, since that time, called it the Mondale amendment. If I have offended anyone by having so referred to it, I am sorry about that. But there is no question that we discussed at length with Senator Mondale the proposal to restrict the export of oil. I do recall at the time that in order to offset Senator Mondale's proposal, I introduced an amendment which would have prohibited the export of oil from any State in the Union, which I think would be within the constitutional powers of Congress. I did not pursue that, and although Senator Jackson opposed the basic Alaska pipeline amendment, he was the one that did offer the amendment that was adopted. It was the amendment that currently is in the law as far as the exporting of Alaskan oil. I hope those on my staff are satisfied.

I see my colleague is back. I might say to him, Mr. President, that I do hope that the bill will pass. And as I have said in the Senator's absence, I believe as chairman of the Energy Committee, you have done a great service for the country, for California, and for our State in bringing this subject to the floor in a positive way. I hope other Members of the Senate will address the report he has presented and show the support that we have for the concept now. I do hope that there is an overwhelming vote in support of the bill that we have before us to bring about both the sale of the power administration, as well as to enable the export of Alaskan oil under the circumstances described in the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI], is recognized.

Mr. MURKOWSKI. I thank my senior colleague from Alaska regarding his comments on this very vital issue, which is important not only to our State but to the Nation as well.

Mr. THOMAS. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield without losing my right to the floor.

Mr. THOMAS. I have a couple of questions that refer to both aspects of the bill.

First, the power marketing agency. It is my understanding that there is a uniqueness to this power marketing agency; for example, the Western Area Power Administration that is in the West, in that instance, it serves a number of States and different municipalities in a great many uses. It also does not have the generating facility but simply the distribution facility. So it is my understanding that in this bill the Alaska Power Authority is substantially different in composition, is that correct?

Mr. MURKOWSKI. The Senator from Wyoming is correct. These two power marketing associations are separate. They are not connected. The distance between Snettisham and Juneau and Anchorage is 600, 700 miles, so they are not dependent on one another. The provision for the sale—unlike other Federal marketing administrations, the Alaska Power Administration owns its power-generating facilities and hydroelectric projects. It was never contemplated that these two relatively small projects remain under Federal determination. It was the considered opinion that once they were up and operating, the contribution to utilize the tremendous hydro potential, even though it is a very small percentage, that they be disposed of, and as a consequence, we have been working with

the administration in the State of Alaska to achieve this. We feel that the support base is there and, of course, the fact that the Department of Energy and the administration support this, I think, is evidence that we have a constructive proposal here.

Mr. THOMAS. I thank the Senator. With respect to the oil export portion, I recall the hearings that we had in the Energy Committee. I ask the Senator if it is not true that we had substantial testimony, not only from Members of Congress from the California delegation, but also representatives of the private sector that dealt with this whole business of seeking to develop and encourage the domestic oil market, as is the case in Wyoming. We have been very much affected by that. There have been nearly half a million jobs lost in the domestic oil industry over the past 10 years. We now have, of course, the highest imports that we have had for a very long time—the highest ever, I believe. And the testimony, as I recall, was that the opportunity to export some of the oil from Alaska would strengthen the domestic oil industry, which would result, I think, in more jobs not only in Alaska but perhaps in other parts of the country as well.

There was testimony about the assistance to the oil production aspect to the California economy, as well, of course, as providing an opportunity to strengthen the domestic industry as a matter of national security. That seemed to me to be the tenor of the testimony. I ask the Senator if that is the impression that he had?

Mr. MURKOWSKI. Mr. President, yes, the Senator from Wyoming is correct. As I recall specifically, the Department recommended in their Department of Energy report to the U.S. Treasury that by the year 2000 that would be approximately $180 million in tax revenue to the Treasury and there would be an increase of employment by some 11,000 to 16,000 U.S. jobs immediately, and by the year 2000, 25,000 jobs.

I think that was evident in the base of support that was evident when the vote came out of the committee, 14 to 4. The Senator from Wyoming will recall, Senator DOMENICI, Senator NICKLES, Senator CRAIG, Senator THOMAS, Senator KYL, Senator GRAHAM, Senator JEFFORDS, Senator BURNS, Senator CAMPBELL, Senator JOHNSTON, Senator FORD, Senator BRADLEY, and Senator BINGAMAN voted to vote out of committee the issue of the oil export relief, as well as the proposal on the Alaska power authority. I think the jobs issue was well covered in that report.

Mr. President, I would like to refer to an article that appeared on February 22, and it appeared in the Seattle Times. I think it was an editorial or an op-ed. It was a column, in any event. It suggests a number of reasons why it might not be in the national interest to continue the restrictions on the export of Alaska's North Slope crude oil.

I feel that the facts as confirmed by the U.S. Department of Energy report, the General Accounting Office, and other objective sources show that the export of ANS crude oil on what has been agreed upon, that is U.S.-flagged and U.S.-crewed vessels would, indeed, create jobs, increase our energy production, and as a consequence our national security, and increase Federal and State revenues.

Now, in that particular column there was a reference to the Senator from Washington that suggested that exports would "not meet the statutory test designed to protect broader national interests." Further, exports would "seriously hurt consumers, jobs, and the environment in our own State."

Again, I would refer to the comprehensive June 1994 study by the Department of Energy which concluded that exporting ANS crude oil on U.S.-flagged vessels would, one, again add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000; two, increase U.S. employment by 11,000 to 16,000 jobs immediately and by 25,000 jobs by the year 2000; third, preserve as many as 3,300 maritime jobs; fourth, increase American oil production by as much as 110,000 barrels a day by the year 2000; fifth, probably decrease crude oil tanker movement in U.S. waters; sixth, have minimal or nonexistent effect on prices to consumers, since the benefit of the current subsidy to west coast refiners from exports is not shared with consumers of refined products.

Now, the statement in the article indicated and was referenced to the Senator from Washington that "over the years Alaska North Slope crude oil has fueled Washington State. Ninety percent of our crude oil comes from the North Slope and our refineries are operating at 90 percent capacity. Today this secure supply of oil faces a threat."

The fact is, if exports are permitted, the Pacific Northwest will continue to be the closest market for ANS crude. Given the low cost of transporting oil to Puget Sound, there is no economic reason why any oil now going there be in jeopardy.

Even the Coalition To Keep Alaskan Oil, which is a rather interesting organization—it is an oil refinery-sponsored group, just a few refiners are supporting it now—is opposed to exports. They admitted in a paper last year that if exports were permitted, only the ANS crude oil surplus to the west coast requirements would be exported.

Excess west coast oil formerly went to Panama and was transported across the isthmus for transfer to smaller United States tankers that moved the oil to gulf coast refineries. That process, which involved dual handling of the oil, is now prohibitively expensive given the low world price of oil.

Now, the article further attributes to the Senator from Washington that the North Slope has given us a reliable oil supply. Carried aboard U.S.-flagged vessels, the ships employ Washingtonians as crew members, and "the tankers, that transport Alaskan oil are repaired in the Pacific Northwest. If export restrictions are lifted, this work will go overseas. We could lose 5,000 jobs within our own region and $160 million in annual employment income. This is more than half of the maritime industry's total west coast employment."

That is not the case. The fact is that exports will aid substantially the maritime industry, and all North Slope crude oil would continue to be carried aboard U.S.-flagged vessels with American crews. Labor leaders representing 50,000 members have written the President supporting exports, stating that "ANS exports will create jobs, help maintain our merchant marine and encourage energy production."

Estimates of job losses are completely unsupported. Further, most of the U.S.-flagged tankers are lifted for repairs in yards currently in San Diego and, to some extent, Portland. The Portland shipyard being built in Japan and floated to Portland, portions of that yard have been facing financial problems.

I understand there is a competitive posture between Portland and San Diego. We have encouraged that consideration be given to the Portland bids. As a consequence, it is my understanding that there are two ships that are currently under contract to be repaired in the Portland yard.

Further, the article attributes the Senator from Washington saying,

> More than 2,000 jobs at refineries, and Anacortes, Bellingham, and Takoma would be lost. Ninety percent of Alaskan oil is consumed by west coast refiners, and these refiners go into refineries as attributed to the Atlantic Richfield Company, Texaco Company, and Shell, plus independents such as Tosco and a smaller refinery, Summit Oil. Six of these refineries are in our State, the State of Washington, competing against foreign barges willing to pay premium prices. Industry experts predict our refineries will shut down or be forced to pay a premium price to keep their Alaskan supply or to purchase substitute foreign crude.

That argument just is not based on fact. The facts, the hard, cold facts, are that two of the refiners mentioned support exports—that is ARCO and British Petroleum—and we have evidence of that, which will be entered into the RECORD. And for Texaco, which has not taken a position on the issue, supply will be sure. In fact Tosco, one of the refiners, has a supply agreement with British Petroleum that offers, in Tosco's own words, "a reliable, economic supply of Alaska North Slope

crude oil for the next 5 years," although it is my understanding there are some 4 years to go on that contractual agreement. Foreign buyers have no reason to pay premium prices for Alaska crude, because they can get their crude oil elsewhere. As stated above, even export opponents have admitted at world prices for Alaska crude oil now going to Puget Sound, it will not be exported.

Some independent refiners have opposed exports because the market distortion created by the current restrictions allow these refiners to enjoy, according to the Department of Energy, "the largest gross refining margins in the world."

No credible evidence supports the assertion that, "If forced to compete in a world market like everyone else in the United States, any refiner would have to lay off workers."

Again, I remind my colleagues, one refiner in question, Tosco, already has a long-term contractual supply.

Further attributed to the article, the Senator from Washington states:

> Tosco alone has predicted a $1 per gallon increase if exports are permitted.

The fact is, the Department of Energy has concluded that the "economic benefits of export could be achieved without increasing prices either in California or in the Nation as a whole, and that the current subsidy to west coast refiners from exports is not shared with consumers of refined products."

The refiner, Tosco, in their 1994 quarterly report to the U.S. Securities and Exchange Commission stated that:

> At the Ferndale refinery in Washington, refining margins average $4.66 per barrel; retail margins continue to be strong, averaging 11 cents per gallon on sales of some 2.4 million gallons per day.

Tosco, of course, may be worried about losing this price advantage, but that will not hurt consumers or the national interest. It will continue to allow this firm to reap profits, which they are entitled to. But they are certainly not passing on any savings to the consumer.

It is kind of interesting to note why Washington State has some of the highest gasoline prices in the country while the refiners, including Tosco, have the highest profit margins between the price paid for crude oil and the amount at which they sell their refined product or gasoline. In the sense these refiners are closest to the point of the Alaska oil coming down from Valdez, these refiners are those that have the shortest shipping distance; as a consequence, the least transportation costs. But one might conclude the consumers in the State of Washington are certainly not recipients of the transportation advantage that is enjoyed by the geographic location of the proximity of the refiners to the Alaska oil supply at Valdez.

Further reference in the article by the Senator from Washington:

> Since the Arab oil embargoes of the seventies, our reliance on foreign oil has not diminished and the arguments for retaining [that is, the oil export restrictions] remain strong.

The fact is that exporting Alaska's North Slope—ANS—crude would increase U.S. energy security by stimulating additional production, estimated by the Department of Energy at 100,000 to 110,000 barrels per day. This will reduce U.S. net oil imports.

The United States has already removed restrictions in place in the 1970's on petroleum product exports and on the price and allocation of oil, thus improving the efficiency of the market. Exports from every State other than Alaska are allowed if certain regulatory requirements are met. The effective ban on ANS exports is unique and discriminatory.

Further, the article makes reference to comments from the Senator from Washington:

> With 99 percent of Alaska's crude coming through Puget Sound and 94 percent of this carried on U.S. tankers, foreign replacement oil would not only be more costly, but would be carried on more environmentally risky tankers. The U.S. Coast Guard rates as high-risk one-half of the current foreign tanker fleet that carries crude oil through Puget Sound.

The fact is, there is simply no basis to assert that the Pacific Northwest will need to import oil to replace ANS crude for the reasons already listed, or that foreign-flag tankers in Puget Sound waters are environmentally risky.

In fact, the Department of Energy has concluded that exports would "probably decrease crude oil tanker movement in U.S. waters." Further, virtually all the oil coming into Vancouver, BC, comes in through the Straits of San Juan, adjacent to the State of Washington and British Columbia, and it comes in foreign tankers. So there is a high concentration of foreign tanker activity already coming into the San Juan area, and some of its goes into Puget Sound as well.

Another contention is that British Petroleum Corp. would also save money by having its tankers built and repaired in foreign countries. The fact is that British Petroleum uses and would continue to use U.S.-flag, U.S.-built, U.S.-crewed tankers to carry Alaska crude because, Mr. President, they are a foreign corporation and cannot own U.S. vessels. It would make no economic sense for British Petroleum, or any other exporter, to reflag foreign-built tonnage to carry Alaska crude, when abundant U.S.-flag, foreign-built tonnage is already in existence in the trade.

The ban on the exports of Alaska North Slope crude oil simply makes no sense. Reality dictates that it creates an inefficient market that breeds extraordinary returns for a few special interests. And some of these, unfortunately, do not seem to be inclined to pass the benefits along to the consumers. Meanwhile, maritime and oil industry jobs would be lost to this destructive trade restriction.

I am sure the Senator from Washington does not begrudge the fact that Alaska might benefit from lifting the ban, any more than the fact that Alaskans recognize activity in Alaska is very beneficial to the State of Washington. I would again suggest, even on this issue, what is good for Alaska is good for the State of Washington.

Our States are too close and too intertwined to believe that restrictions on each other's commerce will be good for one at the expense of the other.

Mr. President, there are some other items that I want to bring to your attention; that is, some of the charges relative to what the passage of this legislation would do.

Some have made the argument that as part of the original deal in 1973 to authorize construction of the pipeline, Congress saw fit to ban the ANS exports. Again, I think it is important to note that is not totally accurate. Congress did not ban exports in 1973. Instead, for the first time, it restricted all domestically produced crude oil, including ANS oil, to the same general export restrictions. At the committee's hearing on March 1, Senator STEVENS, one of the few Senators still sitting in this body today who actually cast a vote in 1973, confirmed that there had been no such deal.

Mr. President, there is a question of increased foreign oil reliance. The argument is made that by exporting ANS oil, we will increase our dependence on the Mideast and other foreign sources of oil. The reply to that is quite simple. The Department of Energy concluded that enactment of the legislation will decrease our net dependence on imports by spurring additional domestic energy production.

We have heard the concern expressed from time to time about the potential that refinery workers would lose their jobs because refiners would have to pay more for crude oil. Yet, again in response, the Department of Energy concluded that independent refiners on the west coast have such high gross operating margins that they will be able to absorb any increased crude oil acquisition costs without significant job losses. And as the chart that I previously showed, based on the figures at hand, clearly there is justification to understand that is indeed the case.

There is a question of lost work to foreign yards that would provide repairs. The argument has been made that once exports are authorized, the tankers in the Alaska oil grid will all be repaired in those subsidized foreign shipyards permitting domestic ship repair yards to be no longer economic.

Tankers in the Alaskan oil trade are free to go abroad for repairs today. They rarely do, however, because foreign repairs are subject to a 50-percent ad valorem duty. One might wonder about some of our restrictive and protectionist types of legislation. This is one of them. A recent court decision, the Texaco Marine decision, will ensure that U.S. Customs will aggressively enforce collection of that 50-percent duty, as they should. Some suggested that customs is not doing it adequately. I certainly see no reason why customs should not actively enforce the law.

Furthermore, every tanker that is scrapped as a result of the declining ANS production is one less tanker that will ever come in for need of repair. By spurring energy production, the bill will actually increase repair opportunities for U.S. shipyards. As long as U.S. shipyards, such as the Port of Portland, San Diego, and others, remain competitive, they should expect to do most of the repair work on the fleet simply because the vessels are traversing the waters of the west coast.

An argument has been made that ANS exports will destroy the shipbuilding sector opportunity to build 1,200 to 1,500 120,000-dead-weight-ton tankers over the next 5 years. After this charge was made at the committees hearings, the leading trade association for the tanker industry advised us that not one of its members had a vessel under construction and not one planned any new building with so many vessels sitting.

Furthermore, there have been suggestions that there has been some violation of GATT or OECD. The argument has been made that the U.S.-flag requirement is an unprecedented extension of cargo preference and violates our international obligation under GATT and GATT's standstill agreement and the OECD code. The reply to that is that the U.S. Trade Representative formally advised the committee that the U.S.-flag requirement did not violate our internal obligations. In adopting the United States-Canada Free-Trade Agreement, Congress specifically required the use of so-called Jones Act vessels to carry Alaska oil exports to Canada. No foreign government currently complained at that time.

There has been some concern that the U.S.-flag requirement violates the Treaty of Friendship. That is the FCN, commerce and navigation with many nations. The reply to that is that just this past week the administration testified again that the U.S.-flag requirement does not violate any of our international obligations. The FCN treaties permit measures in furtherance of our national security such as preserving a militarily useful tanker fleet.

California offshore production. There has been an argument that exports will encourage or increase pressure for California offshore production. I reply to that that the Department of Energy concluded that the California offshore production will not increase because State moratoriums are effectively in place. They simply block any further development. At the committee's March 1 hearing the witnesses representing the State of California especially rejected the argument saying that the moratoriums in effect ban further offshore development.

Mr. President, let me enter into the RECORD at this time a letter from our U.S. Trade Representative, Mr. Kantor, to Senator BENNETT JOHNSTON, dated March 9, 1955.

DEAR SENATOR JOHNSTON: This replies to your letter of March 2, 1995, requesting information on the implications of cargo preference provisions of Senate bill 395 on our obligations under the World Trade Organization and the Organization of Economic Cooperation and Development, OECD.

Specifically, you asked if the legislation violates any trade agreements, the potential legal and practical affects of a challenge as well as its effect on the ongoing negotiations on maritime in Geneva.

As to WTO violation, I can state categorically that Senate bill 395, as currently drafted, does not present a legal problem.

Further, we do not believe that the legislation will violate our obligations under the OECD's code of liberalization of current invisible operations or its companion common principles of shipping policy. However, the OECD does not have a mechanism for the settlement of disputes and its associations and the rights of retaliation.

While parties to the OECD are obligated to defend practices that are not consistent with the codes, the OECD process does not contain a dispute mechanism with possible retaliation rights. The OECD shipbuilding agreement, by contrast, does contain specific dispute settlement mechanisms although the agreement does not address flag or crew issues.

Your letter requests guidance on the implications of Senate bill 395 on the GATT's ministerial decision on negotiations of maritime transport service . . . which is the document that guides the current negotiations on maritime and the WTO. The maritime decision contains a political commitment by each participant not to adopt restrictive measures that would improve its "negotiating position" during the negotiations which expire in 1996.

This political commitment is generally referred to as a "peace clause." Actions inconsistent with the "peace clause" or any other aspect of the maritime decision cannot give rise to a dispute under the WTO since such decisions are not legally binding obligations.

There are, of course, potential implications for violating the "peace clause" by adopting new restrictive measures during the course of the negotiations. These implications could include changes in the willingness of other parties to negotiate seriously to remove maritime restrictions that might lead to certain parties simply abandoning the negotiating table. But the maritime decision does not provide the opportunity for retaliation.

Our view is that the U.S.-flag preference provisions of Senate bill 395 do not measurably increase the level of preference for U.S.-flag carriers and actually present opportunities for foreign flag vessels to carry more oil to the United States in light of the potentially new market opportunities resulting from enactment of S. 395. Thus, it would be very difficult for foreign parties to make a credible case that the U.S. has "improved its negotiating position" as a result of S. 395.

For reasons I have explained, we are certain that the U.S.-flag preference does not present legal problems for us under the WTO. However, in the event any U.S. measure were found to violate our obligations, WTO does not have authority to require alterations to affect statutes. That remains the sovereign decision of the country affected by an adverse panel ruling. A losing party in such a dispute may alter its law to conform to its WTO obligations to pay compensation or accept retaliation by the prevailing party.

Finally, we agree with you that it would not be appropriate to include a requirement that ANS export in U.S.-built vessels.

I trust this information is of assistance to you. Please do not hesitate to contact me.

Sincerely,

MICKEY KANTOR.

VOTE ON MOTION TO TABLE COMMITTEE AMENDMENT BEGINNING ON PAGE 1, LINE 3

Mr. MURKOWSKI. Mr. President, the hour of 2:30 has come, and I would move to table the first committee amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Texas [Mrs. HUTCHISON], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nebraska [Mr. EXON], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Georgia [Mr. NUNN], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

The PRESIDING OFFICER (Mr. KYL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 6, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—80

Abraham	Bond	Burns
Akaka	Breaux	Campbell
Ashcroft	Brown	Chafee
Bennett	Bryan	Coats
Bingaman	Bumpers	Cochran

Cohen	Heflin	Nickles
Conrad	Helms	Packwood
Coverdell	Hollings	Pell
Craig	Inouye	Pressler
Daschle	Johnston	Pryor
DeWine	Kassebaum	Reid
Dodd	Kempthorne	Robb
Dole	Kennedy	Rockefeller
Domenici	Kerrey	Roth
Dorgan	Kohl	Santorum
Feinstein	Kyl	Sarbanes
Ford	Leahy	Shelby
Frist	Levin	Simon
Glenn	Lieberman	Simpson
Gorton	Lott	Smith
Graham	Lugar	Snowe
Grams	Mack	Stevens
Grassley	McCain	Thomas
Gregg	McConnell	Thompson
Harkin	Mikulski	Thurmond
Hatch	Moynihan	Warner
Hatfield	Murkowski	

NAYS—6

Biden	Byrd	Feingold
Boxer	D'Amato	Murray

NOT VOTING—14

Baucus	Hutchison	Moseley-Braun
Bradley	Inhofe	Nunn
Exon	Jeffords	Specter
Faircloth	Kerry	Wellstone
Gramm	Lautenberg	

So the motion to table the amendment was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, what is the pending business?

COMMITTEE AMENDMENT ON PAGE 17, LINE 10

The PRESIDING OFFICER. The question now before the Senate is the second committee amendment.

Mr. MURKOWSKI. Mr. President, we have had an extended discussion on the matter of the sale of the Alaska Power Marketing Association, as well as the proposal to allow the export of surplus oil on the west coast of the United States.

During the course of the day, the Senate came in at 9:30 a.m. and a proposal was to take up the bill. There was an objection to moving to the bill from my friend from the State of Washington. As a consequence, from approximately 9:30 a.m. until noon, the Senator from Washington had a quorum call in effect, and I had hoped that we could hear the particular position of the Senator from the State of Washington.

Unfortunately, that was not the case. There was an agreement to move to the bill at 12 o'clock, and it is now 3 o'clock. The amendment that we just tabled is significant and I think was an expression of the attitude of the Senate toward this. Mr. President, furthermore, the majority leader tried to accommodate Members.

Mr. President, in view of some of the changes——

Mr. BOND. Will the Senator yield?

Mr. MURKOWSKI. Yes.

Mr. BOND. Mr. President, may I address a question to the manager and sponsor of this legislation? The Banking Committee's Subcommittee on International Finance has jurisdiction which looks remarkably as though it may be appropriate to this measure.

While I am in general support of the position of my distinguished friend from Alaska, I would like to have an explanation for this body as to the jurisdiction and what he feels is the appropriate committee referral. Might I ask that question of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, I will be happy to respond. It is my understanding the Senator from Missouri is a subcommittee chairman of the Banking Committee. The question of jurisdiction has been addressed by him in the subcommittee context, and I wonder, for the RECORD, if he could give us some background with regard to the manner in which they have studied that.

Is it not, indeed, the fact that that particular jurisdiction under the Banking Committee, as well as other prohibitions on the export of Alaska oil, such as the Mineral Leasing Act, the Export Administration Act, and others, were presented in such a way, once the proposal was made with the substantiation falling to include the sale of the two generating plants in Alaska, that the Chair ruled that it was appropriate that it be under the jurisdiction of the Energy and Natural Resources Committee, and it is my understanding that ruling of the Chair still stands.

I ask the Chair if there is any reference to anything to the contrary to that?

I am sorry; I guess the Chair was preoccupied. But the issue that we have before us is the jurisdiction potentially of the Banking Committee, and the Alaska oil export ban is not in the jurisdiction of the Senate Banking Committee because the Alaska oil export originated in the Trans-Alaska Pipeline Authorization Act, the bill that is strictly within the jurisdiction of the Energy Committee.

The Energy Policy and Conservation Act, which is EPCA, includes a provision that generally restricts crude oil exports. This bill is also within the jurisdiction of the Energy Committee. The bill was introduced but did not reference the Export Administration Act.

Furthermore, the Export Administration Act expired, so it no longer governs the export of Alaskan crude oil. And that is the understanding of the Senator from Alaska with regard to the jurisdiction of this matter before the Senate being referred to the Energy and Natural Resources Committee.

Mr. BOND. Mr. President, let me thank the Senator from Alaska. We will have further discussions on that. I appreciate the discussion he has conducted and the ruling of the Chair. I think we are going to do some further investigation of that matter. At this point, I appreciate very much his stating his views. We will continue to review that and work at the staff level to assure there is no problem.

Mrs. FEINSTEIN. Mr. President, I wonder if the Senator from Alaska will yield for a question.

Mr. MURKOWSKI. The Senator is happy to yield for a question from the Senator from California.

Mrs. FEINSTEIN. I want to commend the two Senators from Alaska for their work on this measure. I also want to thank them for seeking my support. Early on in the discussions, because of concerns, I took the time to discuss this with virtually all of the parties involved. In a meeting in my office in September of last year, one of those parties was British Petroleum. British Petroleum would be a major supplier or purveyor of Alaskan crude.

One of the concerns that I had was that we not create jobs somewhere else and take jobs from our people, specifically the merchant marine. The two authors have been good enough to see to it that the legislation reflects that the oil must be transported on American-flag and American-crewed vessels and has secured that as a part of the legislation. There is another part to this, and that is American-built vessels. But because of a GATT problem, it is not possible to put this in the legislation.

In September, I received a letter and I would like to quickly read this letter and ask the Senator directly the question. The letter is addressed to me and it says:

> Further to discussions with you held September 30, 1994, if the ban on Alaska exports is lifted, BP will commit now and in the future to use only U.S.-built, U.S.-flag, U.S.-crewed ships for such exports. We will supplement or replace ships required to transport Alaskan crude oil with the U.S.-built ships as existing ships are phased out under the provisions in the Oil Pollution Act of 1990.
>
> I hope that this commitment satisfies your request that Alaska oil exports be carried on U.S.-built, U.S.-flag ships, manned by U.S. crews.
>
> Yours, sincerely,
>
> STEVEN BENZ,
> *President,*
> *BP Oil Shipping Company, USA.*

My question to the Senator from Alaska is: Is this agreement still in effect?

Mr. MURKOWSKI. In response to the Senator from California, it is my understanding, Mr. President, that indeed it is still in effect. I should point out, however, as I know the Senator from California is aware, British Petroleum, being a foreign corporation, cannot own U.S.-flag, U.S.-documented vessels. So British Petroleum contracts with private U.S. owners that own the

U.S. vessels. It is my understanding that since they basically—in the sense of having a long-term charter agreement—have dictated this position that they will move BP's oil and, for that matter, all the other oil that would flow between Alaska and any other American port in a U.S.-flag vessel. But BP itself is precluded by our maritime laws from owning the vessel outright.

Mrs. FEINSTEIN. I appreciate that, Mr. President. It is very important to me that this U.S.-flag and crewed and, to the extent we can, built ships be used. I take this commitment from BP, however they are going to do it, that the oil that they transport will be in U.S.-flagged, crewed, and built vessels. I thank them for that.

I ask unanimous consent to have this letter printed in the RECORD.

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

BP OIL, INC.,
Cleveland, OH, September 30, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: Further to discussions with you held September 30, 1994, if the ban on Alaska exports is lifted, BP will commit now and in the future to use only U.S.-built, U.S.-flag, U.S.-crewed ships for such exports. We will supplement or replace ships required to transport Alaskan crude oil with U.S.-built ships as existing ships are phased out under the provisions in the Oil Pollution Act of 1990.

I hope that this commitment satisfies your request that Alaska oil exports be carried on U.S.-built, U.S.-flag ships, manned by U.S. crews.

Yours sincerely,

STEVEN BENZ,
President, BP Oil Shipping Co., USA.

Mrs. FEINSTEIN. I would like to ask the Senator from Alaska another question. It is essentially about jobs. After looking at this very carefully and talking with independent oil producers and the Department of Energy, I believe that this legislation will, as the Senators from Alaska have stated on the floor earlier, be helpful in producing jobs in the State of California.

The Department of Energy has some very generous estimates in their report. I am not sure I believe the totality of this, but suffice it to say that they predict 5,000 to 15,000 new jobs very quickly and as many as 10,000 to 25,000 jobs by the decade end, most of which they identify as taking place in Kern County, CA.

I ask the Senator from Alaska if he concurs with this energy observation and would he agree that this would be job-producing for the State of California?

Mr. MURKOWSKI. Mr. President, in reply to the Senator, it is my understanding that the Department of Energy has done an exhaustive analysis and agrees that significant job creation would be initiated primarily as a consequence of small, independent stripper producers that currently are having a difficult time maintaining production because of the excess oil on the west coast that would be removed if indeed this legislation becomes law, and that would stimulate production, investment and, of course, initiate numerous new jobs. And the proximity of that oil to the California refiners is such that it would reduce transportation costs as opposed to bringing the oil down—I am not suggesting that California production would increase to the point where it would replace Alaska oil, but it would stimulate that margin of production and cannot compete with the excess oil that is on the west coast today.

I am very pleased that my friend from California recognizes that the mix of utilization of oil in the California refineries is both Alaskan as well as Californian, as well as some imported oil. But there is no question about the merits of the job creation and margin and operations coming back on line. I think that is why this legislation was so unanimously supported by the California independent oil producers, who have worked very hard on this legislation.

Mrs. FEINSTEIN. I thank the Senator. I have one last question, and I would like to place a statement in the RECORD. One of the refineries is located right in my area and, of course, that is Tosco in the San Francisco Bay area. Among the parties that I discussed this with, Tosco was one of them. It is clear that they had some reservations about the legislation. I did discuss this with the Senator from Alaska, and I know he mentioned this earlier on the floor. I would like him, if he would, to repeat it. It is my understanding that Tosco has been assured reasonable supplies of oil even with this agreement in place. I would very much welcome the Senator's response to this in the affirmative or negative, whichever it may be.

Mr. MURKOWSKI. Mr. President, responding to my colleague from California, with regard to Tosco, I am referring to the 1993 PADD IV refinery slate, which is the latest one I have indicating the origin of oil from the Tosco refinery at Martinez, CA, which is, I think, the question posed by the Senator from California.

The capacity of that refinery is 148,000 barrels a day. That 148,000 comes from the following origins: 56,000 barrels a day comes down from my State of Alaska; 75,000 barrels a day of that refinery's capacity comes from California, that is produced locally in California; 18,000 barrels a day of that refinery's utilization is imported oil.

So a little more, 75,000 California, 56,000 from Alaska, 18,000 are imported, and there is another Tosco refinery, Ferndale, which is, I think, of interest to the Senator from Washington. The Ferndale refinery capacity is about 89,000, currently operating at 71,000; 64,000 come down from Alaska, 7,000 are imported—none comes from California, which I am sure is not a surprise.

The point of the question of my friends from California, Washington and California, are certainly the natural markets for ANS crude. Washington and California ports are closest to Alaska as the origin of crude oil, and the ANS will continue to supply those refineries simply because of the proximity and the lower transportation costs.

Mrs. FEINSTEIN. I thank the Senator.

It is also my understanding, Senator, that this bill specifies that the President shall determine on an annual basis whether independent refiners in the Western United States are able to secure adequate supplies of crude, and if not, he can so indicate and make further recommendations to the Congress; is this not correct?

Mr. MURKOWSKI. The Senator from California is absolutely correct. That is in the bill.

Mrs. FEINSTEIN. I thank the Senator. I yield the floor.

Mr. MURKOWSKI. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the second committee amendment.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to adopt the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment on page 13, line 10 was agreed to.

AMENDMENT NO. 1078

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], proposes an amendment numbered 1078.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

Strike the text of title II and insert the following text:

TITLE II

SEC. 201. SHORT TITLE.

This Title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995

unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

SEC. 203. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"in the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 204. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 205. EFFECTIVE DATE.

This Title and the amendments made by it shall take effect on the date of enactment.

Mr. MURKOWSKI. Mr. President, this is an act entitled Trans-Alaska Pipeline Authorization Act, as amended (43 U.S.C. 1652), is amended with the new subsection, "Exports of Alaskan North Slope Oil."

I believe the Chair has the amendment.

What we have attempted to do here by this amendment, as reported by the committee, S. 395 would immediately authorize ANS exports carried in U.S.-flagged vessels.

When the administration testified in support of lifting the Alaska North Slope crude oil export ban, they indicated the bill should be amended, one, to provide appropriate environmental review; and second, to allow the Secretary of Commerce to recommend action against anticompetitive behavior by exporters, and to establish a licensing system.

Mr. President, if no one seeks recognition, I propose the question be put to the floor.

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

The PRESIDING OFFICER. Is there an objection?

Mr. MURKOWSKI. I do not believe a quorum call is in order.

Mrs. BOXER. Mr. President, I asked for a quorum call.

Mr. SARBANES addressed the chair.

The PRESIDING OFFICER. The Senator from Alaska had the floor.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, will the Presiding Officer please tell me what the pending business is.

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Alaska.

Mr. MURKOWSKI. I call for the question.

The PRESIDING OFFICER. The question is on the amendment.

Mrs. BOXER. Mr. President, I cannot hear the Senator from Alaska.

Mr. MURKOWSKI. The Senator from Alaska calls for the question.

Mr. SARBANES addressed the chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The parliamentary situation is the amendment of the Senator from Alaska is on the floor.

Mr. SARBANES. Pending?

The PRESIDING OFFICER. It is pending and open for debate.

Mr. MURKOWSKI. Mr. President, I would like to try to reach a conclusion, as I know my colleagues would, relative to this matter. We have had an opportunity coming in at 9:30 this morning whereby we were in a quorum call until 12 noon, and the Senator from Washington had asked that we be placed in that quorum until such time and she was graciously kind to advise me that we could go on the bill at 12 noon.

Since the quorum call was placed by the Senator from Washington, I anticipated she would have an opportunity to speak at that time on the merits of the bill or the motion to proceed. I did not attempt to call off the quorum and she did not choose to speak.

In all fairness, since that time I have held the floor, along with my senior Senator, Senator STEVENS. In order to try and resolve this, I had hoped we could get a vote on the question—get the vote today and resolve this matter. It is of great interest to my State, and I know it is of great interest to the State of Alaska, to my colleague, Senator JOHNSTON, as well as Senator STEVENS, because we anticipate attaching as part of this Senator JOHNSTON's interest in deep water drilling.

Last week, the majority tried to accommodate Members by offering to bring this bill up at 1 p.m. today, but it is my understanding, and I would be happy to be corrected, that there was an objection from the Senator from Washington. So we had to come in at 9:30 a.m. to work out a motion to proceed.

As I indicated initially, the Senator from Washington would not allow any agreement on getting to the bill. Then the Senator from Washington agreed to letting the bill come up at 12 noon. Then again at noon, unfortunately, the Senator from Washington objected to the first committee amendment being adopted. The Senator also let it be known that if we put in a quorum call she would object to dispensing with it, and as a consequence, she did. And that, I believe, was when Senator GRAMS wished to make a statement as if in morning business.

We were then forced to hold the floor—I was somewhat reluctant, and I am sure somewhat repetitious in doing so—so we could get a vote at 2:30. Now we still have objections and it is my understanding now that the objection has been dropped on the second committee amendment.

I would like to—perhaps we would find it expedient—without losing my right to the floor, to ask the Chair whether the Senator from Washington would inform the Senate what her intentions might be on the legislation that is pending? Specifically, I ask, does the Senator plan to offer any amendments? If so, could she inform us what those amendments might be so we can review them?

Mrs. MURRAY. Mr. President, I will be happy to respond to the questions of the Senator from Alaska. I did come to the floor this morning at 9:30 and did object to the motion to proceed. We then did work out an agreement that the bill would begin to be debated at noon.

At that time, I was here on the floor and ready to debate and was not able to say anything until the 2:30 rollcall vote. Since that time, obviously, there has been an exchange among several Senators.

I do have a statement I want to make. I do have a great deal of information I want to submit for the RECORD, and I want to be able to bring my side out on this argument. I know there are a number of other Senators who also wish to present their points of view on this. The Senator from California, Senator BOXER, does, and I know the Senator from Oregon, Senator HATFIELD, has a statement. Several other Senators have indicated to me that they would like the opportunity to debate this bill.

I also have been told there are a number of amendments that people wish to bring forward on this bill.

Mr. MURKOWSKI. If I may respond? I am quite aware there are at least two Senators who are on the floor now. I am most willing and anxious to hear from them, as well as to hear from the Senator from Washington.

So the Senator is not indicating one way or another whether there are amendments which she may be offering that we could review during the time under which she and others may speak.

I wondered if she has amendments, if the Senator from Washington has amendments?

Mr. FORD. Mr. President, point of information.

Mr. MURKOWSKI. Sure.

Mr. FORD. Parliamentary inquiry?

The PRESIDING OFFICER. Does the Senator from Alaska yield for that purpose?

Mr. MURKOWSKI. I am happy to yield without losing my right to the floor.

Mr. FORD. Does the Senator from Washington retain her own right to make her own statement and to offer all amendments without trying to reveal that in advance, and not being able to get the floor?

Mr. MURKOWSKI. If I may respond?

Mr. FORD. I asked the Chair a question.

The PRESIDING OFFICER. Senators may make any statement when they have the floor.

Mr. FORD. So it is not a requirement, then, that she reveal what amendments she would like to have entered? She may have a dozen and reduce it to six?

The PRESIDING OFFICER. A Senator may make any statements when that Senator has the floor.

Mr. MURKOWSKI. I thank my friend from Kentucky. My purpose in making the inquiry was simply to try to determine whether the Senator from Washington would require the Senator to invoke cloture on the measure.

Mr. FORD. That is your prerogative. That is your prerogative.

Mr. MURKOWSKI. Does the Senator care to indicate that? It would be appreciated, simply from the standpoint of expediting the process.

If not, that is certainly the right of the Senator from Washington.

Mrs. MURRAY. Is the Senator from Alaska asking me that question?

The PRESIDING OFFICER. Does the Senator from Alaska yield to the Senator from Washington?

Mr. MURKOWSKI. No. I respectfully ask my friend from Washington if it is anticipated that the Senator from Washington would require the Senate to invoke cloture on this measure. Might that be her intention?

Mrs. MURRAY. Let me just respond. Again, I was here at 9:30 this morning to object to proceeding to the bill because of the jurisdictional questions I had about whether the bill should have gone to Banking, which I sit on, which does oversee the Export Administration Act. It did not go through that committee, and that is why I voiced those objections.

I then later agreed to go at noon. But I have not had an opportunity to speak to the bill. I intend to do that. I know other Senators do.

I also know there are amendments out there. I cannot give a specific number, or any time, and it will be up to the Senator from Alaska what he determines to do in terms of cloture.

Mr. MURKOWSKI. Evidently, it is understood—I certainly anticipated the Senator from Washington, inasmuch as she initiated the quorum call this morning, I assumed she would speak during that time until noon. But that is her right and I respect that right.

I look forward to hearing her statement and that of my other colleagues at this time.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. MURKOWSKI. The Senator yields the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleagues. I do know Senator HATFIELD from Oregon is going to return to the floor and wants to make a statement, and I will speak until he does get here.

Mr. President, I do rise today to oppose S. 395, which is a bill that, in part, allows the export of Alaskan North Slope crude oil. This issue, at first glance, may appear very simple. Lifting the ban on North Slope oil exports would increase sales and enhance revenues for many Alaskans. However, that additional income for a few of our citizens must be weighed against the concerns of the rest of the Nation.

Job loss, price increases, dependence on foreign oil, and increased environmental risks are all issues that Congress must review—must review—before placing the needs of one State above the concerns of many.

When Congress agreed to develop Alaska's North Slope—ANS—crude oil resources 20 years ago, it prohibited exports of this oil unless the President and Congress find that exports serve national economic and energy security, and other interests. Those conditions were a direct response to the economic chaos and long gas lines created by the Arab oil embargoes of the 1970's.

Since then, our reliance on foreign oil has not diminished. The arguments for retaining the restrictions remain strong. Over the years, Alaska North Slope crude oil has fueled the west coast. Mr. President, 90 percent—90 percent—of Washington State's crude oil comes from the North Slope, and our refineries are operating at 90 percent capacity. The existence of export restrictions has created an extensive transportation, refining, and shipyard infrastructure in our region.

The North Slope has given us a reliable oil supply, carried aboard U.S.-flag vessels. Ships employ Washingtonians in crew and support positions, as well as in ports and ship repair yards.

Today, this secure supply of oil faces a very serious threat. The State of Alaska and British Petroleum, the principal producer of ANS crude, are mounting a major effort to permit ANS exports. They want to remove the statutory restrictions. Removal of these restrictions will enrich both the State of Alaska's coffers and BP's pockets. But it would seriously hurt consumers, jobs, and the environment in this region.

The tankers that transport Alaska oil are repaired on the west coast. If export restrictions are lifted, this work will go overseas. We could lose 5,000 jobs within our own region, and $160 million in annual employment income. This is more than half of the marine industry's total west coast employment.

For shipyards, Alaska's crude oil exports would result in the loss of $270 million a year. More than 2,000 jobs at refineries in my State would be lost.

In addition, the Pacific Northwest would forego most of the $93 million in

annual Federal, State, and local tax payments made by these workers and facilities. Mr. President, 90 percent of Alaskan oil is consumed by west coast refineries owned by Atlantic Richfield, Texaco, and Shell, plus independents such as Tosco and U.S. Oil.

Six of these refineries are in my home State of Washington. Competing against foreign buyers willing to pay premium prices, industry experts predict our refineries either will shut down or be forced to pay a premium price to keep their Alaskan supply, or to purchase substitute foreign crude.

Major oil companies may be able to absorb much of the price increase. But the independents, that own 25 percent of the processing capacity in the Pacific Northwest, will not. They cannot compete with the majors by selling their petroleum products at higher prices. As many as 2,500 people could lose their jobs along with the losses of $100 million in annual payroll income and $500 million in annual tax payments.

My concern for our environment makes the case for export restrictions even more compelling. Congress opened Alaska's North Slope for development only after it imposed strict conditions to protect that region's fragile environment. Moreover, Washington State and other west coast States also enacted laws and regulations to assure the transportation and processing of this oil is done in a manner that will not injure our environment.

With 99 percent of Alaska crude coming through Puget Sound and 94 percent of this carried on U.S. tankers, foreign replacement oil would not only be more costly but would be carried on more environmentally risky tankers. The U.S. Coast Guard rates as high-risk one-half of the current foreign tanker fleet that carries crude through Puget Sound.

Our coastal waters would face an added threat: Increased pollution risks from offshore transfers of crude oil from large foreign tankers to smaller ships that can actually deliver the oil to our six refineries.

Exporting ANS crude on less expensive foreign vessels would lower transportation costs for British Petroleum and raise their profits. It would also raise revenue for the State of Alaska because the State's ANS royalty payment is based on the wellhead price, minus transportation costs. BP would also save money by having its tankers built and repaired in foreign countries. In short, North Slope's oil exports would benefit British Petroleum and increase the Treasury of the State of Alaska, but they are clearly not in the interest of the people I represent.

Moreover, I do not believe exports would meet the statutory tests designed to protect broader national interests. When I weigh the benefits to Alaska and BP against these very serious risks, exports make little sense to me. For the sake of our workers and their families, our environment and our energy security, I urge my colleagues to listen and oppose this bill and any other efforts to lift the export restrictions.

Mr. President, I want to read into the RECORD some of the editorials that have been written in the last several months regarding this bill and the lifting of the Alaska oil ban. The first one comes in the Seattle Times, and it is dated March 3 of this year, 1995.

KEEP ALASKA OIL BAN

The export ban on Alaskan crude oil has served this country well as a domestic source of valuable petroleum. Contrary to the Clinton administration's desires, this is not the time to overturn the ban, nor the time to imply that over-dependence on foreign oil supplies is over.

Oil from the North Slope of Alaska was drilled, pumped and shipped south as part of a massive enterprise intended to tap into a huge domestic reserve. The 800-mile Alyeska pipeline delivers oil to the port of Valdez, Alaska, but it came at enormous cost and large environmental and cultural questions. The most immediate beneficiaries are the residents of Alaska, who receive yearly Permanent Fund checks for the treasure they are sharing with the rest of the country.

Alaska's representatives are all in favor of ending the ban—probably because higher prices could give their state $1.6 billion more in royalties in just four more years. But while Alaskans rightly share in the profits from oil, those North Slope holes have since the beginning been considered a national resource.

Although nothing in the Alaskan oil equation has changed, the political requirements of Southern California have apparently been heard in the Clinton White House.

California refineries are full of Alaskan oil; exporting the oil to its likely buyer, Japan, would stimulate California's own oil fields. Although Department of Energy officials testified motorists would see very little price change at the pump, the very premise of stimulating one region's fields by exporting oil from another region has inherent price risks.

There is something smelly about a plan that sends Alaskan oil abroad when the resource should be carefully used at home. The only reason the U.S. imports foreign oil is to meet domestic consumption. Depleting our own resources because some refineries have too much oil goes against the original argument for opening the fields.

Shipping Alaska's oil abroad carries a new set of environmental questions for the Pacific Northwest as new maritime routes would be opened. That's not the most serious question about dropping the oil ban, but simply another in the long list of unnecessary actions that would result from a misguided White House political strategy.

In addition, the Portland Oregonian, on February 26, 1995, printed this editorial:

[From the Portland Oregonian, Feb. 26, 1995]

KEEP ALASKA'S OIL HERE—LIFTING BAN ON OIL EXPORTS WOULD RAISE PRICES HERE, HURT PORT'S SHIP BUSINESS, INCREASE U.S. DEPENDENCY ON FOREIGN OIL

Congress should sink a bill to remove the 21-year-old ban on exporting Alaskan North Slope crude oil.

Instead of lifting the ban, Congress should support legislation introduced by Northwest Sons, Patty Murray, D-Wash., and Mark O. Hatfield, R-Ore., to extend the export restrictions in the Export Administration Act.

Removing the restrictions that limit the sale of Alaska's oil to domestic markets is being promoted with wildly optimistic promises. Proponents include BP America, Alaska's largest oil producer, independent West Coast oil producers, five maritime unions, the U.S. Department of Energy and the states of Alaska and California.

They say lifting the ban on Alaskan oil exports would stimulate production of at least 100,000 barrels of oil per day and create up to 25,000 jobs, primarily in Alaska and California, while not causing an increase in the cost of motor fuel prices on the West Coast.

Those projections are very questionable. An Energy Department study completed last summer suggested that lifting the ban would create 11,000 to 16,000 jobs (not 25,000). That study also ignored potential job losses in the West Coast ship-supply industry. And it didn't address the potential threat to the economic vitality of the nation's domestic tanker fleet.

Here's a more realistic appraisal of the likely outcome of lifting the ban on exports of Alaskan oil:

West coast gasoline prices would rise. The ban has depressed West Coast crude oil prices by an estimated $2 a barrel because Alaska oil is forced onto a surplus market here.

West Coast oil refiners have enjoyed the world's largest gross margins because of the Alaskan crude's low price. If that oil is withdrawn and exported, don't expect the refiners to swallow their increased costs for replacement crude. They'll surely pass it on to motorists. If the total cost were passed through, it could result in a 7-cent-a-gallon increase at the pump.

Ship repair and maintenance work at the Port of Portland will all but disappear. Proponents of lifting the oil-export ban say it would stimulate shipyard work on the West Coast. Not so, say Port of Portland officials. They say their contractors believe the lifting the ban would kill the shipyard business. Alaska tankers account for about 70 percent of the work now, but Port of Portland officials believe that tanker operators would do most of their maintenance work in Japan and Korea once the ban was lifted.

U.S. dependency on foreign oil would increase markedly, because replacement of much of the Alaskan North Slope crude oil would come from overseas producers.

This comes at a time when U.S. dependency on foreign sources of oil is at an all-time high. About half of the U.S. daily consumption of 17.7 million barrels of oil comes from foreign sources. That's substantially greater dependency than this nation endured before the 1973 oil embargo or during the Persian Gulf War. And government officials predict that imports will represent 59 percent of consumption by 2010.

Lifting the ban on exporting Alaskan crude would add to this dependency and make the nation even more vulnerable to international disruptions.

The gain in maritime jobs is not worth the cost to this nation's security and the adverse effect that foreign-oil dependency has had on foreign policy.

Hatfield and Murray need other Northwest members of Congress to rally behind their leadership on Alaskan oil policy.

Finally, I will read an editorial from The Bellingham Herald called: "Our View."

[From the Bellingham Herald, Mar. 19, 1995]

OUR VIEW—DON'T EXPORT NORTH SLOPE CRUDE OIL

Energy: Using the domestic oil ourselves reduces dependency on foreign supplies, protects jobs.

U.S. Sen. Frank Murkowski, R-Alaska, has introduced a bill to lift the export ban on crude oil from Alaska's North Slope oil fields, Sen. Patty Murray, D-Wash, has introduced a rival bill that would continue the ban.

Murray's bill better protects the best interests, not only of Whatcom County and other regions on the Pacific Northwest where North Slope oil creates thousands of jobs, but of the nation.

It makes little sense to propose exporting more domestic oil when we already depend so heavily on imported oil to meet needs and demands at home.

Murkowski maintains that lifting the ban would net Alaska an additional $700 million from increased oil sales and create as many as 25,000 new jobs there by 2000.

Murray claims that it would cost about 2,000 refinery and ship-repair jobs in Washington, Oregon and California.

Competing regional interests aside, Congress should look at what's in the nation's best interest.

If the export ban were lifted, foreign vessels could be used to transport the crude oil to other nations. That might pose additional environmental risks as well as eliminate American jobs.

Nations such as China are developing industrial and technological-based economies and need more oil. The pressure to cash in on supplying it is intense. Just last week, the Clinton administration had to pressure Conoco to abandon a plan to help Iran develop two large offshore oil fields.

Best that we stay focused on what's in our nation's best interest regarding North Slope crude oil and use it ourselves.

Mr. President, I think all three of those editorials very clearly point out that it is in the Nation's best interests to defeat the proposal that is before the Senate now. It is in the Nation's best interest to do so.

I am going to respond to some of the points that were made by my colleague, Senator MURKOWSKI, earlier particularly because he mentioned some with which I have to disagree.

He mentioned that the unions support the bill as he has presented it.

I would like to read for the Senate who opposes the bill the Senator from Alaska has presented to us:

Communication Workers of America; Industrial Union Department, AFL-CIO; Inland Boatmen's International Union; Longshoremen's and Warehousemen's Union, International; National Farmers Organization; National Farmers Union; Oil, Chemical and Atomic Workers; Steelworkers of America, United; Sailors' Union of the Pacific; United Auto Workers; Citizen Action; Consumer Energy Council of America; American Independent Refiners Association; Huntway Refining Co.; Indian Powerine LP; Kern Oil & Refining; Pacific Refining Co.; Tosco Refining Co.; U.S. Oil & Refining; Western Independent Refiners Association; WITCO Refining Corp.; Atlantic Marine; CBI Industries, Inc., Celeron Corp.; COSCOL Marine Co.; Pacific-Texas Pipeline Co.; Penn-Attransco.

The list goes on opposing this bill: Avondale Industries; Dillingham Ship Repair; National Steel & Shipbuilding Co.; Northville Industries; Port of Astoria, OR; Port of Portland, OR; Shipbuilders Council of America.

Mr. President, these are just a few of the people, including labor unions, who stand strong in opposition to lifting the ban on Alaskan oil. I think some of the unions that have written to me have very clearly defined why they oppose this bill. I again do this because I heard my colleague from Alaska say that unions support this legislation.

Let me read one from the International Association of Machinists and Aerospace Workers written to Mr. Robert Georgine, president of AFL-CIO.

DEAR MR. GEORGINE: I understand that an amendment may be offered * * * to the maritime reform bill that would eliminate restrictions on the export of Alaska oil. We are told Senator Stevens is planning to offer the change when the Senate Commerce Committee takes up the measure.

Our organization strongly opposes this amendment. Exporting Alaska crude oil across the Pacific would place 500 to 800 jobs at the Portland Ship Yard at extreme risk because the ships used to export the oil would be repaired in foreign ship yards, rather than here at home as they are today. The jobs of more local subcontractors also would be threatened as well as several thousand refinery jobs on the West Coast.

The proponents of exporting Alaskan oil are the State of Alaska, which stands to gain increased severance tax revenues from these exports, and British Petroleum, the major producer of Alaskan North Slope oil. The losers in this proposal are U.S. workers, U.S. energy security, and U.S. business.

As you know, the restrictions on the export of this oil have enjoyed strong bipartisan support over the past 20 years. The last time an effort was made to remove the export ban, the effort lost on a 70 to 20 vote.

We strongly oppose this amendment and urge you to do whatever you can to assure that it is not added to the maritime reform bill.

Mr. President, I have a number of letters from other unions: Sailors Union of the Pacific, Boydoco Oil & Atomic Workers, Metal Trade Union, and their message is one and the same, that union members stand strongly in opposition to the legislation that is in front of us.

Another point that my colleague from Alaska made was that the Department of Energy study supported his language in this bill. I want all of my colleagues to understand that the Department of Energy study addressed the concerns of Alaska and California.

I, too, read that report in its entirety, and it does not address the issues that are important to Washington State, to Oregon, and indeed to the rest of the Nation. It is written in perspective as to what will be good for Alaska and California. I think it is very important to point out that the Clinton administration is not in support as was earlier indicated by my colleague from Alaska. The Clinton administration is not in support as the language stands in front of us right now. They believe that several important concerns need to be addressed, including job protection and environmental issues, before they are willing to endorse it, despite the DOE study. So I remind my colleagues this is not supported by the Clinton administration at this time. They have said that they have very serious concerns and are not supporting it as it is presently drafted.

I also would like to point out the environmental concerns because I can speak for the jobs in my State, and certainly the Senator from Oregon, Senator HATFIELD, will speak in terms of jobs from Portland. But the issue that has not been spoken to here is the issue of environmental concern.

I heard my colleague from Alaska say earlier this morning that this bill in front of us is the first step in increasing domestic oil production. I fear, and I feel many of my colleagues fear, that the second step will be lifting the ban on oil drilling off the coast of Alaska, in the Arctic National Wildlife Refuge. ANWR has been a debate on this floor for many years. Allowing oil drilling there has been debated and defeated many times. Many of us fear that this is, as my colleague from Alaska said, the first step, and the second step will be drilling off the Arctic National Wildlife Refuge. And I know most of my colleagues do not want to see that occur. I think that is a real concern particularly since the budget that was passed out of the Budget Committee last week has an assumption in it that in order to get to the balanced budget one of the things we are going to do is allow oil drilling off Alaska. That is how we are going to balance the budget.

So it is a very real concern. We do not need to pass the first step here in this legislation and pass the second step in the Budget Committee, and I will oppose that as adamantly as I oppose the bill in front of us.

I do want to read to this body a letter from the Wilderness Society, Sierra Club, Friends of the Earth, Natural Resources Defense Council, Alaska Wilderness League, and the American Oceans Campaign, because I think it very clearly states for all of us what our environmental concerns should be.

This was written last year, June 23, 1994.

DEAR SENATOR: The Senate will soon be asked to consider an amendment to the Export Administration Act to end the ban on the export of North Slope Alaskan crude oil. We urge you to oppose lifting the export ban for the following environmental reasons:

Ending the oil export ban would increase development pressure for sensitive areas like the Arctic National Wildlife Refuge. It is also likely to increase pressure for oil development in fragile areas off the shores of

Alaska and California. The expanded development pressure would result from expanded markets, increases in the wellhead price of oil per barrel, and faster depletion of North Slope fields. It is a serious concern that lifting the ban could give nations like Japan a vested interest in our natural resource decisions in Alaska. As long as sensitive areas like the Arctic Refuge and sensitive areas offshore California and Alaska are still not permanently protected from oil and gas development, lifting the export ban is a dangerous idea.

Ending the ban is nonsense energy policy. It would be a dramatic reversal of a national policy we thought Congress had long ago resolved. Lifting the oil export ban is inconsistent with any attempt at conservation of domestic oil for domestic use.

No environmental analysis has been done on ending the ban. Lifting the ban would open the door to tankers nearly twice as large. More traffic in Prince William Sound would pose greater risks from spills. Changed tanker routes would make Kodiak Island and the fisheries of the Bering Sea more vulnerable to chronic and disastrous spills.

Ending the oil export ban could increase the flow through the aging and poorly-maintained Trans-Alaska Pipeline. A major audit recently conducted by the Bureau of Land Management said that the pipeline system poses imminent threats to public and worker safety and the environment. Until the government ensures that the more than 10,000 safety problems with the pipeline are repaired, and that the ballast water treatment and air pollution problems at the Valdez marine terminal are resolved, the Congress should not take actions that could increase the environmental and safety risks.

Lifting the oil export ban would increase oil imports into the United States. Because refineries aren't set up to refine the heavier oil produced in California, the Alaska shortfall would be made up by imports which more closely match the Alaska oil density. This means that more foreign-flagged tankers, with less stringent manning standards than U.S. flagged tankers, would be calling on West Coast ports. Because increased imports would be necessary to replace the oil that could now be exported to the Far East, our trade balance would not improve and at the same time we would have less control over our U.S. domestic oil supplies.

Ending the oil export ban breaks the promise Congress made to the American People over 20 years ago. At that time, Congress sacrificed Arctic wilderness and put Prince William Sound at risk of tanker spills, but said that the North Slope oil was only to go to U.S. markets. In 1973, Vice President Spiro Agnew went to the Senate floor to cast the tie-breaking vote which ended the intense debate over approval of the Trans-Alaska Pipeline. The oil export ban was a crucial part of the deal Congress brokered. Congress chose to override pending legal challenges to the pipeline, proclaiming the environmental impact statement to be adequate even though the major issue of risks to the marine environment from tankers was poorly considered.

If Congress breaks the deal now and lifts the oil export ban, foreign oil companies like British Petroleum would reap the largest benefits, and the American consumers would be the biggest losers. It would be ironic for Congress to unravel this deal at the same time as Alaskan jurors found Exxon reckless and as 10,000 fishermen and Native residents finally have their day in court.

We urge you to oppose lifting the ban on exports of North Slope crude oil.

Again, that is signed by the Wilderness Society, National Resources Defense Council, Friends of the Earth, Sierra Club, Alaska Wilderness League, and American Oceans Campaign.

I think this letter very clearly points out to all of us that this is a major step and can put a lot of us at risk and our environment at risk that many of us care about.

It is not a step that should be taken willy-nilly on a Monday, when people are not prepared to think about the long-term, serious consequences. That is why I came to the floor this morning at 9:30 to protest moving to this bill, because it has not gone through the Banking Committee where the Export Administration Act has had jurisdiction over this for a long time.

I do believe we have to look much more carefully at all of the conditions that are put forth in this and all of the consequences that many of us will have to suffer for a long time to come if the Senate, in its haste to get legislation passed, does so without considering the consequences to many of us.

Mr. President, I would also like to read into the RECORD a statement by the Wilderness Society and the Alaska Wilderness League that I think points to what the environmental impacts of ending the ban on Alaska North Slope crude oil exports will cause.

"The Department of Energy's claims about environmental impacts are misleading," which refers back to the DOE study.

DOE hastily included 2 pages of "environmental implications" in its report on the economics of ending the oil export ban which were not supported by any analysis or factual substantiation. The Administration has failed to carry out comprehensive environmental analysis required by the National Environmental Policy Act.

Ending the oil export ban would increase development pressure for sensitive areas like the Arctic National Wildlife Refuge. It is also likely to increase pressure for oil development in fragile areas off the shores of Alaska and California. If the 20-year export ban is lifted, its effects will be long lasting. Expanded development pressure as projected by DOE would result in faster depletion of domestic oil resources. It is naive at best to believe that the oil industry won't battle to gain access to these "off-limits" areas when economic and political factors are right. As long as these sensitive areas are still not permanently protected from oil and gas development, lifting the export ban is a dangerous idea.

Environmental and safety problems plaguing the Trans-Alaska Pipeline System (TAPS) should be fixed before considering lifting the ban. It is true that the same old TAPS infrastructure will continue to be used for exported oil, and increased flow due to the new markets would increase the risks. According to a major audit recently done for the Bureau of Land Management, "the pipeline system poses imminent threats to public and worker safety and the environment." More than 10,000 problems were identified, including "massive violations of the National Electrical Code." The ballast water treatment plant at the Valdez terminal is currently inadequate to handle large volumes of the ballast water which must be removed from cargo tanks before they are filled with oil, and bigger tankers may call at the port if the ban is lifted.

The oil industry should not be rewarded with higher profits from shipping North Slope oil at the same time it is requesting exemptions from environmental laws. Alyeska, which runs the pipeline for British Petroleum and the other oil company owners, has for years avoided limiting air pollution caused by fumes that are released during tanker loading and recently requested a 12-year delay in meeting air pollution standards for the nation's largest tanker terminal at Valdez. Already, air emissions account annually for over 45,000 tons of pollutants such as cancer-causing benzene, and the terminal is the largest source of volatile organic compounds in the nation.

Exports will expose new areas of U.S. coastlines in Alaska to increased risk of oil spills. Changed tanker routes would put Kodiak Island, the Aleutian chain, and the rich fisheries of the Bering Sea at greatly increased risk of chronic and disastrous oil spills. Tankers would still travel through Prince William Sound, placing it at high risk from new spills even as this area still suffers from the effects of the Exxon Valdez. Dumping of the segregated ballast water picked up from foreign ports could introduce exotic organisms that have serious environmental consequences. Lifting the ban would open the door to tankers twice as large.

Serious risks to California's coastal environment have been ignored. Increased imports to California replacing North Slope crude shipments would involve much larger foreign tankers. Because of port and draft restrictions at the refineries, there would be increased risks of oil spills because there would need to be lightering, the transfer of oil from the larger tankers to smaller vessels which bring it into port, and therefore an increased number of times cargo is offloaded. The lightering would be conducted by foreign vessels which are less fully exposed to liability claims under OPA-90 than U.S. companies. Increased refining of California heavy crude would result in increased foreign tanker traffic in California waters to export the byproducts such as residual oil which would be produced in excess of California demand.

Lifting the ban will not help the U.S. meet its commitments to reduce Greenhouse Gas emissions. DOE states thermal enhanced oil recovery in California would increase such emissions, but dismisses the amounts as trivial. However, DOE energy policy should be to achieve further reductions, not to justify increases, in order to fulfill U.S. obligations under the U.N. Framework Convention on Climate Change and to achieve President Clinton's goals in the Climate Action Plan to reduce emissions to 1990 levels by the year 2000.

Mr. President, these are just some of the environmental concerns that we have before us, but they seriously point out the questions that all of us should be asking and have answers to before this ban on oil is lifted from Alaska's North Slope.

Certainly I heard my colleague from Alaska speak this morning about a DOE report and referred to it a number of times as what the basis should be that we vote on, the current amendment before us.

As I indicated earlier, the administration is not supportive of the language as we currently see it before us

on the floor because they do have concerns still about jobs and environmental impact. But I want to read to this body a letter from someone who agrees with me on the DOE report. He happens to be a former adviser to the Governor of Alaska. So he is from that region; he is a former adviser to the Governor.

His name is Richard Fineberg, and he lives in Alaska. He says:

Re Exporting Alaska North Slope Crude Oil.

DEAR SECRETARY O'LEARY: I read with great interest and disappointment your department's report, "Exporting Alaska North Slope Crude Oil." As a former advisor to the Governor of Alaska on oil and gas issues who subsequently prepared several reports for the Alaska State Legislature on North Slope economic issues, I had hoped that your report would answer many important questions about Alaskan oil development. I was disappointed because the report's conclusions appear to be critically dependent on buried, dubious or false assumptions that undercut the validity of the report's conclusions.

Again, I remind the body I am reading from a letter of Richard Fineberg, who is former adviser to the Governor of Alaska. These are his words, not mine:

. . . dubious or false assumptions that undercut the validity of the report's conclusions. For example:

The report asserts that Alaska would gain $700 million to $1.6 billion in revenues between 1994 and 2000 if the ban were lifted, and that under low-price scenarios most of that gain would come in 1994–96. Having prepared numerous reports on North Slope profits, production prospects and Alaska revenues since leaving my position in the governor's office in 1989, I must say that these poorly explained estimates appear to be highly implausible. Moreover, 1994 is nearly two-thirds over and if the ban were lifted, ANS sellers and refiners would then require some time to revise contracts, arrange shipments and reconfigure their refinery outputs. With most of 1994 gone, how much of this theoretical amount remains to be captured and how much is already lost to history? I cannot make that calculation because I read the report from cover to cover but could never discover the bases for the $700 to $1.6 billion estimate.

Again, this is someone who is an expert on Alaskan export of oil.

He goes on to say:

Although there is a known, fixed relationship between federal income taxes and state revenues on ANS production at the DOE study prices, the DOE report inexplicably estimates federal gains to be well outside that predictable range, at $99 to $188 million. This leads me to believe the DOE report either omitted federal income taxes or did not account for them correctly. In either event, it would appear that producer gains (and, consequently, jobs) may have been over-stated because federal tax effects were not considered, and that federal gains may have been understated. This is precisely the kind of ambiguity that would lead a careful reader to view with great skepticism the conclusions of the DOE report.

Regarding incremental North Slope production that might result from lifting the ban, your authors note that "If exports of ANS crude oil raise crude oil prices or save on costs of shipping and handling, the resulting revenues may be invested in oil production-related projects in the geographical areas where the new profits are made. This is particularly true for small companies, but less so for the major integrated companies." (Report, page E-1.) In a footnote, the report states that "The large ANS producers made it clear in our interviews that they . . . would not necessarily reinvest in Alaska the incremental revenues made as a result of exporting ANS oil." The same section presents increased production rates resulting from the "reasonable" assumption "that all incremental revenues for the remaining producers' share is invested in ANS crude production activities that add to reserves" (major producers Arco and Exxon—45% of ANS production—are factored out because their oil is transferred rather than sold, leaving BP as the remaining major producer). Because major producer BP owns 91% of the remaining production, by its own terms the report's key assumption on reinvestment is clearly not reasonable.

The report notes that data "imply that reserve additions in the range of 200 to 400 million barrels could be produced by the investment resulting from exports of . . . ANS crude. Buy comparison, [c]urrent reserves at Endicott and Point McIntyre, major secondary fields on the North Slope, are 262 and 356 million barrels respectively." (Report, at p. 12 and p. 50). For some reason, the report makes no reference to the largest major secondary field on the North Slope, Kuparuk, whose remaining reserves are three times that of the two fields named in the report. Is there a reason for this? The report's second Kuparuk omission referred the reader again to Appendix E—the same place at which the dubious assumptions noted above are supposed to be demonstrated; nothing in that appendix told me whether Kuparuk was included or excluded from your analysis, or why it was omitted from the text.

I am limiting myself here to clearly demonstrable examples because time is short; some in your department seem to be rushing toward a decision on BP's behalf. I write, therefore, to make sure that you are aware that the DOE report released June 30 appears to be laced with significant technical defects. These shortcomings make it difficult for me to accept the conclusions one must adopt to assume the economic benefits your report claims the United States will realize from lifting the ban. The reader is asked to believe that California refinery acquisition costs can go up without affecting consumer gasoline prices, and that ANS will realize a premium in Japan because its product slate matches Japan's needs. While I am not prepared to state that such heroic assumptions are invalid, it is my opinion that this report fails to demonstrate them. These assumptions are contradicted by the Coalition to Keep Alaska Oil's June 1994 report, "Consequences of Exporting Alaska North Slope Crude Oil." I do not presume to know who is correct. But I must tell you that the latter report is strikingly accurate in those areas with which I am familiar. More important, the challenging report is much less dependent on the kind of Herculean and undocumented assumptions required to reach the conclusions in the DOE report.

I will continue reading and remind my colleagues that I am reading from a letter directly about the DOE's study that has been referenced throughout speech of the Senator from Alaska and kept referring to it. I wanted someone who is an expert from Alaska to respond to that. I will read the last of this letter:

The latter report also sets up the background of raising environmental concerns that are casually dismissed by the DOE report: In particular, California supply ports, pipelines, refinery storage facilities and refinery operations appear to be at risk. And, as my colleague Dr. Riki Ott of Cordova, Alaska, has previously advised you, the DOE report also dismisses serious environmental concerns in Alaska concerning the integrity of the Alaska pipeline and marine transportation delivery system. As a long-time Alaskan, I share Dr. Ott's interests in the environmental issues the DOE report fails to address. But it is the manifest shortcomings in the DOE economic analysis that lead me to ask you to base your decision on better data than the report you released June 30.

In sum, I do not believe your department's report provides sound bases for its fundamental conclusions and recommendations. In view of the undiscussed problems associated with lifting the export ban and the absence of convincing support for taking this action, I oppose lifting the ban at this time and request that you address the implications of the DOE report's serious defects before making your decision.

It is signed Richard Fineberg.

Again, I would like my colleagues to know that the arguments in favor of lifting the ban have referenced a report from DOE that I have just read a letter from, an expert from Alaska who says that a lot of the assumptions are incorrect. In addition, the Clinton administration itself does not support the language that is in front of us because it still does not address many of their environmental and job issues.

I also heard my colleague from Alaska speak about the jobs that would be brought if this legislation is passed. I believe he referenced the number 25,000. From the perspective of the State of Washington, we have many people employed in our independent refineries. I know Senator HATFIELD from Oregon will be out here in a few minutes to talk about jobs in his State of Oregon. But while he is on his way, I want to share with my colleagues an article called "Alaskan Oil Exports Will Eliminate U.S. Shipyard Jobs."

There has been some question on whether or not jobs would be eliminated in the United States if this oil ban is lifted. I want to read this study to you by the Portland shipyard Port of Portland:

The recommendation of the Department of Energy study on Alaskan—to lift the twenty-year-old restriction on the exports of that would a eliminate hundreds of shipyard jobs. First, it will cause a severe reduction in the U.S. flag tanker fleet. DOE—

This refers back to the report.

assumes that exported oil will be carried on Jones Act ships, but Senators proposing that the ban be lifted would only require that the oil be carried on U.S. flagships, not on Jones Act ships. This means they need not be repaired in U.S. yards. This means lost of jobs in our shipyards here in the United States.

Mr. President, I note the presence of my colleague, Senator HATFIELD, on

the floor. He is a cosponsor of legislation I introduced earlier. I will yield the floor at this time for him to make his remarks.

Mr. HATFIELD. Mr. President, I thank my colleague from Washington State, Senator MURRAY.

Mr. President, first of all, I want to say we have collaborated on this as between Washington State and Oregon, on the basis of the impact it has on the Northwest, outside of Alaska. I am happy to say, too, that we have been working with Senator MURKOWSKI's staff and we are hoping that we can resolve the problem we have as it impacts upon the Port of Portland. I will address that at a later moment.

First of all, I would like to distinguish between title I of this bill and title II. Title I of this bill provides for the sale of the Alaska Power Administration. I support the sale of the Alaska Power Administration, but I do have strong objections to provisions in this bill which seek to alter, in a fundamental way, a longstanding agreement relating to the Alaskan North Slope crude oil.

Mr. President, for over 20 years, Congress has maintained a ban on the export of crude oil from the North Slope of Alaska transported via the Trans-Alaska Pipeline. This agreement, which is based primarily on national energy security, has given rise to many investments and business expectations. The legislation now before the Senate, sponsored by my good friend from Alaska, the distinguished chairman of the Energy and Natural Resources Committee, would lift this export limitation, thus allowing unlimited export of oil from Alaska.

While I understand and respect the motives of the Senator from Alaska, I must oppose his efforts in this case. I believe it is indisputably in the national interest to maintain our precious remaining supplies of crude oil for domestic use only. To export our Alaska reserves, which account for a quarter of current U.S. consumption, at a time when our reliance on unstable supplies of foreign oil is again in excess of 50 percent, would be damaging to the already fragile energy security situation of the United States.

Again, I want to emphasize that over 50 percent of our consumption is dependent upon foreign imports, and from a very fragile part of the world, geopolitically speaking—the Mideast.

I have long supported the restricting of Alaska North Slope production for domestic use only. Beginning in 1979, I sponsored legislation in several sessions of Congress to extend these restrictions. Each time this issue has come before Congress, these restrictions have been extended with strong bipartisan support. In fact, each time Congress has strengthened the restrictions with respect to Alaska and has added similar restrictions to the export of oil produced in any part of the United States, including offshore oil and oil contained in the strategic petroleum reserve.

I am also aware that sectors of the refining and maritime industries have made substantial investments based on the assurances of Congress that this ban would remain in effect. It would be manifestly unfair to upset these reasonable expectations at this stage.

I should also point out, in order to complete the legislative picture, that Senate bill 414, which I have sponsored with Senator MURRAY, is currently pending before the Banking Committee. Our bill would extend the current export restrictions and is therefore directly contrary to the provisions in the bill presently before the Senate. The Senator from Alaska also has a bill, Senate bill 70, which would also lift the export restriction, and it is also pending before the Banking Committee. I am troubled that the Senator from New York, the distinguished chairman of the Banking Committee, is not present to express his views on these matters before his committee.

In 1973, shortly after the beginning of the Arab-Israeli war and the first oil embargo, Congress adopted the Trans-Alaska Pipeline Authorization Act. And this legislation authorized a construction of a pipeline to move oil from lands belonging to the State of Alaska on the North Slope to a Port at Valdez. The act also amended the Mineral Leasing Act to put in place an export restriction on all oil carried over Federal rights-of-way. Under this provision, exports were only if the President determined exports would be in the national interest, would not diminish the total quantity or quality of oil in the United States and would be done under the licensing provisions of the Export Administration Act of 1969.

A second major oil shock took place in 1979. At that time, in section 7(d) of the Export Administration Act, Congress effectively banned oil exports from the Alaskan North Slope. Congress further tightened section 7(d) in 1985. No rollcall votes have taken place in the Senate since 1984, when this body tabled an amendment offered by my friend from Alaska, Mr. MURKOWSKI, which would have allowed a limited amount of exports at 200,000 barrels per day on U.S. vessels, and the amendment was tabled on a vote of 70–20.

Since the first Alaska oil export restrictions were enacted in 1973, they have provided enduring benefits for our Nation. I speak as someone who has been in the Senate since this ban was put in place and has watched it function. As a result of this policy, we now have an efficient transportation infrastructure to move crude oil from Alaska to the lower 48 States and Hawaii. In addition, these restrictions have helped limit our reliance on OPEC and unstable Persian Gulf oil supplies. They have also allowed us to enhance our domestic merchant marine that continues to help supply the essential oil requirements of our domestic economy and our military.

I have also been in this body long enough to learn quite a few history lessons. And it troubles me that despite two major oil crises and the Persian Gulf war, we continue to senselessly rely on foreign oil as a major energy source. U.S. oil imports now exceed half of our daily oil requirement. Government and private estimates now predict that by the year 2010, foreign oil imports will exceed 60 percent. I consider these levels to be worthy of serious concern. The Clinton administration appears to be aware of the gravity of the situation, but I have not been impressed with the administration's proposals designed to address this growing problem.

It is my belief that permitting the export of any Alaskan North Slope crude would only exacerbate our already serious problem of reliance on foreign oil. By allowing the export of Alaskan oil to Japan and other Pacific rim countries, we would further increase our dependency on Middle Eastern oil, something I strongly believe—and history supports my belief—puts the lives of United States troops at risk. Exporting this oil could have the effect of increasing consumer petroleum costs on the west cost and threatening the vitality of our domestic tanker fleet. Moreover, Alaskan oil exports would cause job losses in the maritime and related ship-supply industries on the west coast. I see no sound policy reason for the Nation to accept these costs.

Our ability to withstand future energy crises will certainly be tested if we fail to take the appropriate steps now to protect our own energy resources. Keeping this important domestic energy source for domestic use only will affirm the policy of keeping this country on the right path toward energy security.

During the 1973 trans-Alaska pipeline authorization debate, and during the numerous debates on exports since the ban was originally put in place, a fundamental issue for me and a majority of Senators has been this Nation's energy security. The Senate spent weeks debating the merits of allowing the construction of the trans-Alaska pipeline and one of the primary concerns and points of debate was how this precious domestic supply was to be used to improve the energy security of the United States.

Remarks at the time by Senator Taft give a sense of the direction of the debate.

It has been stated several times that oil from the Alaskan North Slope will not be shipped to the Midwest. It has also been stated—and feared by many—that a surplus of

crude oil on our west coast will result in the export of this fuel to other countries. It is understandable that Americans would question this action when we are so desperately in need of oil in this country. It is also essential that we not be forced to rely too heavily upon oil from Middle Eastern nations who have stated their intentions to play politics with oil to influence foreign politics.

Recall that in 1973, we were in the midst of an oil embargo and our heavy reliance on foreign oil turned very quickly into an economic crisis and a national security emergency. So I think it is fair to say that the Members of the Senate at that time were very much aware of the dangers of too great a reliance on foreign sources of oil. The Members of the Senate at that time knew, better than probably any other class of Senators since the attack on Pearl Harbor, that oil is an important national, as well as natural, resource. Because of its ability to influence the events of nations, oil differs fundamentally from more benign, local commodities.

In 1973, the Senate was very much divided over whether to allow the construction of the trans-Alaska pipeline, and I recall Vice President Agnew casting the tie-breaking vote on final passage. However, the Senate was very clear about one thing: If approval was to be given for the pipeline, any oil transported through that pipeline was to be for domestic consumption only. The oil was not to be sold to foreign countries. The oil was to enhance the energy security of this Nation by reducing our reliance on foreign imports.

It is clear that we have yet to learn our lesson. This fact is illustrated well by the national oil consumption and supply figures released each year by the American Petroleum Institute. API's reports over the past decade show that domestic oil production has continued to decline, while domestic oil demand has continued to increase by thousands of barrels of oil a day.

In 1970, U.S. crude oil production hit its all-time peak of 9.6 million barrels per day. By 1973, the year of the Arab oil embargo, United States production had fallen to 9.2 million barrels per day. Today, the United States produces about 6.6 million barrels per day, a 28-percent decline since 1973 and a 31-percent decline since 1970. Less crude oil is produced by the United States today than was produced 40 years ago in 1955.

According to projections by DOE's Energy Information Administration, U.S. crude production will continue to decline over the next decade, to 5.4 million barrels per day by the year 2000, 5.2 million barrels per day by the year 2005. The Department of Energy reports that the United States produced 5.2 million barrels per day in 1950. To add some perspective to that number, in 1950, there were 40 million cars on America's highways; today there are 143 million.

This widening gap between domestic production and demand is being filled by an increasing stream of foreign oil imports. In fact, in 1991, the same year this Nation sent its young men and women to war in the Persian Gulf to protect an unstable supply of foreign oil, imports amounted to approximately 45.6 percent of America's domestic oil consumption. That event should have shaken this Nation into a renewed commitment to energy conservation and convinced us to reduce our dangerous reliance on foreign oil. However, our reliance on foreign oil imports has increased from 45.6 percent at the time of the Persian Gulf war to approximately 54 percent today. Experts predict a steady increase, approaching 60 percent, in the coming years.

This significant reliance on foreign sources of oil merits our serious concern and our most thoughtful judgment. Shipping domestic supplies to foreign markets in order to stimulate otherwise marginal U.S. production is not, in my view, a prudent way for us to address the long-term energy security of this Nation. Promoters of the trans-Alaska pipeline disavowed any desire to ever export oil from the pipeline, and if my memory serves me correctly, the senior Senator from Alaska sponsored an amendment to outlaw exports.

In 1973, those arguing that we should export our domestic oil supplies did not prevail because exporting our domestic supplies was not in the national interest. Those arguing for exports are no more persuasive today. Exporting our finite domestic oil supplies is not a prudent method of decreasing our reliance on foreign oil. It was not prudent in 1973. It is not prudent today. It is reverse logic of a very dangerous sort.

By the passage of the 1992 National Energy Act, we now have many of the tools necessary to establish a sound national energy policy. But make no mistake: We have a long way to go to achieve energy independence and energy security in this country. We must commit ourselves to partnership, to consensus, and to cooperation if we are to move our Nation into the role of world leader on numerous energy fronts, including in reducing fossil fuel use and increasing renewable energy technology.

Maintaining the current requirement that Alaskan North Slope crude oil is to be used for domestic purposes only is a vital part of a rational energy policy for this country.

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. 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.

Mr. HATFIELD. Mr. President, I have tried to outline my position in a general sense and then, in the historic context, the development of this legislation.

I would like to turn now from the general to the specific. The Senator from California, a while ago on the floor, was raising the questions about the impact upon jobs and upon the local economy—in California and other west coast cities. I would like to further that discourse by referring to my own State of Oregon, and its relationship to Washington State, because the Port of Portland serves both sides of the Columbia River and the employees of the Port of Portland, many of them, traverse the bridge between the two States and their full-time employment is in the State of Oregon. We have a lot of exchange between Vancouver, WA, and Oregon, the city of Portland.

Based upon the export restriction policy established by Congress in 1973, an infrastructure has been developed to transport, refine, and deliver massive amounts of domestic crude oil to American consumers. In the State of Washington, refineries were built by integrated oil companies and independent refiners to process Alaskan crude. The infrastructure required to receive this type of crude oil and deliver it to marketers was also developed. In my own State of Oregon, facilities were built or expanded to repair the dozens of Jones Act tankers that carry this oil. In the State of California, refineries were built or expanded, a new pipeline from Long Beach to Texas was built, and shipyards were expanded to build and repair tankers in the Alaskan trade. A pipeline was built across Panama to provide for the more efficient transportation to gulf coast ports of Alaskan crude that could not be consumed on the west coast. Jones Act oil tankers were built to transport the oil to end-use markets. Each of these infrastructure investments was encouraged by Congress as part of its central policy objective: increased energy security through the domestic use of this important oil supply.

This relates to another point that I mentioned earlier in my remarks, and upon which I shall now expand. This point is less related to energy policy and more related to fairness.

In direct reliance on this act of Congress that put the export restriction in place, and on the enthusiastic encouragement of the Federal Government, the citizens of Portland, OR, undertook a major investment. They voted to tax themselves $84 million to fund a major expansion of the Portland Ship Repair Yard. This expansion program included acquisition of the largest floating dry dock on the west coast. This dry dock is specially designed for the large oil tankers that haul oil from the Trans-Alaska Pipeline. These vessels are known as the Alaskan North Slope very large crude carriers [VLCC's].

Of the $84 million initially borrowed to complete the facility, $50 million remains to be paid. It is very likely that this facility, which accounts for 500 to 800 family wage jobs, will not continue to be viable if the bill currently before the Senate passes and the export ban is lifted. Exports will provide ship owners with a greater economic incentive to have ships repaired in the low-cost East Asian shipyards.

Mr. President, $84 million is a great deal of money to taxpayers in Portland. This was not an investment based on a Federal handout, but rather, it was a city of moderate means putting its own credit and ingenuity on the line to invest in a facility of integral importance to a stated Federal objective. It took a great deal of courage for Portlanders to make that investment. But it was not a blind venture. It was based on a great deal of encouragement by Federal officials that such a facility was a necessary part of the long-term plan for the Alaska Pipeline trade.

Let me share some of the rhetoric of the time. I believe it is helpful in understanding why the citizens of Portland made this significant investment and why it would be highly unfair to abruptly change the rules at this point.

After it became apparent that the oil would be used for domestic purposes only, proponents of constructing the pipeline made a very strong case for the benefits such a pipeline would have for the U.S. maritime industry, and in particular their expectation that the various components of the maritime industry would play a vital role in accomplishing the broad national objectives that construction of a trans-Alaska pipeline was designed to achieve.

Commerce Secretary Maurice H. Stans was in the forefront of Nixon administration officials in advocating approval of the pipeline. In addressing the Seafarers International Union of North America in June 1973, Secretary Stans said the pipeline would help revive U.S. maritime strength. A trans-Canada pipeline was an option being seriously considered at that time, and Secretary Stans argued to the group that a pipeline across Canada would "eliminate all the great maritime opportunities that the Alaska line would provide." The Seafarers agreed and approved resolutions endorsing the trans-Alaska route and another resolution re-endorsing the Jones Act.

Andrew Gibson, Assistant Secretary of Commerce for Maritime Affairs, visited Portland, OR, in May 1973, and made the following remarks to the Propeller Club, a group of maritime interests:

> We have estimated that with the completion of the Alaska Pipeline, a fleet of approximately 30 new U.S. tankers would be added to the American merchant marine to transport the oil from southern Alaska to the West Coast. The construction of these vessels at an estimated cost of $1 billion would give an added stimulus to our shipbuilding industry and would provide approximately 48,000 man-years of work in the U.S. shipyards and allied industries. Manning and maintaining these vessels would create many additional permanent maritime jobs, while the estimated annual operating and maintenance cost of $30 million would provide added employment in the related service industries.

The debates in Congress added further substance to the understanding that the maritime industry was being called upon to play an important role in the success of the trans-Alaska pipeline. The assumption that this supply was for domestic use only is pervasive. Congressman YOUNG made the case in the House:

> In the maritime industry, 35 tankers will be employed in the fleet required for transporting the oil to the west coast ports. Twenty-seven of these ships remain to be constructed. It has been estimated by the Maritime Administration that the construction of these ships will create 73,500 man-years of labor in shipyards and supporting industries. Maintenance of the fleet will generate 770 permanent jobs in the Nation's shipyards.

In the Senate, Senator STEVENS made a similar statement:

> The trans-Alaska pipeline will particularly aid several vital American industries which are currently depressed. For example, the American maritime and shipbuilding industry will be helped greatly. Alaskan oil must be carried in American-bottom ships under the Jones Act. At least 27 new tankers must be constructed; 73,480 man-years of shipyard employment will be created; 3,800 permanent jobs will be created to run and maintain this new, modern tanker fleet. This will result in more than $1.0 billion for America's shipbuilding industry. This is an industry that has, for some time, been at a competitive disadvantage because of lower costs from foreign competition.

As I read these statements, I can well understand why the citizens of Portland believed they were being given assurances that there would be continuity if they stepped forward to participate in this new venture of national importance. To now lift the export restriction and ask the taxpayers of Portland to take a $50 million loss on a shipyard that is now of questionable utility is imposing a great unfairness. This is an unfairness that I cannot allow.

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. BREAUX. 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. BREAUX. Mr. President, I inquire of the chair and also the floor managers. What is the pending business of the Senate? I would like to make some comments on bill S. 395.

The PRESIDING OFFICER. The pending question is the Murkowski amendment 1078 to S. 395.

Mr. BREAUX. Mr. President, is it in order for me to engage in debate on the pending legislation at the present time?

The PRESIDING OFFICER. It is.

Mr. BREAUX. Mr. President, with that understanding, I would like to make some comments on S. 395.

Mr. President, I rise in support of the provision included in S. 395 which would lift the ban on the export of the Alaskan North Slope crude oil so long as such oil is carried on U.S.-flag vessels.

This amendment would reduce our trade imbalance and raise $99 to $180 million in revenues for the U.S. Treasury. It would also create an additional 10,000 to 25,000 new jobs and would certainly spur domestic energy production.

In 1973, Mr. President, shortly after the first Arab oil boycott, Congress adopted this ban, and since then the domestic and world energy markets have dramatically and significantly changed. Today, the export ban diminishes our energy security because it artificially depresses wellhead prices on the west coast, making it uneconomic for domestic oil producers to invest in marginal operations.

Mr. President, a Department of Energy study confirms that lifting the ban on Alaskan crude oil would improve domestic energy security by encouraging domestic exploration activities. DOE estimates that domestic production will increase between 100,000 and 110,000 barrels a day if the ban is lifted.

In addition to increasing domestic production, this bill will also help to stabilize the decline in the size and vitality of the domestic merchant marine.

By authorizing the exports of Alaskan oil on U.S.-flag vessels, we can help preserve a vital element of our domestic merchant marine, and we can do so without subsidies from the American taxpayer and without measurably increasing any risk to the environment.

Mr. President, in 1990, Congress overwhelmingly supported enactment of the Oil Pollution Act. That legislation ultimately will require all oceangoing tankers plying our waters to be built or rebuilt with a double hull. It already ensures that American flag and foreign flag tankers will continue to be subject to the same strict safety requirements. And since December 28 of last year, it has imposed substantial financial responsibility requirements for all tankers entering U.S. waters.

Last year, the Department of Energy conducted an extensive study of the likely effects, including likely environmental implications, of changing the current law. The Department, and I quote:

> Found no plausible evidence of any direct negative environmental impact from lifting the ANS export ban.

By and large, Mr. President, the same U.S.-built, U.S.-owned, and U.S.-crewed vessels that carry Alaskan oil to market today will continue to carry the crude to market tomorrow with a change in policy. The same skilled merchant mariners will continue to man the vessels. Current Department of Defense and Department of Transportation projections indicate that we are facing a critical shortage of trained mariners capable of manning the ready reserve force. This bill will help ensure that we will continue to have a reservoir of capably trained mariners sufficient to man our reserve fleet in time of national emergency. And our Nation will continue to have access to a fleet of environmentally safe and militarily useful vessels that otherwise are destined to be converted into razor blades.

By enacting this bipartisan legislation, we can help ensure the continued existence of the largest segment of our domestic merchant marine. Let us demonstrate again that we can work together to help promote our energy security, our national security, and at the same time preserve jobs.

Mr. President and my colleagues, I will just add a couple of remarks and point out that again this ban was enacted at a time when this country literally was on its knees from the standpoint of energy requirements. The Middle Eastern oil nations had banded together to form cartels which restricted amounts of oil being exported to the United States in particular.

We all remember the long lines that occurred in the 1970's when people had to wait in line to buy gasoline for their automobiles and vehicles. Everyone in America wanted Congress to do something about it. One of the things that we did was to say, all right, we are not going to allow any of the Alaska North Slope oil exported to other countries. We are going to keep it right here.

Mr. President, I think we probably acted with some degree of haste in taking that action and in thinking that by doing so we were somehow going to increase the domestic production. I think in reality we should all understand that oil is a commodity which can be traded all over the world; that, indeed, many ships that are plying the oceans filled with oil are sent to different ports in the middle of a voyage depending on the need because the price is better in one area or the need is greater in another area or for whatever economic determination that is made.

So the point is that oil is traded on the world market according to need and price. If we can, indeed, take some of the crude oil in Alaska and sell it at a better price in overseas markets, we should be allowed to do that. The price return will allow greater domestic production in areas of the United States where that production can occur.

I am a Senator from the State of Louisiana. I have nothing to do with oil, of course, that is produced in Alaska. But I think this is good policy for my State, for the State of Alaska, and indeed for all of the States in the United States. I think it will increase production, and it will not do damage to any part of our Nation. It is good economic energy policy for the future of our country.

Mr. President and my colleagues, I hope we would move on this. It should be relatively noncontroversial. I know some Members have legitimate concerns, and they will be heard, but I think we should move forward, debate the issue, vote on this legislation, and ultimately we should adopt it as good energy policy.

Having said that, Mr. President, seeing no one else seeking recognition at the moment, I would suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, I further ask unanimous consent to proceed as if in morning business.

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

MORE POLICE ON THE STREETS

Mr. DEWINE. Mr. President, I rise this afternoon to continue my discussion of the crime bill that I intend to introduce this Wednesday.

As I previously pointed out, there are really two basic questions that we need to address in the area of crime whenever we try to determine whether a crime bill is good or whether it is not good, whether it does the job or whether it does not do the job.

The first question is: What is the proper role of the Federal Government in fighting crime in this country? The second is: What really works in law enforcement? What matters? What does not matter?

Last Wednesday, I discussed these issues with specific reference to crimefighting technology. The conclusion I reached was that we have an outstanding technology base in this country that does a great deal and will continue to do a great deal to help us catch criminals.

Technology, Mr. President, does in fact matter. But we need the Federal Government to be more proactive, more proactive in getting the States on line with this technology. Having a terrific national criminal record system or a huge DNA database or an automated fingerprint system or huge DNA database for convicted sex offenders in Washington, DC, is great; it is nice. But it will not do much good if the police officer in Hamilton, OH, or Middletown, OH, or Cleveland, OH, cannot tap into it, cannot put the information in, and cannot get the information back out.

My legislation would bring these local police departments on line. It would help them to contribute to and benefit from the emerging nationwide crimefighting database.

On this past Thursday, I discussed what we have to do to get armed career criminals off the streets, those who terrorize us, terrorize their fellow citizens with a gun. I talked about a program called Project Triggerlock that targeted gun criminals for Federal prosecution. My legislation would bring back Project Triggerlock and toughen the laws on gun crimes in many other significant ways. We have to get these armed criminals off the streets.

On Friday, I talked about the long neglected needs of crime victims. In too many ways, our legal system treats criminals like victims and victims like criminals. We have to stop that. My legislation contains a number of provisions that would make the system much more receptive to the rights and the needs of crime victims.

Today, I would like to turn to another item. I would like to talk about what we can do to put more police officers on the street, and to put more police officers into our highest crime areas. Make no mistake, the evidence is clear, putting a police officer on a street corner in a dangerous neighborhood will reduce crime. We are looking for what really works, and putting police officers on the streets is a proven strategy that works. It is a plain fact, if you put a police officer on the street, crime will go down.

The President is right in this respect, and he is to be commended for understanding that there is, in fact, a direct or actually inverse relationship between the number of law enforcement officers who are deployed correctly in the neighborhood and the amount of crime that exists in that neighborhood.

That is why the President last year asked for $8.8 billion in Federal funding for police officers. We do need more police; he is correct. Police officers deployed correctly matter. They do make a difference.

But, Mr. President, I believe that we can improve on President Clinton's plan, and there are three major shortcomings I believe that exist in the President's plan that we ought to address in the Senate. Let me list them:

First, the administration's plan spreads the $8.8 billion far too thin. It does not target the funding for police officers to the most crime-ridden areas where the funding is most needed. Instead, it spends money on extra police officers even—even—in extremely low-

crime areas. That just does not make sense.

Second, the administration is not paying for the full cost of the extra police officers. The Clinton proposal pays for only 75 percent of the police officers and asks local communities to come up with the remaining 25 percent.

Third, the Clinton plan provides the money for only—only, Mr. President—3 years.

I think that these problems I have just listed with the Clinton administration proposal can be fixed fairly easily. As part of the comprehensive crime legislation I intend to introduce on Wednesday, I will be including my proposals on how we should fix these problems, and here is what I propose:

First, I propose to pay for the police officers and to pay for them in full, 100 percent. Under my proposal, we will send $5 billion over a period of time to the local communities for new police officers. Those police officers will be fully funded 100 percent, not just 75 percent, as envisioned in the Clinton plan.

Second, we will fund these police officers for 5 years; 5 years, not 3 years, as envisioned by the Clinton proposal.

Third, and probably most significant, my proposal will target these funds where they are needed the most. Under the Clinton plan, really crime-threatened communities are deprived of the full contingent of police officers they really need. For example, under the administration proposal, a high-crime community, such as Chicago, has received 300 police officers so far, and those 300 are not even fully funded. They are funded at 75 percent. My legislation would put 2,100 new police officers on the streets of Chicago and would pay for them in full.

I can cite example after example. Let me just give one from my home State. Youngstown, OH, is another city with a very serious crime problem. Under the Clinton plan, it has received a total of 10 new police officers. I think, however, to make a real difference in a crime area, we need to do better than that. Under the formula that is contained in the bill that I will introduce on Wednesday, there would be a total of 58 new police officers on the streets of Youngstown. We would go from 10 under the Clinton plan to 58 under my plan, and the way we are able to do that is because we are targeting the money to go to the areas where the crime is the worst. It only makes sense that when we are dealing with scarce Federal dollars, those Federal dollars should be targeted specifically to the areas where our citizens are most in danger.

My proposal would put the dollars for police officers where police officers are needed the most. We are targeting the 250 most crime-infested cities in America. We will succeed in getting those police officers on the street. In a community brutalized by rampant crime, the police officer is truly an ambassador of law and order. The police officer is a living, breathing confirmation of America's resolve to defend civilization from those who want to turn our country into a wasteland of stealing, raping, and killing.

The police officer is a soldier of justice, and like any other soldier, the police officer, to be most effective, needs to be sent where the enemy is. The enemy is anyone who does a drive-by shooting or rapes someone or commits any other kind of brutal act.

Mr. President, anyone who watches TV or reads the papers knows where the enemy really is. My bill would make sure that the police officers are deployed where they are needed the most. My bill would pay for them in full.

This is what it will take. This is what it will take if we are serious about taking back our streets.

The American people are, quite frankly, losing patience with violent crime. They are losing patience with the syndrome that my distinguished colleague, the senior Senator from New York, calls defining deviancy down.

There is a consensus out here, Mr. President, that we will not allow our country to become a place where violent crime is considered normal. I think that putting these police officers on the street—and paying for them in full—will be a major symbol of our national resolve.

My legislation, Mr. President, would spend $5 billion on these police officers, target them where they are needed the most, and pay for these police officers in full.

The Clinton administration plan included $8.8 billion as partial payment for police officers, with their deployment of police officers being spread throughout the country and spread among many, many areas where crime is not that serious.

Tomorrow, Mr. President, I will discuss what we can do with this extra $3.8 billion, and specifically how we can use block grants to give local communities the flexibility they need to use that $3.8 billion as effectively as possible. And then on Wednesday of this week, Mr. President, I will be introducing my comprehensive crime bill.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

TERMINATION OF THE HELIUM AND OTHER PROGRAMS

Mr. FEINGOLD. Mr. President, I want to take a few moments to praise both the House and Senate Budget Committees for including in their budget assumptions termination of a relatively small program, the helium reserve program. The Budget Committee materials assume a $27 million savings over 5 years from termination of the helium reserve program.

As the budget debate unfolds in the House and Senate in the coming week, there will certainly be considerable debate over programs of enormous magnitude—programs with budget outlays in the billions, not millions. Although the Budget Committee materials assume a $27 million savings from termination of the helium reserve program, the actual savings will be significantly higher as the Federal Government sells off the existing helium reserve over a period of time that will not disrupt the private helium market, as well as terminates the program itself. The Federal Government is currently stockpiling enough helium to meet its needs for the next 80 to 100 years. In order to make sure that the taxpayers get a fair price for this helium, the reserve needs to be sold over a period of time to make sure that we do not inadvertently cause the entire market price for helium to fall needlessly. CBO has estimated that we can, at current market prices, eventually recover between $1 and $1.6 billion by this sale.

It is not just the current $27 million in savings but a long-term savings by in effect privatizing this area of our Government.

I introduced legislation, S. 45, to terminate this program on the first day of the 104th Congress. I am pleased to report that this legislation has gained bipartisan support and that it has been cosponsored by the Senator from Iowa [Mr. HARKIN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Nevada [Mr. REID], the Senator from Arizona [Mr. KYL], the Senator from Arkansas [Mr. BUMPERS], the Senator from Colorado [Mr. CAMPBELL], and the Senator from South Dakota [Mr. DASCHLE]. On May 1, 1995, the Senator from Wyoming [Mr. THOMAS] introduced similar legislation to terminate the program, joined by the Senator from Idaho [Mr. CRAIG], the Senator from Minnesota [Mr. GRAMS], the Senator from North Carolina [Mr. HELMS], the Senator from Virginia [Mr. WARNER], and the Senator from Alaska [Mr. MURKOWSKI]. Thus, 15 Members of the Senate, 8 Republicans and 7 Democrats have sponsored legislation to terminate the program. Moreover, President Clinton on January 24, highlighted termination of the helium program in his State of the Union Address as an example of the kind of Federal spending that could no longer be justified.

Mr. President, I have previously spoken on the Senate floor about why termination of the Helium Reserve Program is particularly appropriate today in light of the growth of a private helium industry which can more than adequately supply the needs of the Federal Government for this product.

The Helium Reserve Program, like many programs which are the target of today's deficit reduction efforts, began decades ago when there was a reason for the Federal Government to become involved in this area. In the case of helium, the program dates back to the time of President Woodrow Wilson. The Helium Act of 1925 was enacted at a time when observation balloons were thought to have strategic merit. It was expanded under the Eisenhower administration when blimps were being used to spot enemy submarines in the Atlantic and to meet the needs of the fledgling space program. Since that time, however, a private domestic helium industry has developed and as of 1995, 90 percent of the helium produced in this country does come from private operations.

Now, Mr. President, it is time to terminate the Federal helium program. With the kind of bipartisan support that is now behind this effort, this would seem like a relatively easy task to accomplish during this budget cycle.

I hope it will be, but I am not overly confident, given the history of this program and similar programs. Even with the endorsement of both Budget Committees, bipartisan support in Congress, and the backing of the administration, terminating any Federal program, large or small, is never easy.

The Helium Reserve Program was targeted for termination by the Reagan administration, by the Bush administration, and now the Clinton administration. Nonetheless, it survived. The Washington Post, in an article published February 7, 1995, entitled "Odorless, Colorless—and Hard To Kill" outlined the history of efforts to terminate the helium program and describe it as a "tale of yet another federal government program that has had more than nine lives." Perhaps 1995 will be the year that these efforts succeed. I certainly intend to work to see that happens.

But I think we need to look at the survival of these kinds of programs in a broader context.

In the last Congress, we terminated another program, the Wool and Mohair Subsidy Program, that was started in 1954 when wool was considered to be a strategic material. The program lived on and on long after the original purpose had ended.

Unfortunately, even though this was a relatively small but important piece in the President's overall $500 billion deficit reduction plan, I have just learned that there may be yet another attempt to try and revive this program now that we finally finished it off. I certainly hope that does not happen.

I have 2,000–3,000 sheep growers in Wisconsin who did not like it when I introduced legislation in the last Congress to terminate this program, but I also know that many of them recognized that it was difficult to continue that subsidy in light of our deficit problems. I also worked with this industry to get legislation enacted during the 103d Congress to enable them, working together, to set up a producer-funded promotion board to help increase sales in the marketplace for their product. I believe that it is very important as we terminate Federal spending programs that we do it in a way that is sensitive to the needs of the communities and individuals who have been dependent to some degree on continuation of these programs.

So that process appeared to have worked. We cut the subsidy, but we worked together to find a way to, through producer supported programs, promote the product. They made them less dependent on the Federal Government and yet we were able to move forward for their product. But we have to end many of these programs if we are going to make meaningful progress in reducing the deficit and achieving a balanced budget.

Mr. President, as one former President once said, "Not all spending initiatives were designed to be immortal." At least I hope they were not. Yet, we have all learned in one way or another how difficult it is to terminate a Federal spending program.

I recall during the last Congress a debate over whether a NASA program originally entitled SETI—Search for Extraterrestrial Intelligence—which had been terminated had been revived under a new name. That is another demonstration of how difficult it is to actually end any Federal program. I recently had an interesting experience in attempting to terminate a program in my own State—Project ELF, a cold war relic that I believe no longer serves any significant strategic purpose.

The Senate recently voted unanimously to terminate Project ELF as part of the DOD rescission bill. The program survived, somehow, in conference, however, on the grounds that some new purpose justified its continuation. I am not satisfied that there is a meaningful reason for continuing to spend millions of dollars each year—in this case, about $16 million each year—on this program.

I am just going to have to continue my efforts to try to eliminate that, although I thought we finally had it in the Senate.

During the debate over the balanced budget amendment, I discovered that another program that is high on many deficit-reduction lists, the Tennessee Valley Authority, was going to receive special protection.

The Senate committee report on the balanced budget amendment created what could be called constitutional pork by singling out TVA as a program that would somehow not be affected by the proposed amendment, while everything else would be. I add that the House Budget Committee has assumed termination of TVA as part of its budget resolution.

I believe this is the direction we should be headed with regard to the program which has a long and significant history, going back to 1933 when it was first created. Mr. President, 60 years later we have to question whether the Federal Government should continue to operate and fund this particular program.

In this regard, I have introduced legislation, S. 43, to phase out funding for TVA and thereby reduce the deficit by about $600 million over 5 years. I know that this legislation and termination of Federal funding for TVA will again be strongly opposed by those who benefit from the program, and this, too, will be a hard fight.

Mr. President, I mention these various programs that in total amount come to millions—not billions—each year because I think they illustrate one of the problems that confronts Congress as we attempt to reduce the Federal deficit. The cumulative total spending on so many of these smaller programs does add up to significant budget cost. Each one standing alone may not be an overwhelming burden on the taxpayers, but taken together, they are a major part of the problem.

Yet, Mr. President, my experience in the past 2 years has indicated that it takes almost as much effort to rein in spending on these relatively small programs as it does to tackle the big-ticket programs. The advocates for the smaller programs work just as hard to preserve them, and they are often quite effective in those efforts.

Mr. President, I think we all know that reducing the Federal deficit and achieving a balanced budget will take a great deal of discipline and hard work. I am delighted that both of the Budget Committees have identified the Helium Reserve Program as being appropriate for termination in this budget cycle, and I am prepared to work with other Members of the Senate again on a bipartisan basis to enact legislation that closes down this outdated program in a manner that will help reduce the Federal deficit.

Mr. President, I realize there is a lot of partisan rhetoric that goes with any budget resolution. This one is no exception. I want to again take this opportunity, as I did Friday with regard to appropriate Medicare cuts, to signal my desire to work with the majority party to find the cuts that will actually lead to that balanced budget by the year 2002 and to make sure as we do it that we look at both the small and the big programs so we balance the budget not only for the year 2002, but that we can achieve a virtually permanent practice that is not existent here, which is to have a permanent commitment to have a balanced Federal budget into the future. I yield the floor.

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

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

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on Calendar No. 101, S. 395, Alaska Power Administration bill.

Frank H. Murkowski, Hank Brown, Jon Kyl, Conrad Burns, Thad Cochran, Larry Pressler, Pete V. Domenici, Strom Thurmond, Ted Stevens, Trent Lott, Rod Grams, Dirk Kempthorne, Craig Thomas, Bill Frist, Dan Coats, Orrin Hatch.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL, 1995

Mr. D'AMATO. Mr. President, I rise today to honor the men and women who gave their lives so that we may be protected.

Aware of the dangers that face them every day, law enforcement officers carry out their duties to protect the lives of others. Too often, their own lives are lost. Unfortunately, this year, 298 additional names will be carved into the National Law Enforcement Officers Memorial, here in Washington, DC. It is only fitting that on this day I pay tribute to several New York law enforcement officers who died in the line of duty.

On March 15, 1994, Officer Sean McDonald was brutally slain while on duty in the 44th Precinct in New York. His murder occurred as he attempted to save two people from a robbery attempt. In a few short moments, with a series of gunshots, these ruthless cowards stole the life of a dedicated police officer, husband, and father.

In a similar incident on May 20 of 1994, a perpetrator fatally shot Investigator Ricky J. Parisian, a devoted officer in Oneonta, NY. Investigator Parisian's life was abruptly ended when the robber he was struggling with shot him. He was 34 years old.

Several other names will also be added to the memorial. The names to be added include law enforcement officers who were also killed in the line of duty in 1994. These officers include: Police Officer Nicholas DeMutis of the New York City Police Department who was killed on January 25, Police Officer Jose Perez of the New York City Police Department who was killed on April 27, Police Officer John J. Venus of the Suffolk County Police Department who was killed on November 20, and Police Officer Raymond R. Cannon, Jr., of the New York City Police Department who was killed in December 1994.

The memorial will also hold the names of officers who died in the line of duty before 1994 but were not listed until this year, including: Police Officer John Cahill of the Haverstraw Village Police Department, Police Officer Francis J. Donato, Jr., of the New York State Park Police, Police Officer John Bauer of the Cheektowaga Police Department, and Sgt. David C. Pettigrew of the Freeport Police Department.

On this day of remembrance, I would like to recognize the heroic service of officers across the United States who risk their lives each and every day, in every city, county, and State in this country, so that we may live in safety.

The National Law Enforcement Officer Memorial was dedicated in 1991 and presently holds 1,293 names. This memorial is a way to express our Nation's appreciation of law enforcement officers and their efforts to fight crime and protect our families.

This year's memorial observation is also an opportunity for this Congress to renew our pledge to make our communities safer. By passing legislation that will require tougher sentences for convicted criminals, this Congress can do its part. If law enforcement officers can patrol our streets, risking their lives, then the least we can do is make sure that these criminals are not back on the streets before they have fully served their time.

HONORING DANIEL S. MOHAN, HERO OF THE YEAR

Mr. ASHCROFT. Mr. President, today I rise to honor a Missourian who has distinguished himself through his bravery beyond the call of duty and earned the National Association of Letter Carriers' Central Region Hero of the Year Award. Daniel S. Mohan is a letter carrier from St. Claire, MO, who took actions well beyond trudging through rain, sleet, snow, and dark of night to complete his appointed rounds.

Daniel Mohan was driving on his postal route in St. Claire when he heard shots. Soon after, a woman ran screaming from her house and fell wounded on her driveway, the victim of three gunshot wounds, including one to the face. Mr. Mohan raced from his truck and pulled the victim to safety behind his postal vehicle located across the street as her assailant was coming out of the house in pursuit. Daniel's presence at the scene discouraged the gunman who returned to the house and surrendered to authorities soon after. The victim of the shooting was later treated at a local hospital's intensive care unit, and continues to undergo reconstructive surgery. But as Tom Yoder, Police Chief of Saint Claire acknowledged, this woman would not be alive if not for the valiant efforts of Daniel Mohan.

For his efforts, Daniel Mohan has been honored by the National Association of Letter Carriers as its Central Region Hero of the Year. In a time when we hear of events of violence going on in public view without a single person acting to stop egregious actions, Daniel Mohan's bravery and self-sacrifice is truly a model to be followed.

Edmund Burke said, "The only thing necessary for the triumph of evil is for good men to do nothing." Mr. President, it is my hope that the heroic actions of this Missourian would become the norm, not the exception when we speak of how we as Americans should act toward our neighbors.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, more than 3 years ago I began making daily reports to the Senate making a matter of record the exact Federal debt as of close of business the previous day. In the instances of my Monday reports, the information related to the close of business the previous Friday.

As of the close of business Friday, May 12, the exact Federal debt stood at $4,859,130,274.89, meaning that on a per capita basis, every man, woman, and child in America owes $18,445.34 as his or her share of the Federal debt.

It is important to note, Mr. President, that the United States had an opportunity to begin controlling the Federal debt by implementing a balanced budget amendment to the U.S. Constitution. Unfortunately, the Senate did not succeed in its first opportunity to control this debt—but there will be another chance during the 104th Congress.

POST-CLOSURE OF MILITARY BASES

Mr. PRYOR. Mr. President, on March 16, 1995, the Defense Base Closure and Realignment Commission conducted a hearing to explore the Federal Government's response to the economic trauma of military base closings. This hearing on so-called post-closure matters was extremely useful in assessing the challenges facing communities that will lose a base this year, and I applaud the Commission's able Chairman,

former U.S. Senator Alan Dixon, for his leadership in this regard.

At the request of Chairman Dixon, I am submitting into the CONGRESSIONAL RECORD various documents outlining the positions of several community organizations concerning recommended improvements to the process of closing and redeveloping military bases.

Mr. President, I ask unanimous consent that information supplied by the U.S. Conference of Mayors, the National Association of Installation Developers, the National Association of Counties, and others, along with a copy of my statement at the March 16 hearing, be printed in the RECORD.

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

STATEMENT OF SENATOR DAVID PRYOR BEFORE THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, MARCH 16, 1995

Mr. Chairman and distinguished members of this Commission, I appreciate the opportunity to testify before the 1995 Base Closure Commission on the important subject of redeveloping closed military installations.

First, I applaud this Commission and its Chairman for having the vision and courage to address an issue that previous Commissions declined to confront; the issue of helping local communities rebound from the economic trauma of losing a military base.

By also focusing on so-called post-closure matters, some may feel that this Commission is straying too far from its nest. I, however, disagree with this notion. This Commission can fulfill its base closure responsibilities while at the same time, fulfilling its moral responsibilities by recommending ways to assist those who will be devastated by your actions and findings.

Distinguished Commissioners, we are about to complete our fourth and final base closure round. We have learned many lessons from the first three. The most obvious lesson is that base closings hurt.

Mr. Chairman, like yourself, I am personally aware of the pain caused by base closure announcements. The 1991 Commission closed Eaker Air Force Base, a B-52 SAC base located in Mississippi County, Arkansas. They also took away a majority of the work at Ft. Chaffee near Ft. Smith, Arkansas. Now this Commission must determine whether to close Ft. Chaffee, as the Army has recommended, and whether to close Red River Army Depot, located in the town of Texarkana on the Arkansas-Texas border.

For many cities where military bases are located, the military is the largest employer and the loss of a base can cause an economic tailspin. Such would be the case at Red River Army Depot, which accounts for 10 percent of the local economy in Texarkana.

To be certain, base closings are painful.

The first three base closure rounds have also taught us that the task of replacing lost military jobs through the civilian redevelopment of closing bases is difficult, costly, and often slow in producing good results.

However, finding a new use for an old base is a worthwhile endeavor, and like it or not, it is an effort that involves the federal government.

Since we began closing obsolete military installations in 1988, we have struggled over the appropriate role of the federal government in the closure, cleanup, and redevelopment of these bases.

I must admit that our original approach to post-closure matters failed miserably. In the 1988 and 1991 base closure rounds, the federal government, including this very commission, took a "hands-off" approach. The results were disastrous.

Job creation was virtually non-existent. Closure costs skyrocketed. Communities threw up their hands in frustration over the government's refusal to provide help when help was needed. When this process began in the late 1980's, the federal government was the primary obstacle to a quick recovery, due to our hands-off approach.

I believe that instead of standing in the way of progress, government should form partnerships with local communities and work together with shared resources and know-how to replace lost military jobs.

We should not turn a cold shoulder to the people who helped us win the Cold War. Base closure communities deserve much more than a simple "thank you".

Fortunately, on July 2, 1993, President Clinton announced that the federal government would reverse its policy and begin pursuing partnerships with communities.

The President's five-point plan for helping communities included giving them greater access to base property, fast-track environmental cleanup, transition coordinators at every base to help cut through the red tape, larger federal grants for economic development, and bolder job retraining and transition services for those who lose their jobs.

After the five-point plan was offered, it became clear that several changes in law would be necessary to fulfill the President's vision. As a result, the Senate Democratic Task Force on Defense Reinvestment, which I chaired, developed the necessary legislation during the summer of 1993.

The resulting legislation, commonly referred to as the Pryor Amendment, was accepted as an amendment to H.R. 2401, the Fiscal Year 1994 Department of Defense Authorization Act, and signed into law by the President later that year.

The Pryor Amendment ratified the President's five-point plan by making major changes to the base closure laws that would provide communities with desperately needed assistance. A summary of this legislation will be submitted for the record with my prepared remarks.

The primary contribution of the Pryor Amendment is its recognition that the land and property on closing bases can be a catalyst for future development and economic growth. Our legislation gives the Secretary of Defense authority to transfer or lease base properties to communities below fair market value or, in some cases, for free.

Communities nationwide are currently using this legislation to enhance their chances for economic revival. Just last week, the U.S. Air Force recently conveyed 600 acres of land at Norton Air Force Base in San Bernardino, California at a reduced price. This land transfer will create 1,000 jobs immediately due to expansions in local manufacturing. I am also aware that the government of Taiwan wants to open a foreign trade center at Norton, creating almost 4,000 new American jobs.

I am pleased that communities like Norton are taking advantage of the government's renewed willingness to help beat swords into plowshares.

In 1994, our Senate task force was successful in passing legislation in Congress to exempt closed military bases from the Stewart B. McKinney Homeless Assistance Act.

The task force had been notified that some homeless assistance groups were trying to acquire base property through the McKinney Act even though local communities had already agreed to using the property for other purposes.

This disruption was truly counterproductive and an unintended consequence of the McKinney Act.

Due primarily to the leadership of Senator Nunn and Senator Feinstein, we formed a consensus for passing legislation to exempt closed bases from the McKinney Act. Our bill, the Base Closure Community Redevelopment and Homelessness Assistance Act of 1994, established a new process for addressing local homeless needs in a way that is supportive of local redevelopment efforts.

I am proud to say that this legislation was supported by base closure community groups and homeless assistance groups, Democrats and Republicans. It was signed into law by the President late last year.

Each of these initiatives—the President's five-point plan for increased federal funds and assistance, the Pryor Amendment, and the McKinney Act exemption—represent a decisive shift in the government's response to base closings.

The good news for communities that will lose bases in this round is that the federal government is now ready and willing to help you beat swords into plowshares. We are much better prepared now to meet these challenges than we were in 1988 when the base closure process began. I applaud the Clinton Administration for its vision in this regard.

At the request of this commission, I have devised a few brief recommendations for communities that lose a base in this round.

First, begin planning early for the future. Communities that have found the most success are those that embarked on an early, aggressive effort to find civilian uses for their base.

For example, when England Air Force Base in Alexandria, Louisiana was recommended for closure in 1991, the community formed two committees. One led the fight to keep the base open, the other committee, which operated largely in secret, was laying the foundation for bringing in new business.

To date, England has created almost 1,000 new jobs on base, due mostly to the J.B. Hunt trucking company's decision to train truck drivers on the old runways.

I encourage local communities to follow England's example. If any of the towns with bases on the 1995 list chose to begin planning early, Congress has given the Department of Defense the authority to provide grants for such purposes. Also, last year Congress passed legislation prohibiting this commission from penalizing towns that chose to begin planning for redevelopment even as they are fighting to keep their bases open.

I also encourage communities to speak with one voice. Each of the federal programs I have outlined are designed to help communities help themselves, but it is difficult to help communities that are not unified.

For example, George Air Force Base in Southern California was closed in 1988 and immediately thereafter two nearby cities engaged in a power struggle over who was entitled to federal aid and future revenue from the base. A legal battle ensued and the matter was fought in the courts for almost five years. Businesses interested in locating on base went elsewhere. Today there is little to show for their efforts at George except missed opportunities and lost hope.

The government can do little to help communities unless they speak with one voice.

I have also been asked to make recommendations to this Commission on ways

to improve the government's response to base closings.

First, the federal government should continue vigorously pursuing partnerships with local communities.

Every government employee, top to bottom, must be fully committed to forming successful partnerships.

While I am convinced that the top levels of government are committed, I question whether this cooperative spirit is alive at the working level.

Although we have made substantial improvements, local communities are still frustrated by the service they often receive.

Every day, government officials and community leaders must choose between working together hand-in-hand or engaging in hand-to-hand combat. I believe this Commission could explore ways to improve the cooperative spirit. Let me suggest a few.

First, find ways to remove the "government knows best" mentality. In most cases, government attorneys and government bureaucrats are making key decisions on private sector development issues with little or no consultation with local experts who know their region best. We must remember that communities are in the best position to inform us of responsible ways for government to contribute.

Second, the Commission could explore ways to make government more nimble, capable of making decisions quicker and delivering services more rapidly.

The interim leasing process exemplifies the dangers of moving too slowly. Currently, the military services are taking about 6 months to complete a lease agreement. This is entirely too long. Without a lease, businesses interested in locating on base go elsewhere. We should explore ways to speed up the leasing process and the delivery of other important services.

One suggestion for making government more nimble is to empower the workers in the field. Give them more flexibility and greater authority to make decisions on the spot.

The commission could explore this and other ways for speeding up decisions and results.

Finally, we must not undo the tremendous progress we have worked so hard to achieve. Specifically, I urge this Commission to caution Congress against cutting funds for base closure assistance programs, especially environmental cleanup, planning grants, and EDA grants for infrastructure improvements.

Although Congress has provided the necessary funds in recent years, this year these monies are at risk.

If Congress cuts base closure assistance funds, communities would experience paralysis. Economic development would suffer and the cost of closing bases would skyrocket. Such funding cuts would be counterproductive, and I hope this commission will see the merits of fully funding these base closure assistance programs.

Again, I applaud Chairman Dixon and this commission for accepting its moral responsibility and exploring ways to help communities rebound from the economic pain of base closures. I thank the commission for the opportunity to give testimony at today's hearing.

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, February 27, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: With the pending BRAC 1995 process, meeting the challenge of defense conversion is a high priority for the nation. While we recognize the administration's need to downsize the Department of Defense's base structure, arming cities with the tools they need to combat the negative impact of this downsizing is equally important.

In 1993, you announced a five-point plan to ease the impact of military base closings on local communities. Following your announcement, the United States Conference of Mayors began a series of steps to assist communities responding to the challenges of a military base closures. These steps included appointing a Mayors' Task Force on Military Base Closings and Economic Adjustments, and holding two national meetings to help solicit ideas to improve the process and ease the difficult transition following a military base closing.

Copies of our recommendations are being delivered today to the BRAC Commission, to all members of your Cabinet, and to the leadership in both the House and Senate. These recommendations are being released today to coincide with the list of base closings which is expected to be released tomorrow.

As co-chairs of the Mayors' Military Base Closing and Economic Adjustments Task Force, which represents mayors of cities that are currently trying to convert former defense facilities to private uses, we would like to demonstrate that defense conversion can happen. However, in the absence of the reforms we have proposed, we are concerned that successful conversion will never truly be achieved. It is our hope that you will actively support these recommendations, which are necessary to ensure that "defense conversion" is no longer a buzz word, but a reality.

Respectfully,

SUSAN GOLDING,
Mayor, San Diego, Task Force Co-chair.

EDWARD RENDELL,
Mayor, Philadelphia, Task Force Co-chair.

A NATIONAL ACTION PLAN ON MILITARY BASE CLOSINGS

RECOMMENDATIONS FROM THE MAYORS' TASK FORCE ON MILITARY BASE CLOSINGS AND ECONOMIC ADJUSTMENTS TO THE PRESIDENT OF THE UNITED STATES AND THE 104TH CONGRESS

Foreword

At the U.S. Conference of Mayors Annual Meetings in Portland, Oregon, June 11, 1995, the Conference adopted two resolutions regarding military base closings. Following our Annual Meeting, Conference of Mayors President, Knoxville Mayor Victor Ashe, appointed a Task Force for Military Base Closings and Economic Adjustments. Mayors Susan Golding of San Diego and Edward Rendell of Philadelphia were appointed co-chairs of this Task Force.

With the help of a grant from the Economic Development Administration of the U.S. Department of Commerce, the Conference of Mayors held two meetings to assist mayors in preparing for the next round of base closings scheduled to be announced in February 1995. Approximately 150 communities were represented at the two meetings. The first was held in San Diego on December 8–9, 1994 and the second was held in Washington on January 24, 1995 in conjunction with the conference of Mayors Winter Meeting.

The attached recommendations are an outgrowth of those meetings, as are the quotes that appear in the margins.

On behalf of our officers, members, and staff; we think those mayors and city representatives who attended the two meetings, and especially appreciate the tremendous assistance given to us by the Economic Development Administration and the Office of Economic Adjustment at the U.S. Department of Defense. Without their help, this historic Conference initiative would not have gone forward.

In addition, I would like to thank our co-chairs, Mayors Golding and Rendell, for their outstanding leadership on the Task Force.

We also recognize Mayor Jerry Abramson of Louisville, past president of the Conference of Mayors, for making this issue of base closing a priority for the mayors last year, as well as current President Victor Ashe who recognized the importance of this issue and kept military base closings a top priority for the mayors, even though he had no military bases in his community.

Michael Kaiser, our Conference Staff Director, deserves special thanks for his determination and hard work in following through to make our first past-Cold War initiative on base closings and economic adjustments a success for our members as we confront the challenges of economic conversion in the year ahead.

J. THOMAS COCHRAN,
Executive Director.

RESOLUTION ON BASE CLOSINGS

Whereas, the United States Conference of Mayors has formed a military base closing and economic adjustment task force, and

Whereas, this task force has held two meetings in San Diego, California and Washington, DC to help mayors effectively deal with the consequences of military base closings, and

Whereas, mayors attended these two task force meetings in San Diego December 8–9, 1994 and in Washington January 24, 1995 in conjunction with the Conference of Mayors Winter Meeting, Now, therefore, be it

Resolved, mayors call for several actions necessary to ease the impact of base closings on various communities to return the land to economically productive civilian use, including:

Providing and continuing federal funding for communities affected by defense downsizing, including,but not limited to, the support of the Economic Development Administration (EDA) and the Office of Economic Adjustment (OEA);

Streamlining the process for transfer and clean-up of military facilities scheduled for closure; and

Securing local control of decision-making relating to infrastructure and resources; be it further

Resolved, The United States Conference of Mayors will issue a formal report to the White House and Congress prior to the next round of base closings scheduled to begin March 1st to address these actions.

RECOMMENDATIONS FROM THE MAYORS' TASK FORCE ON MILITARY BASE CLOSINGS AND ECONOMIC ADJUSTMENTS

RECOMMENDATION 1: SPEED AND IMPROVE FUNDING FOR AFFECTED COMMUNITIES

Mayors ask that the federal government respond to a base closing as the would to any *natural* disaster. Mayors call for federal agencies to respond as quickly as FEMA (Federal Emergency Management Agency) to assist communities affected by base closings. Financial and technical support should be given immediately upon designation of a base closing. This impact aid should be awarded without excessive paperwork or time delays.

RECOMMENDATION 2: ELIMINATE HUD APPROVAL OF LOCAL COMPLIANCE WITH THE MCKINNEY ACT (I.E., THE BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994)

Under the Base Closure Community Redevelopment and Homeless Assistance Act, cities must work with homeless assistance providers and local redevelopment authorities to develop a local reuse plan for surplus federal properties. The Department of Housing and Urban Development (HUD) must then approve the plan, and the Development of Defense (DOD) then acts in accordance with HUD approval. Mayors believe that the requirements of this statute, particularly the requirement of HUD approval, essentially represents another unfunded federal mandate. How facilities are reused should be entirely a local decision.

RECOMMENDATION 3: STREAMLINE THE PROCESS FOR TRANSFERRING TITLE AND CONTROL OF MILITARY BASE PROPERTY TO LOCAL GOVERNMENTS

As a result of the President's five-point plan and emphasis on community input, there have been tremendous improvements in the property transfer process. However, much more needs to be done.

Because existing efforts have not been effective, mayors call for the President to appoint an official Ombudsman at the National Economic Council in the White House, who can respond in a timely fashion, impose coordination and communications between federal agencies, and cut the red tape to facilitate property transfer and economic development of military bases.

Additionally, mayors call for a revision clause for properties considered for public benefit. In many cases, the property was given freely by the local community to the federal government when the bases were first built. This property therefore should be given back to the local community, not sold back.

RECOMMENDATION 4: DEFINE WHAT CONSTITUTES A "REUSE PLAN"

There are different points of view among federal agencies about what constitutes a reuse plan. For example, current law requires that a reuse plan be completed within nine months. But this time is not sufficient if the definition of a reuse plan includes environmental impact studies and related documentation.

The law should recognize the variety and differences among military bases. A standard nine month period may be appropriate for smaller bases, but it is not enough time for larger bases where multiple jurisdictions are involved or where environmental contaminants are more difficult to identify. A range therefore (e.g., 6–12 months) should be considered rather than a standard nine months for all bases.

RECOMMENDATION 5: QUALIFY MILITARY BASES FOR AUTOMATIC CONSIDERATION AS ENTERPRISE ZONES

If bases were automatically designated as "Enterprise Zones," it would give cities many advantages to undertake economic development projects. For example, special enterprise zone designation for military bases would allow communities to use tax credits for hiring out-of-work federal employees.

RECOMMENDATION 6: ELIMINATE THE REQUIREMENT THAT MILITARY BASE CONVERSIONS COMPLY WITH DUPLICATIVE STATE AND FEDERAL ENVIRONMENTAL REGULATIONS

Mayors call for better coordination between state and federal governments to eliminate the needless duplication of efforts required for environmental compliance. The cost and time involved in trying to comply with both federal and state regulations are enormous. Many of these regulations are duplicative. The federal government should agree to find compliance with state regulations that are substantially equivalent, provided that the state agrees to meet federal timetables and provide a single point of contact.

RECOMMENDATION 7: CLARIFY NATIVE AMERICAN PARTICIPATION IN THE REUSE PLAN

The law remains unclear regarding which entities of the federal government have the authority to make claims on behalf of Native American Tribes. Some communities have spent months on reuse plans, only to have them stopped at the last minute by claims from the Department of Interior. Mayors call for better coordination among the armed services and the Bureau of Indian Affairs (BIA) within the Department of Interior to clarify the rights of Native Americans with regard to military bases.

RECOMMENDATION 8: EXEMPTION/EXTENSION OF MILITARY BASE CONVERSION FROM UNIFORM BUILDING CODES, UNIFORM FIRE CODES AND THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

Although all mayors feel compliance with federal and local laws is important, immediate compliance with many federal building codes is simply impossible. Most military properties are not up to code. Unless the federal government is willing pay to bring these properties up to code, mayors ask that the time for compliance be lengthened, or that compliance be left to the discretion of the local governments which are responsible for enforcing these codes.

RECOMMENDATION 9: CLARIFY OWNERSHIP RIGHTS TO AIR EMISSION CREDITS UPON CLOSURE OF A MILITARY BASE

All air emission credits should be classified as a local asset under the law, especially in those cities where strict air emission limits exist. The federal government should provide for prompt transfer of any credits formerly used by the military in connection with base property.

RECOMMENDATION 10: REQUIRE THE FEDERAL GOVERNMENT TO PAY FOR THE REMOVAL OF FUNCTIONALLY AND ECONOMICALLY OBSOLETE STRUCTURES AND FIXTURES ON CLOSED MILITARY BASES

As noted in Recommendation #8, many buildings on military bases do not meet building codes. In many cases it would cost more to fix us these buildings than it would to tear them down. Mayors ask that the federal government provide the funding to remove all obsolete structures and fixtures from closed military bases. Further, that these anticipated costs be considered among the criteria used by the Base Realignment and Closure Commission (BRAC) to determine whether or not a particular base should be closed.

RECOMMENDATION 11: ENACT LEGISLATION TO PERMIT DUAL USE OF BASES

Although the law makes reference to dual use capability (i.e., military and civilian use of base properties simultaneously), the reality is that dual use is largely left to the discretion of the local base commander. Mayors call for clarification and consistency from the Department of Defense to permit dual use activities on all military bases and that a prescribed method be established for communities to actively present a dual use plan for those facilities considered to be surplus by the military.

RECOMMENDATION 12: EDUCATE BOND RATERS AND INSURERS REGARDING THE ACTUAL IMPACT OF CLOSED MILITARY BASES ON BOND RATINGS

There is a deep lack of understanding among bond raters and insurers with regard to the impact of base closings on local communities. Although this is not a federal concern, the mayors would like the federal government to be aware that they plan to send a delegation to Wall Street to meet with bond raters and insurers to help reduce the misunderstandings that result in lower bond ratings and difficulties for cities to obtain the necessary insurance coverage following a base closing.

RECOMMENDATION 13: OPEN THE FEDERAL APPRAISAL PROCESS

Many communities have had the experience of not knowing how the federal appraisal of base properties was made, and have had no chance to react to it, challenge it, or offer an appraisal of their own. Since the property appraisal process has a tremendous impact on the local community, this process needs to include more local involvement. More importantly, this process needs to emphasize the exchange of properties for local conversion to promote private sector participation (i.e., in cases where the local government retains ownership and then leases these properties to the private sector).

RECOMMENDATION 14: PRESERVE FINANCIAL AND TECHNICAL SUPPORT FOR COMMUNITIES AFFECTED BY PREVIOUS BASE CLOSURE PROCESSES (1988, 1991, 1993)

Mayors unanimously support the involvement of the Economic Development Administration (EDA) at the U.S. Department of Commerce and the Office of Economic Adjustment (OEA) at the U.S. Department of Defense in assisting those communities affected by military base closings and defense industry downsizing. The majors call for the continued support of these agencies and for increased funding, commensurate with the impact of the 1995 BRAC round, and any subsequent rounds.

Additionally, mayors call for special consideration to be given to those communities hard hit by previous BRAC rounds and ask that the 1995 BRAC decisions take into account the cummulative economic impact on these communities. Whenever possible, the federal government should consider relocating other federal agencies/programs to these affected communities.

RECOMMENDATION 15: CLARIFICATION OF THE DEFINITION OF MILITARY BASES

Military bases should be clearly defined under the law (i.e., what constitutes a military reservation for the purposes of BRAC). In addition, mayors ask that GOCO (Government Owned Contract Operated), munitions and other defense related facilities be considered for inclusion under the BRAC law, should the BRAC law be extended beyond 1995. (Note: Currently these properties are evaluated under GSA and other federal rules and regulations.)

RECOMMENDATION 16: MAKE FURTHER REVISIONS/REVIEW OF THE PRYOR AMENDMENTS

The local reuse authority should have the right to reserve—prior to any non-Department of Defense screening—all or part of a base for an economic development conveyance application. This application could occur prior to or during the planning process, but should not have to wait until the plan is completed.

RECOMMENDATION 17: ADDRESS HAZARDOUS WASTE CLEANUP OF BASES

There is no question that the federal government is responsible and liable for cleanup

of military bases. However, it is clear that the federal government greatly underestimated the cost of cleanup. Since communities cannot develop sites until they are cleaned up, it is recommended that the Federal government either allocate more money for cleanup or change the regulations for military bases. The federal government must adhere to a timetable for clean up, just as it imposes timetables on local governments and private contractors. Furthermore, communities in all States should be allowed to separate clean parcels of land from dirty parcels to allow economic development plans to move forward.

RECOMMENDATION 18: GIVE CONSIDERATION TO LOCAL JOB CREATION

Many of the jobs created by a base closure are in the area of environmental cleanup, base security, utility improvements, and the demolition of buildings. Priority should be given to local residents for these jobs/contracts. Also, special job training should be made available locally to ensure that federal employees who served the nation so well for so many years receive every possible opportunity we can give them, especially since many of these people are just a few years away from receiving retirement benefits.

RECOMMENDATION 19: PRIORITY FOR PUBLIC BENEFIT TRANSFER

Every piece of property should be considered for Public Benefit Transfer/Economic Development Conveyance (EDC) before the federal government begins selling to the highest bidder. As soon as a piece of property is identified for an EDC, a community should be allowed to approach local financial lending institutions to give interested parties quick access to these properties.

RECOMMENDATION 20: PROVIDE TITLE INSURANCE FOR FEDERAL PROPERTY

Mayors recommend that the federal government provide title insurance for all federal properties. Given the hazards and unknowns about federal properties, particularly from an environmental point of view, it is not going to do a city any good to have title to these properties, and then attempt to turn around and convey them—whether that be to a non-profit or private outfit—only to find out that they cannot get the title insured.

THE AMERICAN COUNTY PLATFORM AND RESOLUTIONS 1994-1995—COMMUNITY AND ECONOMIC DEVELOPMENT

(From the NACO National Association of Counties)

2.5 CHALLENGES AND LOCAL IMPACTS OF BASE CLOSURE

The adverse economic impacts of military base closures are devastating for small or rural communities and metropolitan areas. Base activities of ten play a dominant role in local and regional economies. Many communities have witnessed the departure of 10 to 30 percent of their population as a result of a base closure. Economic downturns and slow economic growth over the past several years have hurt the ability of large and small communities to adjust to base closures, particularly when they must grapple with the cumulative effects of cuts in other federal programs. For an impacted community of any size, the transition of a closing military base to civilian use is a long, difficult and costly process.

Job Loss. The most immediate impact felt by a base closure community is the loss of both military and civilian jobs at the base, followed by secondary jobs, particularly retail and service positions in the surrounding community. These job losses then lead to population loss as people leave the area in search of new jobs. The Department of Defense (DOD) often does not allow local businesses to provide environmental testing and cleanup services that would create jobs in communities in which bases are closed.

Eroding Tax Base. Local sales and income tax revenues decline as population and incomes drop, and the decline in real estate values reduces property tax revenues. This erosion of the tax base reduces the ability of local governments to provide needed services—job training, job search assistance, health services, substance abuse counseling, domestic violence prevention, and possibly welfare assistance—just as the need for them increases.

Increased Local Government Costs. Local governments can incur substantial long-term costs as a result of a base closure within their jurisdiction. These costs include maintenance of roads, buildings and other infrastructure and provisions for police and fire protection on the base. These services may be provided by a caretaker force until the base property is transferred, but the local government will have to provide services to the area after transfer. It is important for local governments/reuse entities to have the opportunity to provide caretaker services which would provide continuity and enhance transition to re-use. Large portions of base property are often available for public benefit transfer for aviation, education, health care, public recreation and historic preservation. Organizations that receive base property for these purposes are typically tax-exempt and pay no property taxes to offset the costs of local government services.

Substandard Buildings and Infrastructure. Many buildings and much of the physical infrastructure, such as streets and utility lines, on military bases do not meet the requirements of the uniform building, electrical and other codes that set the national standard for what is required for civilian use. Unless the federal government assures that transferred facilities are in good working order and comply with applicable federal, state and local codes, including the Americans with Disabilities Act, local governments will face burdensome maintenance and renovation costs as they assume jurisdiction over closed bases.

Declining Real Estate Values. In response to the loss of job opportunities and the drop in population, real estate values decline, particularly in residential real estate. There often is a sudden surplus of housing and a deficit of people who want to live in the area. This decline in real estate values can be exacerbated by the presence of vacant military housing on the base which is perceived as adding to the supply of housing. The value of commercial and industrial real estate also declines. Building space on the base may represent more than a ten year supply for the local community. Owners have less incentive to invest in their property as real estate values decrease. As a result, local governments will likely encounter new hazards throughout their community from under maintained and abandoned property.

Adverse Impact on Local Banks. Often large numbers of small multi-family units exist around military bases. When the military withdraws, the units are empty, and owners cannot pay their mortgages. Local banks have indicated a willingness to restructure loans. However, examiners from the Comptroller of the Currency will reclassify these loans as non-performing. Regulatory relief is needed during the transitional period to allow an orderly restructuring of these loans.

Strong, proactive support from the President is vitally needed to assist in conversion and reuse efforts. Active leadership on the part of the Secretary of Defense and the service secretaries is critical. The administration needs to look for ways to expedite reuse, reduce delays, and cut costs to closure communities.

2.5.1 Federal Oversight of Base Closures—Efficient conversion of closed bases to productive civilian uses will require the coordinated efforts of several departments of the Federal Government. Conflicting missions within DoD and among other federal departments and agencies have slowed the base reuse process and added to the difficulties reuse communities face. Congress and DOD have made unrealistic estimates of the profits that the Federal Government will receive from reuse of closed installations. As a result, the conversion process is delayed, because base commanders are often forced to make economically unrealistic demands in the sale or lease of base facilities.

An Assistant Secretary of Defense should be appointed in DoD whose primary responsibilities are to ensure rapid conversion of facilities and economic development which enhance local economies and the nation's development as a whole. This senior official must have the authority and responsibility to administer base closure activities for the three branches of the military and coordinate actions taken by federal departments and agencies which impact conversions. It is critical that this person have the confidence and support of the president. This official should foster an intergovernmental partnership through continuing dialogue with the affected communities.

A new working group should be formed or modification made in the membership of the Economic Adjustment Commission to meet with the Office of Economic Adjustment. Counties, redevelopment districts, states and cities should have representatives on this working group, and pertinent federal departments and agencies should participate. These include Labor, Commerce, Treasury, Health and Human Service, the Office of Management and Budget, Housing and Urban Development, the Environmental Protection Agency and Small Business Administration.

The base closure commission should have greater geographic representation and representatives from local government.

The Secretary of Defense should provide clear orders to all commanders on installations designated for closure that their primary mission shall be facilitating swift civilian reuse of the installation while minimizing adverse impacts on the community in which the facility is located.

2.5.2 Economic Adjustment Assistance—To maximize the fiscal benefit of base closure, the Federal Government must assist in the rehabilitation of substandard base facilities and provide creative financing terms to purchasers or developers of closed bases. In addition, DOD must recognize that many facilities, such as airfields, will lose substantial value if they are used and unmaintained or if key equipment is taken from the facility for use elsewhere.

Economic adjustment assistance, from the Officer of Economic Adjustment or the President's Economic Adjustment Committee, is absolutely necessary. Such funding should not be limited to reuse planning, but should also be available for special projects on a discretionary basis and for preparing

strategic marketing plans, including development, printing and distribution of marketing materials. Funds currently available for planning are inadequate. The cost of preparing general and specific land use plans, while different throughout the United States, exceeds, in every instance, the amount of funds available for reuse planning from the Office of Economic Adjustment.

"Bridge funding" to enable communities to assume responsibility for large airfields and other military facilities with civilian uses should continue for several years after closure, until the facilities can begin to generate revenue. To preserve taxpayers' investment in these assets, facilities should be maintained, and equipment that is essential for their functioning should remain intact for long-term economic development following conversion.

To assist with economic stimulus, the federal government (and state governments) should enter into joint marketing agreements with local governments to promote development of these properties.

Continued support for projects related to base closure through the Economic Development Administration remains important. Affected local governments should be eligible for federal dollars which can be used for local priorities, including making loans or grants to businesses that utilize former bases. Any loan repayments should go into a revolving loan fund for use by local governments in financing additional conversion activities.

DoD must explore alternative methods to finance the transfer of bases out of federal ownership and the development of new, productive uses on the property. Financing often can be provided without expense to the federal government merely by extending the time period during which an installment purchase of a facility must be paid. Coordinating the disposition and reuse plans with funding available through other federal departments, such as Labor and Transportation, will allow the federal government to obtain a greater overall, long term value for closed bases while mitigating adverse local impacts.

Legislation is needed to allow economic development activities to qualify as a public benefit transfer. The cost of appraisals should qualify for these funds.

The federal statute which prohibits those who acquire federal property from disposing of it at a profit should be modified, possibly with the federal government sharing a portion of the profit.

Allow local reuse authorities to issue tax-exempt industrial development bonds, to serve as business incentives and provide financial support to local closure authorities during the conversion phase.

Closing military bases should be made foreign trade zones and federal enterprise zones with the associated tax advantages and investment credits to enable them to attract private investment. Distressed base closure communities should not have to compete for zone designation with other distressed communities. If authorizing legislation limits the number of zones, then base closure sites should be designated in addition to designations for other areas.

Any national infrastructure financing programs should set aside funds for infrastructure improvements on former military installations. Bases slated for closure often have substandard and poorly maintained streets, sewers and other utility systems. Infrastructure improvement costs can create insurmountable obstacles to reuse of bases. Conversely, without infrastructure improvements, the federal government will face increasingly costly maintenance costs after base closure.

Local contractors should have preference in providing environmental remediation. Local government/reuse entities should have preference in providing interim management and caretaker services.

2.5.3 Property Transfer—It is imperative to design and implement a review and transfer process that is consistent among the operating branches within DoD. This needs to be responsive to community reuse objectives and provide prompt transfer of property to accomplish early economic recovery.

There has been only one transfer of a major base property pursuant to the 1988 or 1991 base closure laws, out of 200 eligible properties. Only interim leases have been approved, most of which have been limited to one year, and all of which can be canceled with a 30 day notice. This has been one of the greatest obstacles to local planning and development. It is difficult to recruit private businesses to locate on a base when the local governing entity can only offer a one year lease.

The pace at which leases are approved is too slow. There have been instances where lease applications have been delayed for more than nine months. DoD should process interim lease applications within 60 days as required by law.

DoD should act swiftly to implement PL. 102-426. This bill requires prompt identification and transfer of uncontaminated parcels of base property. "Parcelization" of bases with contamination on them has been held up by the Superfund law which forbids the transfer of federal property on the Superfund list until the contamination has been remediated. The law clarifies that uncontaminated parcels of bases on the Superfund list may be transferred before cleanup of contaminated parcels has been completed.

Negotiated sales of base property should require congressional review only if valued at $1 million or more. Current law requires congressional review for sales worth $100,000 or more.

The McKinney Homeless Assistance Act requires that all federal property, including closing bases, be made available to providers for the homeless. The enormous number and size of public properties on bases were not envisioned when this act was drafted. In order to eliminate any possibility of delay to reuse efforts which result from the ongoing nature of making federal property available to the homeless, legislation should be introduced which limits the screening period for McKinney Act uses on closed bases to the same screening period as federal agencies.

Key "person property" items such as machinery, equipment, and rolling stock should also be made available to assist in local economic recovery.

DoD should reexamine the policy which precludes the demolition of buildings prior to transferring bases. Many buildings are unusable because, for example, they contain asbestos, or do not comply with the Americans with Disabilities Act and state and local building codes.

Interim agreements should give local governments preference in exercising police powers and rendering caretaker services. The federal government should reimburse local governments for maintenance costs.

2.5.4. Indemification—The threat of catastrophic liability for environmental contamination has seriously dampened efforts to attract private businesses to locate on closed military bases, and directly threatens local governments with potential liability. Reuse of facilities will often require public and private financing for infrastructure, buildings and business operations. Local governments and businesses will not find lenders willing to invest in construction of new facilities on closed bases unless lenders are assured that the federal government will be responsible for damages arising from toxic contamination caused by DoD. Indemnification is a waiver of sovereign immunity that places the federal government in the same position as any other owner of contaminated property. By waiving its sovereign immunity rights, the federal government will enhance the value of its property by making new investment possible.

DoD should expeditiously develop policy or regulations to permit interim leasing without demanding waiver of rights to indemnification against environmental liability.

2.5.5. Environmental Cleanup—Environmental contamination on bases must be cleaned to a standard that not only protects human health, but also permit reuse of the facility in accordance with locally generated, legally defensible land use plans without the local agencies or private sector having to incur additional cleanup costs in order to reuse the facility. Local jurisdictions must have the opportunity to be active participants in all phases of environmental cleanup, including evaluation of site conditions and selection and implementation of remediation programs. The timetable for environmental impact statements, parcelization, and prioritization should be coordinated with civilian reuse plans.

Federal cleanup programs should provide training and employment of local residents to help mitigate the loss of jobs caused by base closure. Use of local contractors should improve compliance with local and state as well as federal standards. Funding for environmental cleanup at closing bases should continue at levels that support timely transfer and conversion.

2.5.6 Fair Market Value—Legislation is needed to enable DoD to transfer closing base property to local interests at no cost, reduced cost, or through flexible payment methods according to local conditions. Congress and DoD have made unrealistic estimates for profits the federal government will receive from reuse of closed installations. As a result, the conversion process is delayed, because base commanders are often forced to make economically unrealistic demands in the sale or lease of base facilities.

Currently, leases and sales of base property are required to be at "fair market value" even in cases where the purchasing community provided the original land to the military at no cost. This requirement hurts the ability of communities to attract new private sector jobs and investments and increases the financial burden on the base closure community.

The time period over which local governments must amortize loans to purchase these facilities is too short. Flexible payment methods could include installation sales with payment commencing after reuse operations have begun to show a positive cash flow. Alternatively, a Federal Finance Bank could be authorized to purchase federally guaranteed bonds to be issued by communities for local acquisition of closing base facilities with minimal down payments and at low interest rates.

The basis of market value is reuse. Highest and best reuse must be physically possible, appropriately supported, financially feasible,

produce the highest monetary return or serve a public or institutional purpose. The appraisal of military bases is complex and challenging. The above definition of highest and best use allows considerable flexibility. A preappraisal agreement between the parties of negotiation would bridge a communication gap in the appraisal process. Areas of agreement may be (1) reuse assumptions, (2) existing physical conditions (including infrastructure), (3) community building code standards required for reuse, and (4) conversion funding resources. Properly communicated, realistic professional differences of opinion can bring about positive insight and assist in identifying the best alternatives and resolving issues. On the other hand, values based on limited knowledge, unrealistic assumptions, or simply widely different reuse considerations can cause communication gaps and negotiation roadblocks. A professional appraisal report that appropriately and realistically addresses existing physical, functional and market conditions and recognizes the gap (costs) between these existing conditions and the ultimate reuse is a valuable resource to assist in disposition/acquisition negotiations. To understand an appraiser's opinion of value, all premises, assumptions, and projections that directed the appraiser should be stated.

The appraisal process tends to inflate the value of sites by failing to consider certain factors. For example, the fair market value of an interim lease will go down after the base closes and the available supply of building space skyrockets. The federal government, however, uses the pre closure figure for the value. The government also should consider the cost of holding and maintaining real estate when evaluating the present value of base property. For example, if a base could be sold today for $1.5 million, or four years from now for $10 million, which is the better deal for the federal government if the annual caretaker cost of the property is $2.5 million? A discounted cash flow analysis should be used.

Local entities and the military should do joint appraisals. At a minimum the federal government should share appraisal instructions with localities so there is a common basis in assigning value to the cost of such things as asbestos removal and correcting building code violations. Appraisers should be instructed to value land based on uses that are consistent with locally developed land use plans even if the appraiser concludes that such use is not technically "higher and best use". As background, the "higher and best use" standard is appropriate in circumstances in which land use plans have not been modified for a long time and the appraiser concludes that there is a realistic chance of obtaining local government approval of more intensive uses of the site. Local government will be involved in the reuse plans of any closed base and they will rezone the base in the context of an overall strategy to mitigate the adverse impact of the closure. It is inappropriate, in that context, for an appraiser to step in and suggest that the community or a business cooperating with the community pay a higher price because the appraiser believes that there are other uses to which the land could be put.

2.5.7 Job Retraining—The Economic Dislocation and Worker Adjustment Act (EDWAA) administered under Title III of the Job Training Partnership Act currently serves displaced workers including those displaced due to defense downsizing. JTPA programs should continue to be utilized as the framework of any new comprehensive retraining program for dislocated workers.

The current EDWAA program would be greatly enhanced by making several changes at the state and federal level:

The administration should continue to target discretionary job training funds to those areas in which military bases have been closed or are in the process of closure.

The current application process for receiving these funds should be streamlined. Eliminating the lengthy delays in this process would increase the ability of local service providers to administer this program to dislocated military and civilian personnel on a timely basis.

Local entities should be given increased flexibility in the types of retraining programs they deem appropriate to operate and be able to bypass the current maze of approvals necessary at the state and federal level.

[From the National Commission for Economic Conversion & Disarmament]

COMMISSION CALLS FOR MORE BASE CLOSURES AND ADVANCE PLANNING IN CURRENT ROUND

A SMALLER FOURTH ROUND?

On January 24, Defense Secretary William Perry announced that the next and fourth round of base closings "will not be as large as the last one." This represents a sharp change from previous plans to make the next round larger than the previous three combined.

Secretary Perry claims the closure process is being slowed by the rising costs of base closure and the current shortage of funds. Yet "postponing closures only means the likelihood of greater closure costs in the future," said ECD Executive Director Greg Bischak, Ph.D., "and the delay of savings that could be realized from these closures."

Driving the base closure process is the goal of saving money while bringing the base structure in line with the Administration's force structure plans. These intentions have come up against the political pressures provided by the '96 elections as well as short-term budgetary pressures—because it takes money to make money through the base closure process. Yet "closing fewer bases now will only exacerbate the current mismatch between an extravagant base structure and a smaller force structure," said Dr. Bischak. "The far-flung base structure of the Armed Services is still not scaled to the reduced threats of the post-Cold War world. The taxpayer still pays too much and more downsizing needs to be done."

FORCE STRUCTURE REDUCTIONS SHOULD SHAPE CURRENT ROUND

In the last three rounds of base closures, over 70 major bases were selected for closure. The majority of the 20 bases targeted for closure in 1988 in the first round were Army bases. During the 1990 round the Air Force closed 13 and the Navy nine major installations. In the 1993 round the Navy was targeted for the bulk of the closures.

Planned reductions in the 1995 round will likely focus on downsizing bases home to heavy armor, bomber wings, Air National Guard tactical air wings and Navy air maintenance depots and ship repair facilities. A number of DoD laboratories sited on bases may be affected by the base closure round.

"Additional force structure reductions are also possible without compromising this nation's security," said Dr. Bischak. This would permit additional base closures, for additional savings. According to Commission estimates, over $3.5 billion could be saved from the defense budget on an annual basis by closing unneeded additional bases.

ADVANCE PLANNING IS NEEDED

Efforts to keep bases off the final list constitute the predominant strategy of communities facing possible closure. According to Bischak, "In past base closure rounds, a 'Save the Base' impulse led communities across the nation to spend millions of dollars to save bases while not spending a dime on promoting conversion." In the last round of closures, Charleston, South Carolina spent over a million dollars to protect five installations, but managed to save only the local Navy hospital. California mounted a full-court press costing the state millions of dollars. Already this year San Antonio has commitments worth $250,000 to save Brooks Air Force Lab, Kelly Air Force Base and other local facilities. Oklahoma has raised $200,000 to save Tinker Air Force Base and Utah has already spent $300,000 to protect Hill Air Force Base and plans to spend another $300,000 before the final decision is made.

A Commission report by Catherine Hill with James Raffel, "Military Base Closures in the 1990s: Lessons for Redevelopment," concludes from a review of past base closure experiences that communities doing the most advance planning reap the greatest returns in jobs and economic opportunity. Those communities on the hit list in this round of closures should take advantage of protection offered by the FY95 Defense Authorization Act which allows communities to do advance planning without prejudicing them for closure in the decision-making process.

BASE CLOSURE CONVERSION-RELATED PROGRAMS

[Dollars in millions]

Department	Fiscal year— 1995 appro.	Fiscal year— 1996 request	Change	Percent
Defense Department:				
Military Personnel Assistance	$985	$1,146	$161	16
Community Assistance (OEA)[1]	39	59	20	51
Base Closure Implementation	2,809	3,897	1,088	39
Environmental Restoration	2,298	2,087	−211	−9
Commerce Department:				
EDA Defense Conversion	120	120		
Labor Department:				
Dislocated Defense Worker Assistance[2]	178	178		
Grand total	6,429	7,487	1,058	16

[1] Does not include JROTC or National Guard youth programs.

[2] Numbers based on White House, National Economic Council estimates of dollars going to defense workers from general dislocated workers assistance funds (Title III, JTPA; FY95 appropriation for this program was $1.3 billion; FY96 request is $1.4 billion).

BASE CLOSURE CONVERSION-RELATED FUNDING

In addition to legal protection for advance planning, funds are available for communities affected by proposed base closures that wish to pursue planning for economic development, worker retraining, and facility conversion. DoD was appropriated $2.8 billion for base closure implementation for FY95. The $2.3 billion appropriated for environmental restoration of Defense Department facilities may be the most important investment, because toxic contamination remains the greatest obstacle to base redevelopment. According to Bischak, "Up-front investments are required to enable rapid and environmentally responsible economic development."

In addition, the assistance provided by the Defense Department's Office of Economic Adjustment (OEA) is invaluable in providing technical assistance and grants to communities seeking to do advance planning. The implementation of communities' conversion planning is made possible by grants from the Economic Development Administration within the Commerce Department. These grants provide substantial funds for a range

of services including: infrastructure development, technology initiatives, revolving loan funds and other economic development strategies. These funds are of vital importance because they leverage private sector and local public sector dollars for targeted investments to alleviate the sudden economic dislocation caused by base closures.

Funds from the Labor Department's Dislocated Worker Program and the Defense Department's Military Personnel Transition Assistance Program round out the palette of available assistance for communities and workers facing base closures. Both defense industry workers and employees of closed bases are eligible for assistance under the $178 million going to dislocated defense worker retraining, and active duty personnel and civilian base employees are eligible for military transition assistance.

SUCCESSFUL CONVERSION MODELS

Communities at risk should look to successful models of conversion for instruction and encouragement. Both past and current bases possess assets of considerable potential use to the surrounding communities. Reuse is largely conditioned by the nature of the facilities on the base. Such facilities may include airfields, hospitals, or clinics, child care facilities, stores, theaters, recreational facilities and housing. Successful base reuse usually results from a community's ability to identify the comparative advantages of its regional economy and connect its base redevelopment effort to them.

Urban base reuse is generally easier than rural base reuse given a city's economic diversification and demand for the real estate and services that a redeveloped base might provide. As an example, the transformation of McCoy Air Force Base in Orlando into an air cargo transport hub brought about the employment of 6,000 people, easily compensating for the loss of 395 jobs.

Rural base reuse can also be successful given the proper planning. Presque Isle, closed in 1961, was located in an isolated rural location. However, the local leadership was able to transform the base into an economically diverse center by planning strategically, inviting outside companies to the site and prorating rent to the number of new jobs created. 1,302 jobs were created with new industrial tenants including Indian Head Plywood, Arrostook Shoe Company, International Paper, Converse Rubber Company, Northeast Publishing and a vocational training school.

Industrial parks are a popular option for base reuse. However, communities should be conscious of the wide variety of other possible projects. Air Force bases and naval air stations remain clear candidates for new municipal or regional airports and air cargo hubs. Redevelopment of former bases as schools has been a successful model with 47 bases closed in the 1960s and 1970s now having schools on them. And while using bases for low-income and homeless housing does not raise money through sale, it does achieve other important national objectives while allowing local governments to acquire the property at little or no cost. Other government uses are also possible, including administrative facilities, hospitals, postal distributions centers and offices, rehabilitation centers and prisons. Often, bases are large enough to accommodate public services and private developments under a "mixed-use" strategy.

INGREDIENTS OF SUCCESSFUL BASE CONVERSION

(1) Advance Planning; Communities should take full advantage of the protection provided by the law as well as the assistance provided by the Office of Economic Adjustment in the Defense Department to plan for base reuse before a closure occurs. They must evaluate the comparative advantages of alternative civilian purposes and the means of linking these economic development strategies with retraining options.

(2) The programs responsible for funding advance planning, economic development and retraining must all be funded sufficiently to provide adequate resources to support the base closure process.

(3) These programs, spread out over the Departments of Defense, Commerce and Labor, must be coordinated so that they can deliver comprehensive services efficiently.

(4) Cleanup funding should come from the DoD budget to discourage further pollution. The *Federal Facilities Compliance Act* and the federal agreements signed by the DoD, the EPA and State governments give State officials authority to enforce hazardous waste laws by levying fines and exacting other penalties on the Federal Government for lack of compliance with environmental regulations. Governor Pete Wilson of California recognized this right in a recent letter to Defense Secretary Perry stating, "California expects DOD to comply with the federal/state cleanup agreements it has signed at California military bases. DOD is contractually obligated to seek sufficient funding to permit environmental work to proceed according to the schedule contained in those agreements. California will not hesitate to assert its right under those agreements to seek fines, penalties and judicial orders compelling DOD to conduct required environmental work."

(5) There are many stakeholders in base reuse development. Local, state and federal government officials, private developers, universities, and local citizens and citizens groups all have a valuable role to play. No single party should be excluded or allowed to dominate the process. An active government role is essential to ensure that in instances where reuse is feasible, conversion plans carefully weigh the interests of private developers and the community's social and economic needs.

Since the bases are government property, the opportunity to use these former bases for public purposes should not be overlooked. A concreted planning effort, informed by an understanding of the differences among bases, is essential. With federal leadership and local activism, the downsizing of the military base structure could produce a host of assets to spur new economic development in communities across the nation.

OREGON RECIPIENTS OF OUTSTANDING COMMUNITY INVESTMENT AWARDS

Mr. HATFIELD. Mr. President, as Congress begins the difficult task of confronting our Federal deficit and addressing the needs of our less-developed communities, we must focus on innovative ideas to meet these needs. Bureaucracy has often failed to provide successful solutions, making the formation of public-private partnerships necessary to jointly aid neighborhoods. Successful community development must be locally specialized. Attempts by Congress to write a Federal prescription for our Nation's underdeveloped communities will not succeed unless these strategies are sensitive to the diverse needs of those localities.

One organization is making a difference in developing communities by providing localized, market-guided assistance. The Social Compact is a coalition of hundreds of leaders from the financial services and community development industries who have combined their forces to strengthen America's at-risk neighborhoods, both urban and rural. Firmly grounded in John Locke's thesis of a covenant between members of society and the community from which one has prospered, emphasizing commonalities rather than accentuating differences, the Social Compact advocates a voluntary call to action, mobilizing institutions to invest their unique capabilities in neighborhood self-empowerment partnerships.

The Social Compact each year recognizes participating partnerships for their achievements in community development. I am pleased to announce that two partnerships in Oregon, the Portland Community Reinvestment Initiatives partnered with the U.S. Bank of Oregon, and the Northeast Community Development Corp. partnered with First Interstate Bank of Oregon, each received the Social Compact's 1995 Outstanding Community Investment Award.

Portland Community Reinvestment Initiatives and U.S. Bank of Oregon were recognized for their efforts in reclaiming 350 properties located in some of Portland's most vulnerable areas. This pioneering response to an unprecedented affordable housing crisis in northeast Portland has given residents the opportunity to become homeowners and improve the supply of quality, affordable rental properties as a permanent community asset. Portland Community Reinvestment Initiatives was created by the city of Portland in an effort to provide a long-term remedy for large scale foreclosures facing northeast Portland. U.S. Bank of Oregon stepped forward with a pioneering financing solution. The outcome of this teamwork resulted in one-third of the homes being purchased by lower-income families and the remaining units are being rehabilitated into affordable rentals.

The Northeast Community Development Corp. and First Interstate Bank of Oregon were recognized for developing a comprehensive program to provide the opportunity for homeownership for 250 Portland families, reclaiming 4 vulnerable inner northeast Portland neighborhoods. Initially funded by a Federal Nehemiah Housing Opportunity grant, the Northeast Community Development Corp. original aim was to construct and renovate 250 single-family homes that would later provide first-time home ownership opportunities for lower and moderate-income families.

First Interstate took the lead in the project by providing construction financing, grant funding, and a line of

credit for the development of the first five demonstration homes. First Interstate provided additional assistance by organizing a consortium of six local leaders to commit $1.9 million in construction financing and first-time homebuyer programs for potential borrowers. As a result of this private-public teamwork, property values are rising in targeted areas, crime is decreasing, and residents have a renewed sense of pride in their neighborhood.

The ethic of civic responsibility and the spirit of community are fundamental principles which have guided our country's evolution. The award recipients from Oregon are stellar examples of these virtues in our modern times. They should serve as reminders of what can be accomplished when government acts locally in a creative alliance with the private sector.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 761. A bill to improve the ability of the United States to respond to the international terrorist threat.

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 625. A bill to amend the Land Remote Sensing Policy Act of 1992 (Rept. No. 104-81).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Con. Res. 13. An original concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. No. 104-82).

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. COCHRAN:

S. 800. A bill to provide for hearing care services by audiologists to Federal civilian employees; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 801. A bill to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 802. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel ROYAL AFFAIRE; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 803. A bill to amend the Defense Base Closure and Realignment Act of 1990 in order to revise the process for disposal of property located at installations closed under that Act pursuant to the 1995 base closure round; to the Committee on Armed Services.

By Mr. BRADLEY:

S. 804. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON:

S. 805. A bill to improve the rural electrification programs under the Rural Electrification Act of 1936, to improve Federal rural development programs administered by the Department of Agriculture, to provide for exclusive State jurisdiction over retail electric service areas, to prohibit certain practices in the restraint of trade, 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 Mr. DOMENICI:

S. Con. Res. 13. An original concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; from the Committee on the Budget; place on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 800. A bill to provide for hearing care services by audiologists to Federal civilian employees; to the Committee on Governmental Affairs.

THE HEARING CARE FOR FEDERAL EMPLOYEES ACT

Mr. COCHRAN. Mr. President, today I am introducing legislation to include audiology services in the Federal Employee Health Benefits Program [FEHBP].

This bill would amend the statute governing the Federal Employees Health Benefits Program by requiring FEHBP insurance carriers to guarantee direct access to, and reimbursement for, audiologist-provided hearing care services when hearing care is covered under a FEHBP plan.

The statute governing FEHBP, title 5, United States Code, section 8902(k)(1), allows direct access to services provided by optometrists, clinical psychologists and nurse midwives, yet fails to allow direct access to services provided by audiologists in FEHBP plans covering hearing care services.

The legislation I am introducing today would remedy this situation by permitting direct access to audiology services in FEHBP plans covering hearing care services. This measure will not increase health care costs since it would not mandate any new insurance benefits. On the contrary, the bill should reduce costs of hearing care by facilitating direct access to health care providers who are uniquely qualified to diagnose the extent and causes of hearing impairment.

I hope my colleagues will carefully consider this legislation and join me in support of its enactment.

By Mr. HOLLINGS:

S. 802. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Royal Affaire;* to the Committee on Commerce, Science, and Transportation.

TRADING PRIVILEGES LEGISLATION

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct the vessel *Royal Affaire*, official No. 649292, to be accorded coastwise trading privileges and to be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Royal Affaire* was constructed in Auckland, New Zealand, in 1980. The vessel, a sailboat, is 76.3 feet in length, 20.3 feet in breadth, and 8.8 feet in depth and is self-propelled.

The vessel was purchased by Homer C. Burrous of Charleston, SC, in 1989 for approximately $900,000, with the intention of chartering the vessel for cruises in and out of St. Thomas and other foreign ports in the Caribbean. Since purchasing the vessel in 1989, the owner has had the vessel refitted in a U.S. shipyard at a cost of over $800,000. Mr. Burrous would like to utilize the vessel to conduct coastal cruises. However, because the vessel was built in New Zealand, it does not meet the requirements for a coastwise license endorsement in the United States.

The owner of the *Royal Affaire* is seeking a waiver of the existing law because he wishes to use the vessel for coastal cruises. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I

am introducing is to allow the *Royal Affaire* to engage in the coastwise trade and fisheries of the United States.●

By Mr. McCAIN:

S. 803. A bill to amend the Defense Base Closure and Realignment Act of 1990 in order to revise the process for disposal of property located at installations closed under that act pursuant to the 1995 base closure round; to the Committee on Armed Services.

THE BASE TRANSITION ACCELERATION ACT

● Mr. McCAIN. Mr. President, today I am introducing legislation that will finally ensure that fairness and discipline are exercised during the conveyance and land transfer portion of the 1995 BRAC round. The Base Transition Acceleration Act will do three things: eliminate the ability of special interests, under the existing process, to impose endless delays and reap unfair benefits; appropriately place control of the redevelopment process in the hands of the communities affected by the BRAC; and speed the economic recovery of those communities adversely impacted by the closing of a military installation in their midst.

Mr. President, the end of the cold war provided a unique opportunity for this Nation to safely down-size our Armed Forces. Doing so required the execution of a two-phase plan; first, reduce the numbers of military personnel; and then, slash infrastructure to a level appropriate for the new size of the force. Toward that end, since 1986 we have reduced our military force structure by nearly 40 percent. Infrastructure, however, has been trimmed by only about 15 percent.

We asked the services to reduce their numbers, they succeeded. We attempted to create an apolitical mechanism through which excess infrastructure might be designated for closure; we failed, failed for two reasons—Government redtape and interference from special interest groups.

Since 1988, a new Federal bureaucracy has grown up around the base closure process. Interagency squabbles and turf battles among DOD, EPA, Interior, HHS, GSA, and many other entities have caused excessive delays in Federal screening, issuance of conflicting and unhelpful regulations, and inordinately intrusive review of redevelopment proposals. The result has been increased costs to the Federal Government and communities alike—including costs to DOD to maintain idle military facilities in caretaker status.

The Base Transition Acceleration Act legislation eliminates this excessive Federal regulation. The legislation strictly limits the timeframe for Federal property screening and empowers a single agency, DOD, to quickly and effectively manage the process. At the same time, it removes the Federal Government from the process of formulating redevelopment plans and places that responsibility within the purview of the communities themselves.

Unfortunately, the problems associated with the BRAC process are not limited to those created between the Federal agencies. Each additional hand that enters the process brings further complication and added time. With every new round of the BRAC, more new hands enter the process. A cottage industry of consultants has evolved and flourished since 1988 when the first round of base closures were ordered. Special interests are inserting themselves with increasing frequency into the military property disposal process.

Each of these competing interests has sought the assistance of their elected representatives or their sponsor agency, and in most cases received it. The result should come as a surprise to on one; this ostensibly apolitical process has become excessively politicized. This proposed legislation takes great strides to correct this problem and to restore fairness to the community redevelopment process.

Over the past year or so, I, along with most other Members of the Senate, have talked extensively with constituents who are deeply troubled by the current round of base closing deliberations. Their anxiety is certainly not difficult to understand. The reasons for their concern are, however, dramatically different from those expressed in earlier rounds.

During the first three rounds, community concerns tended to center around the simple question of whether a base in their community would be ordered closed. This time, the issues are far more complex. Not only do our constituents ask whether the base will close, they now ask other, more difficult questions. They want to know how to avoid a prolonged transition period. They want to know whether to hire consultants. They want to know how to handle special interest groups. They want to know how to deal with the bloated base closure bureaucracy. Most of all, they want to know when they will be able to get their lives back on track.

These questions represent valid concerns—concerns based in horrific example after horrific example of costly and lengthy legal and political battles among Federal, State, and local governments, special interest groups, and community members.

Mr. President, the simple fact remains—until a reuse decision is made and property is conveyed to the new owners for redevelopment, the affected community suffers economically and emotionally.

This legislation is simple and straightforward. It will significantly reduce the need for communities to employ expensive consulting firms because it will eliminate the redtape of excessive regulations for closing military bases. It will allow DOD to quickly realize the savings from relinquishing excess military infrastructure. And most importantly, it will relieve the economic stress on local communities and allow them to quickly redevelop these former bases in the manner best suited to the community's needs.●

By Mr. BRADLEY:

S. 804. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes and tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification, and for other purposes; to the Committee on Finance.

THE TOBACCO CONSUMPTION REDUCTION AND HEALTH IMPROVEMENT ACT OF 1995

Mr. BRADLEY. Mr. President, I came to the floor this afternoon to submit a revised version of my bill to increase the Federal excise tax on tobacco products. My original bill would take the current tax level for all types of tobacco products and multiply it by 5.167. This would raise the tax on a pack of cigarettes from 24 cents a pack to $1.24 a pack. My revised bill goes one step further to help Americans—particularly children and teenagers—achieve a tobacco-free future.

Mr. President, I have been on this floor many times talking about the dangers of tobacco use. I have repeatedly stated that tobacco use kills well over 400,000 Americans every year—more than alcohol, heroin, crack, automobile and airplane accidents, homicides, suicides, and AIDS combined. And I have sought to bring attention to the fact that each year a growing number of teenagers start smoking, despite the fact that selling cigarettes to minors is illegal. Virtually all new users of tobacco are teenagers or younger, and every 30 seconds a child in the United States smokes for the first time.

Yet there is another aspect of the tobacco story which has not received much attention on the floor of this body. Generally, when people think about the dangers of tobacco use, they think about cigarettes. They think about the lung cancer, the emphysema, and the heart disease which cigarettes cause in those who use them. And they realize that these health impacts are not limited to those who actually smoke the cigarettes. Rather, environmental tobacco smoke—smoke from other people's cigarettes—causes tens of thousands of deaths each year.

But as grave as the impacts of cigarette smoking are, they are only part of the story of the death and destruction which tobacco products wreak on our society. There is another, less well-known yet still devastating side to the tobacco story. And that is the tale of smokeless tobacco products.

The use of smokeless tobacco—namely snuff and chew—is skyrocketing in the United States. Between 1986 and 1990, sales of snuff grew by close to 50

percent. This increase follows several decades of decline in sales and use. Part of this increase can be attributed to increased social pressures placed on smokers, due largely to concerns about second-hand smoke. And part of it has been fueled by perception that smokeless products are a safe alternative to smoking.

But the belief that snuff and chew are safe is absolutely false. Let me state this very clearly: smokeless tobacco can kill you. It kills in different ways than cigarettes do, but it kills nonetheless. Smokeless tobacco causes mouth cancer. It causes gum cancer. It causes throat cancer. These are just a few of the oral problems smokeless tobacco can cause. And the threat of developing these diseases, and of dying of them, is very real. Long-term snuff users are 50 times more likely to develop gum cancer and four times more likely to develop mouth cancer than nonusers. Nearly 30,000 new cases of oral cancer are diagnosed each year in the United States. Half of those people are dead within 5 years.

Smokeless tobacco products are also highly addictive. A typical dose of snuff contains two to three times as much nicotine, the addictive substance in tobacco, as a single cigarette. Because of these health risks, snuff is banned in a growing number of countries, including the United Kingdom, France, Spain, Belgium, Holland, Germany, Denmark, Australia, and New Zealand.

Despite these health risks, the use of smokeless tobacco is skyrocketing in the United States. So who are these new smokeless users—those individuals who are heading down a path of addiction, cancer, and death? For the most part, they are children. The average age of new smokeless users is 9½ years old. Two-thirds of smokeless users start their habit before they are even 12 years old. It is now estimated that 3 million Americans under age 21 use smokeless tobacco, including 1 out of every 5 high school males.

Why is this happening? A large part of the explanation lies in the tobacco companies' aggressive marketing toward youth. But another part of the explanation is the cost of smokeless tobacco relative to cigarettes. Despite its dangers, smokeless tobacco is taxed at only about one-tenth the rate of cigarettes, making it a cheap alternative to cigarettes. And since kids are the most price-sensitive of all tobacco users, it is not surprising that they are turning to smokeless tobacco in ever growing numbers.

My bill proposes to remove this price incentive for kids and adults to use smokeless tobacco. It does this by setting the Federal excise tax on tins of snuff and pouches of chew at the exact same dollar amount as on a pack of cigarettes. This means that the Federal taxes on these smokeless products will increase from their current level of less than 3 cents per container to $1.24 per container. In the previous version of my bill, I would have increased the tax on smokeless products by a factor of 5. While this is a significant increase, it is not enough to eliminate the incentive for cigarette smokers to switch rather than quit, or to discourage kids from ever starting the tobacco habit.

Mr. President, I have spoken earlier this session about the many benefits which would be achieved by increasing the Federal tobacco tax. It will save billions of dollars in health care costs, not only for the Federal Government but for private insurers and citizens across the country. It will save countless lives. It will decrease unnecessary suffering. And it will discourage millions of children and teenagers from ever becoming addicted to tobacco.

These changes to my earlier bill will make these benefits even more pronounced. Smokeless tobacco must no longer be seen as a safe and cheap alternative to cigarettes. Raising the excise tax will discourage children and teenagers from ever starting to use smokeless tobacco, and it will discourage adults from considering smokeless as a safe alternative to quitting tobacco use entirely.

Mr. President, my tobacco tax bill, and the changes I am adding to it, are good health policy. They are good economic policy. And they are key to helping our children and teenagers achieve a tobacco-free future. I urge my colleagues to join me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 804

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 "Tobacco Consumption Reduction and Health Improvement Act of 1995".

SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.

(a) IN GENERAL.—

(1) CIGARS.—Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended—

(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$5.8125 per thousand"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 65.875 percent of the price for which sold but not more than $155 per thousand."

(2) CIGARETTES.—Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$62 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$130.20 per thousand".

(3) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code (relating to rate of tax on cigarette papers) is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "3.875 cents".

(4) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code (relating to rate of tax on cigarette tubes) is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "7.75 cents".

(5) SNUFF.—Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "$16.53".

(6) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$6.61".

(7) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "$3.4875".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1995.

(b) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $20.67 per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 of such Code (relating to definitions) is amended by adding at the end the following new subsection:

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 of such Code is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(B) Subsection (d) of section 5702 of such Code is amended—

(i) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(ii) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and".

(C) The chapter heading for chapter 52 of such Code is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item

relating to chapter 52 and inserting the following new item:

"CHAPTER 52. Tobacco products and cigarette papers and tubes."

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to roll-your-own tobacco removed (as defined in section 5702(p) of the Internal Revenue Code of 1986, as added by this subsection) after December 31, 1995.

(B) TRANSITIONAL RULE.—Any person who—

(i) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(ii) before January 1, 1996, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

(c) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco manufactured in or imported into the United States which is removed before January 1, 1996, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, $4.6875 per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 53.125 percent of the price for which sold, but not more than $125 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $50 per thousand.

(D) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $105 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On cigarette papers, 3.125 cents for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 6.25 cents for each 50 tubes or fractional part thereof; except that, if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, $16.17 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, $6.49 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, $2.8125 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(J) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, $20.67 per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco on January 1, 1996, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1996, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco removed on January 1, 1996.

(3) DEFINITIONS.—For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", "pipe tobacco", and "roll-your-own tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsections (o) and (p) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco in retail stocks held on January 1, 1996, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco which—

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1996, and

(ii) are entered into the customs territory of the United States on or after January 1, 1996, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1996, for sale.

(d) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TOBACCO CONVERSION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Tobacco Conversion Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to 3 percent of the net increase in revenues received in the Treasury attributable to the amendments made to section 5701 by subsections (a) and (b) of section 2 and the provisions contained in section 2(c) of the Tobacco Consumption Reduction and Health Improvement Act of 1995, as estimated by the Secretary.

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available to the Secretary of Agriculture, as provided by appropriation Acts, for making expenditures for purposes of—

"(1) providing assistance to farmers in converting from tobacco to other crops and improving the access of such farmers to markets for other crops, and

"(2) providing grants or loans to communities, and persons involved in the production or manufacture of tobacco or tobacco products, to support economic diversification plans that provide economic alternatives to tobacco to such communities and persons.

The assistance referred to in paragraph (1) may include government purchase of tobacco allotments for purposes of retiring such allotments from allotment holders and farmers who choose to terminate their involvement in tobacco production."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9512. Tobacco Conversion Trust Fund."

By Mr. SIMPSON:

S. 805. A bill to improve the rural electrification programs under the Rural Electrification Act of 1936, to improve Federal rural development programs administered by the Department of Agriculture, to provide for exclusive State jurisdiction over retail electric service areas, to prohibit certain practices in the restraint of trade, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ELECTRIC LEGISLATION

Mr. SIMPSON. Mr. President, today I am introducing legislation that will improve the Nation's Rural Electric Program by putting some common sense back into the way we use taxpayers' money to fund rural electric and rural development loans. The Rural Electrification and Rural Economic Development Improvement Act of 1995 would amend a law that clearly has not evolved in step with the industry.

The fact is, the growth of our Nation's population has greatly changed—and continues to change—the nature of electric service areas. People are moving into previously underpopulated areas and our current statutes do not address that growth. There was once a widespread need for Government incentives in order to provide "affordable" electric service to consumers in many areas, but that need too, has changed.

Many areas of our country which are no longer rural are still being served by Government-subsidized utilities, even though commercial utilities are willing to provide the service. The result is a

current policy which puts the U.S. Government right into the fray. We end up with a policy that subsidizes one competitor over another and we charge the bill to the taxpayers. That terrible market distortion is the product of an outdated rural electric policy that must be changed.

Since I arrived in the Senate in 1978, I have watched the current REA system transfer billions of dollars in interest subsidies from taxpayers to rural electric borrowers. Today, many of those borrowers are perfectly capable of competing in the open-market without Government subsidies.

Certainly not all of the borrowers can compete. There are, indeed, many troubled cooperatives that need assistance. That is why the objective of this bill is to pare down the bloated system so that we can continue to fund hardship loans. Nobody wants to pass legislation that will push electric rates through the roof. I certainly do not, and that will not happen with this bill.

My aim is to get the healthy borrowers "off the dole" so we can focus scarce funds on the hardship cases. That should be very clear from the beginning. I do not propose eliminating the Rural Utilities Service [RUS] or the subsidized loan program. But we should target assistance to the co-ops that really are incapable of providing affordable electric service in an open market. And we should offer healthy borrowers a nonpunitive road to the free market. Indeed, that is something many of them need.

There are a great number of co-ops out there—both distributors and power suppliers—that are locked in to high cost Government loans. On top of that, many of those distributors are stuck with expensive power supply contracts. The co-ops cannot shop around because they are loaded down with Government-financed debt they cannot afford to privatize. So they must continue on—unable to openly compete—forced to purchase more expensive power and to offset it with Government interest subsidies, while their neighbors, the profit-driven corporations, become more efficient and more competitive.

I trust my colleagues will agree that we should make every effort to get the "biggest bang for our buck." That has been one of the catch phrases of this Congress. And it applies to every Government program, not just the Rural Utilities Service. This week, members of the Budget Committee are confronting the difficult choices essential to balancing the budget by 2002. This means they must identify over $30 billion in cuts each year, for 7 years, more than 10 times the painful cuts we just passed in the rescissions bill. Everyone had best be prepared to take their lumps as we debate reductions in agricultural research, the arts, education, transportation and a host of other important areas—this electric program should not be exempted.

The overall size of the program is staggering. Current outstanding loans exceed $20 billion for distribution cooperatives—they call them "discos"—they danced through $20 billion and over $40 billion for power supply co-ops—the generation and transmission facilities, or G&T's. This is a behemoth of a Government business. The legislation I am introducing would save taxpayers millions of dollars on interest subsidies alone without repealing the program.

As I say often; borrowers that really need loans should like this bill. Under current law, some of them must wait years to get loans because available funds are allocated on a "first-come, first-served" basis and there is not enough to go around. According to the latest rural electric survey there is a $405 million loan backlog this year. That will increase to more than $500 million next year and we still do not allow the RUS to prioritize the money, if you are in the back of the line, you just have to wait.

And please hear this. The system is clogged because any entity that has ever received an REA-approved loan remains eligible for rural electric loans—forever. Hear that. It is a deal. It is "once a borrower always a borrower" and there is no end in sight. Even if a co-op is fully able to obtain market-rate credit elsewhere, it can keep coming right back to suckle at the teat of the Federal treasury's low-interest loan program again and again, even sometimes when they have not paid up on the previous one. That is not appropriate and it is not fair and it is not just. My bill would subject RUS borrowers to the very same "credit elsewhere" test that all other agricultural borrowers must face.

For example, under current law, the Farmer's Home Administration can only give a loan to a farmer who is unable to obtain "reasonable credit elsewhere." Farmer's Home is "the lender of last resort." But RUS is instead a "lender of first resort." If Congress is serious about privatizing unnecessary Government lending, then we must put a realistic means-test on RUS loans.

Some of the co-ops will tell you they already have a means-test, but let me tell you what that is. In 1992, we limited cheap Government financing for the really wealthy co-ops to 70 percent of their total debt-load. That is not a means-test. There is a big difference between 70 percent and a "credit elsewhere" test.

I believe we should retain the current three-tiered financing system that includes hardship loans, direct loans and guaranteed loans. I believe that applicants should only receive such assistance when they cannot get "credit elsewhere." Then, they can come to the Government either for low-interest hardship loans, "at-cost" direct loans or a Government guarantee of up to 90 percent.

Under my legislation, the RUS would review the borrower's books every 2 years. If a borrower's circumstances have improved they would then be allowed to prepay their Government loans, without penalty, in order to move into the commercial credit market.

The budget savings in the legislation would come from a reduction in interest subsidies and administrative costs. In fiscal year 1995, the 5 percent hardship loan subsidy cost the taxpayers $10 million, but "municipal rate" direct loans cost over $46 million. On top of that, we spent $30 million on administration. Those interest subsidies provided $74 million in hardship loans and $536 million in direct loans from the revolving fund.

My proposal would save over $60 million by using the treasury interest rate for non-hardship direct loans. With direct loans at treasury rate interest, we would save over $60 million next year. Some of that money would go to increasing the appropriation for hardship loans to $25 million, which should more than double the availability of truly necessary loans.

The National Rural Electric Cooperative Association—the NRECA—will surely mobilize to fight this bill. Oh, you bet they will. Its representatives will come to the hill saying that this legislation is going to destroy their industry, it will be a tragic portrait right straight out of "The Grapes of Wrath." But I say that this bill will not cause rural America to wither up and die. Those images are an absolute fiction.

The reality is that the REA has accomplished its mission in many areas of our country. Proof of that lies in the simple fact that competition exists for electric service in many co-op territories. I would ask again, why should the Government continue to subsidize electric loans when private industry is ready and willing to provide reasonable service?

The NRECA will also say that their competitors are trying to gobble up their choice customers. I have heard that one. To that, I would suggest that healthy co-ops should take advantage of this bill and privatize their debt. Investors are out there who want to put money into the co-ops because many of them have rapidly growing residential service areas that are a great investment. Those co-ops should be going head-to-head with their competitors on an even playing field.

On the issue of annexation and territorial predation, I believe the leading role should be played by the State public service commissions. When there are difficult—perhaps even ancestral—disputes over territorial rights, State regulatory commissions are far better suited to make appropriate determinations than is the Federal Government. Local decisions should be made at the local level.

The NRECA will also point a finger at tax incentives that are enjoyed by their profit-driven competitors. They will call that an unfair advantage. But these electric co-ops do not pay any Federal income taxes. They claim they do, indirectly, and that is true. When a cooperative distributes dividends to its members, the members must pay tax on that income. But any "Joe Citizen" who owns stock in a power company must also pay income tax on the dividends.

The argument that investor-owned utilities have an unfair tax advantage is senseless. If the co-ops really want the same tax incentives, then we would have to start taxing them. I do not think they want that.

Another very important part of the bill would improve the delivery of rural development funds, specifically low-interest "water and waste disposal" loans. We want to ensure that priority here is being given to nonprofit organizations whose projects are included in a local, regional, or statewide development plan. This would assist in the coordination of rural development efforts and it is consistent with the desire to eliminate duplicative spending.

Another item that needs correction is a provision that—since 1987—has allowed electric borrowers to invest up to 15 percent of their total plant value in rural development projects without RUS approval—and without regard to their Federal debt status.

The problem with this is that a co-op which is receiving interest subsidies on its Federal debt could actually invest any excess capital—up to 15 percent of its plant value—in "rural development projects." In theory, the taxpayers subsidize the RUS loans so that borrowers can plug low-interest funds into rural development. But a 1992 USDA inspector general's report uncovered a different picture. Of the more than $8 billion that had been invested by electric borrowers, less than 1 percent actually went to rural development investments.

The inspector general found a disturbing trend in which borrowers took their Government interest subsidies right to "market-rate Wall Street" and invested hundreds of millions of dollars not in rural development, but in mutual funds. My bill would reduce that limitation to 3 percent. I believe excess capital should be used to pay off taxpayer-subsidized debt before it is used to enrich the cooperatives.

Mr. President, I come from a State that has been magnificently served by the REA over the years. One of the first national directors of REA was one J.C. "Kid" Nichols, a Wyoming businessman who was a dear and lifelong friend of mine. He was there when the agency first embarked upon its mission in this country, a mission to bring electricity and lights to rural America. It was a stunning thing to see.

But if we are to better the lot of rural Americans—and we all know that rural America can use some real help—we need to be honest about how far we have come to where we are and how we can change where we are going. And change we must—with responsibility and with courage. The task we face is great because we have to deal with a massive national debt, an ever-dwindling Federal trough, and the wants of voracious voters.

The rural electric program is a microcosm of everything that is right—and wrong—with our country. On the one hand, the REA wired our homes for sound and light. It surely did that for the folks near my hometown of Cody, WY. And it changed the lives of rural people forever. On the other hand, we have allowed the program to grow so big and so far-reaching that we have lost sight of why it was created in the first place: it was to give rural Americans what the rest of the country had—electric power. Mr. President, that mission has been accomplished and the country has changed. Why does this program plod along—year after year—untouched by all sensibility and reason?

I have often said you show me where we need power lines in rural America today, and I will be right here to appropriate and assist in getting the money to do that in every way, discussing density, discussing all the geographical aspects, all the rest. But I have been watching this issue like a hawk for a lot of years.

I am pleased to offer this bill. I believe that it will save the integrity of the program. I will say it again. Congress must take its deficit cutting task seriously, and this legislation would be an important part of that.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 805

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 "Rural Electrification and Rural Economic Development Improvement Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Rural Electrification Administration was created to facilitate the electrification of rural America by providing low-interest loans to electric cooperative associations and other entities for the purpose of constructing and improving rural electric systems;

(2) more than 99 percent of the residents in rural areas of the United States now have affordable and reliable electric service;

(3) a large volume of loans, at subsidized interest rates, continue to be made under the Rural Electrification Act of 1936 to electric cooperative borrowers who could obtain financing at reasonable rates and terms from a source other than the Federal Government and these borrowers have become significant and successful participants in an increasingly competitive electric utility industry;

(4) the Federal Government should make electric loans only to entities that cannot otherwise obtain funding at reasonable rates and terms;

(5) the Rural Electrification Act of 1936 authorizes low-interest and zero-interest loans and grants to be made to borrowers under the Act for the purpose of rural economic development;

(6) these rural economic development programs do not provide benefits to most rural Americans since the majority of these residents receive electric utility service from entities that do not receive financing under the Rural Electrification Act of 1963;

(7) borrowers under the Rural Electrification Act of 1936 are directly eligible for some rural development programs under the Consolidated Farm and Rural Development Act of 1972;

(8) the limited funds made available each year for all rural economic development programs should not favor these individuals who reside in rural areas that are served by borrowers under the Rural Electrification Act of 1936; and

(9) borrowers under the Rural Electrification Act of 1936 should not have a competitive advantage in serving customers in rural areas of the United States.

TITLE I—IMPROVEMENTS TO THE RURAL ELECTRIFICATION LOAN PROGRAMS

SEC. 101. REFERENCES TO THE RURAL ELECTRIFICATION ACT OF 1936.

As used in this title, the term "the Act" shall mean "the Rural Electrification Act of 1936" (7 U.S.C. 901 et seq.).

SEC. 102. CONFORMING AMENDMENT.

The Act is amended by striking "TITLE I—RURAL ELECTRIFICATION" immediately prior to section 1 (7 U.S.C. 901).

SEC. 103. OBJECTIVE OF THE ACT; INVESTIGATIONS AND REPORTS.

Effective October 1, 1995, section 2 of the Act (7 U.S.C. 902) is amended to read as follows:

"SEC. 2. OBJECTIVE OF THE ACT; INVESTIGATIONS AND REPORTS.

"(a) The objective of this Act is to authorize and empower the Secretary to make loans for the purposes of (1) furnishing and improving electric energy services in rural areas of the several States and Territories of the United States, (2) assisting rural electric borrowers to implement demand side management practices, energy conservation programs, and on-grid and off-grid renewable energy systems, and (3) furnishing and improving telephone service in such areas.

"(b) The Secretary may make, or cause to be made, studies, investigations, and reports concerning the availability of adequate electric and telephone services in rural areas of the United States and its Territories and to publish and disseminate information with respect thereto.".

SEC. 104. APPLICATION OF STATE LAWS OR ORDINANCES CONCERNING ELECTRIC SERVICE.

The Act is amended by adding, after section 2 (7 U.S.C. 902), the following new sections:

"SEC. 2A. STATE REGULATION OF ELECTRIC UTILITY SERVICE.

"Nothing contained in this Act shall be construed to deprive any State commission, board, or other agency of jurisdiction, under any State law, now or hereafter effective, to regulate electric service.

"SEC. 2B. APPLICATION OF STATE LAW.

"(a) Nothing in this Act is intended to prevent a State or political subdivision thereof from enacting and enforcing a law or ordinance concerning the curtailment, limitation, or geographic area of service provided by an electric borrower under this Act if such law or ordinance provides for the just compensation of the borrower for any condemnation, forfeiture, or involuntary sale of a facility, property, right, or franchise of the borrower that secures a loan made under this Act. Any such condemnation, forfeiture, or involuntary sale shall not be construed as interfering with the purposes of this Act.

"(b)(1) Not later than 30 days after a borrower receives such compensation, the Secretary shall require the borrower to use the proceeds of such compensation to prepay, without penalty, all or any portion of the outstanding balance on any loan that was made or guaranteed under this Act for which the Secretary holds a mortgage to, or other security interest in, the facility, property, right, or franchise for which the compensation was provided.

"(2) The Secretary shall also permit the borrower to use any proceeds of such compensation, in excess of the amount needed to prepay a loan under paragraph (1), to prepay, without penalty, all or any portion of any other loan of the borrower made under this Act.".

SEC. 105. REPEAL OF AUTHORITY FOR TREASURY LOANS.

Section 3 of the Act (7 U.S.C. 903) is repealed.

SEC. 106. REPEAL OF AUTHORIZATION FOR 2 PERCENT INTEREST RATE ELECTRIC LOANS.

Section 4 of the Act (7 U.S.C. 904) is repealed.

SEC. 107. REPEAL OF AUTHORIZATION FOR 2 PERCENT ELECTRICAL AND PLUMBING EQUIPMENT LOANS.

Section 5 of the Act (7 U.S.C. 905) is repealed.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS; REPEAL OF REQUIREMENT FOR TESTIMONY; FEES FOR NON-FINANCIAL ASSISTANCE AND SERVICES.

Section 6 of the Act (7 U.S.C. 906) is amended to read as follows:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS: USER FEES FOR NON-FINANCIAL ASSISTANCE AND SERVICES.

"(a)(1) Except as provided for in paragraph (2), there are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such funds as necessary for the purpose of administering this Act and for the purpose of making the studies, investigations, publications, and reports provided for in section 2.

"(2) For each of the fiscal years 1996 through 2000, the amount authorized to be appropriated under paragraph (1), or otherwise made available pursuant to this Act, for the purpose of administering the rural electric program, shall not exceed $15,000,000.

"(b)(1) Effective October 1, 1995, the Secretary shall establish a schedule of fees to be charged for non-financial assistance and services provided by the Secretary to loan applicants, borrowers, and others pursuant to this Act. Such assistance and services shall include, but not be limited to, those relating to accounting, personnel training, engineering, management, auditing, data processing and information system support, duplication of documents, consolidations, and compliance with the provisions of other Federal laws or State laws.

"(2) In establishing the schedule of fees under paragraph (1), the Secretary shall ensure that the amount of each fee shall be sufficient to cover the reasonable cost of the assistance or service provided, as determined by the Secretary.

"(3) The recipient of any non-financial service or assistance provided by the Secretary shall pay to the Secretary the amount of the fee as established in the fee schedule for such service or assistance at such time as the Secretary may require. All fees paid to the Secretary pursuant to this subsection shall be deposited in the Treasury and shall be available to the Secretary, without fiscal year limitation, to pay the cost of providing such non-financial assistance and services pursuant to this Act.".

SEC. 109. CONFORMING AMENDMENTS.

Section 7 of the Act (7 U.S.C. 907) is amended by—

(a) in the first sentence, striking out "from the sums authorized in section 3 of this Act", and inserting in lieu thereof "from funds made available for the purposes of this Act"; and

(b) in the second sentence, by striking out "No borrower of funds under sections 4 or 201" and inserting in lieu thereof "No borrower liable for the repayment of any telephone loan made under section 201, and, except as otherwise provided for in section 2B or any other provision of this Act, no borrower who is liable on any rural electric loan made under this Act".

SEC. 110. REPEAL OF OBSOLETE PROVISION RELATING TO TRANSFER OF CERTAIN FUNCTIONS.

(a) Section 8 of the Act (7 U.S.C. 908) is repealed.

(b) Any action made pursuant to section 8 prior to its repeal by subsection (a) shall remain valid and in effect unless otherwise revoked.

SEC. 111. EXPENDITURES FOR PERSONAL SERVICES, SUPPLIES, AND EQUIPMENT.

Section 11 of the Act (7 U.S.C. 911) is amended by adding after "from sums appropriated pursuant to section 6" the following: "or from funds otherwise made available for the purposes of administering this Act".

SEC. 112. PAYMENT DEFERRAL AUTHORITY.

Section 12 of the Act (7 U.S.C. 912) is amended to read as follows:

"SEC. 12. EXTENSION OF TIME FOR REPAYMENT OF LOANS.—The Secretary may extend the payment of interest or principal of any loan made under this Act if the Secretary determines that the borrower is experiencing a financial hardship. Any payment of interest or principal shall not be extended for more than 5 years after the date on which such was originally due, and interest shall accrue on the amount of any such payment at the rate of interest on the underlying loan, which interest shall become due and payable at the same time as the payment for which the extension was made.".

SEC. 113. DEFINITION OF RURAL AREA.

Section 13 of the Act (7 U.S.C. 913) is amended by adding at the end thereof the following: "Any determination with respect to whether an area is a rural area, under the preceding sentence, shall be made at the time the application is filed, and, under no circumstances, shall any previous determination that the area was rural for the purposes of this Act be used to make such determination.".

SEC. 114. GENERAL PROHIBITIONS; ORIGINATION FEES; USE OF CONSULTANTS.

Section 18 of the Act (7 U.S.C. 918) is amended by—

(a) in subsection (a), striking out "reduce any loan or loan advance" and inserting in lieu thereof "reduce any rural telephone loan or loan advance";

(b) in subsection (b), after "connection with any", inserting "telephone"; and

(c) striking out subsection (c).

SEC. 115. AUTHORIZATION OF LOANS TO RURAL ELECTRIC PROVIDERS.

Effective October 1, 1995, the Act is amended by adding after section 18 (7 U.S.C. 918), a new Title I as follows:

"TITLE I—RURAL ELECTRIFICATION LOANS.

"SEC. 101. LIMITATION ON AUTHORITY TO MAKE, INSURE, AND GUARANTEE ELECTRIC LOANS.—No electric loan shall be made, insured, or guaranteed, under this Act after September 30, 1995, except as authorized in sections 102 and 103.

"SEC. 102. DIRECT ELECTRIC LOANS.—(a) The Secretary is authorized and empowered to make loans to corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas and for furnishing and improving electric service to persons in rural areas, including assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.

"(b) Loans made under this section shall be on such terms and conditions relating to the expenditure of the money loaned and the security therefore as the Secretary shall determine.

"(c)(1) The Secretary shall prioritize the making of loans authorized by this section to ensure that eligible applicants with the greatest need for Federal assistance shall have the highest priority for available loan funds.

"(2) In establishing such priorities, the Secretary shall consider the following indicators of need:

"(A) The net income before interest of the applicant;

"(B) The weighted average of per capita personal income for the area served or to be served by the applicant;

"(C) The weighted average unemployment rate of the area served or to be served by the applicant;

"(D) An average annual rate of growth in the total kilowatt hour sales of the applicant during the five year period preceding the date on which the application is made;

"(E) The rate of disparity, measured as the difference between the residential rate of the applicant and the average residential rate in the State for all electric utilities, including utilities that are not borrowers under this Act;

"(F) The rate level, measured by the average revenue per kilowatt hour that is sold by the applicant to residential and farm consumers;

"(G) The cost of power per kilowatt hour purchased or generated by the applicant;

"(H) The total kilowatt hour sales per mile of distribution and transmission line, excluding large commercial and industrial consumers and sales for resale; and

"(I) The value of distribution and transmission plants in service per kilowatt hours of electricity sold.

"(d)(1)(A) The Secretary shall not make any loan under this section if the Secretary determines that the applicant is capable of

producing net income before interest of more than 500 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year.

"(B) If the Secretary determines that the applicant is capable of producing net income before interest of more than 200 percent of the interest requirement of all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the Secretary shall require the applicant to secure at least 10 percent of the total financing required for the proposed project with a loan from a commercial, cooperative, or other legally organized non-governmental lending institution, which loan may not be guaranteed under section 103.

"(2) The Secretary shall not make a loan under this section unless the Secretary determines that the applicant is capable of producing income sufficient to repay the loan in accordance to its terms within the agreed time, pay interest on the loan as it becomes due, and repay all other outstanding and proposed indebtedness of the applicant, together with any interest thereon, as payments become due.

"(3)(A) The Secretary shall not make any loan under this section unless the Secretary determines that the applicant is unable to obtain all or any part of the funds needed by the applicant elsewhere, including from (i) general funds of the applicant that are in excess of an amount needed for a reasonable reserve, or (ii) loans (with or without a guarantee under section 103) from commercial, cooperative, or other legally organized lending institutions at reasonable rates and terms for loans for similar purposes and periods of time.

"(B) The Secretary shall require the applicant to certify in writing that the applicant is unable to obtain sufficient credit elsewhere to finance all or any part of the actual needs of the applicant at reasonable rates and terms, taking into consideration prevailing rates for loans and obligations for similar purposes and periods of time.

"(4) The Secretary shall not make a loan under this section unless the Secretary determines that the security for the loan will be adequate to ensure full payment of the loan.

"(5) The Secretary shall not make any loan under this section unless the applicant has agreed to comply with the requirements of the graduation program established under section 105.

"(6) The Secretary shall not make any loan under this section unless all additional requirements of section 104 have been met.

"(e) The term of each loan made under this section shall be determined by the Secretary and shall not exceed 35 years, or the expected useful life of the assets being financed, whichever is less.

"(f)(1) Except as provided for in paragraph (2), the rate of interest on loans under this section shall be equal to the then current costs of money to the Government of the United States for obligations of comparable maturity.

"(2)(A) If the Secretary determines that the applicant is not capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the rate of interest on the loan shall be the rate established under paragraph (1) but not more than 5 percent per year, except as provided under subparagraph (B).

"(B) For any loan whose term is 10 years or more and whose interest rate is limited to 5 percent per year under subparagraph (A), the Secretary shall review the financial status of the borrower every 2 years, and, if the Secretary determines that the borrower is capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year, the 5 percent limitation shall no longer apply to the loan and the rate for the remaining term of the loan shall be the original rate established under paragraph (1).

"(g) The Secretary shall charge a loan origination fee of one percent of the amount of the loan if the Secretary determines that the applicant is capable of producing net income before interest of more than 200 percent of the interest requirements on all of the outstanding and proposed loans of the applicant for which the final maturity is greater than one year.

"(h) The Secretary may provide a borrower the right to make payment in full on a loan made under this section in advance of final maturity on terms consistent with those provided for commercial loans for similar purposes and maturities.

"SEC. 103. GUARANTEES OF ELECTRIC LOANS FROM NON-GOVERNMENTAL SOURCES OF CREDIT' LIEN ACCOMMODATIONS.—(a)(1) To the extent set out in Paragraph (2), the Secretary is authorized and empowered, to guarantee loans that are made by commercial, cooperative, or other legally-organized non-governmental lending institutions to any entity, and for any purpose, described in section 102(a).

"(2) The Secretary shall guarantee only the payment of that portion of the principal of the loan, and that portion of the interest thereon, that the lender requires as a condition for making the loan. The amount of any such guarantee shall not exceed 90 percent of the principal of the loan and the interest thereon.

"(3) The Secretary shall not guarantee any loan to an entity that the Secretary determines is capable of producing income before interest of more than 600 percent of the interest requirements on all of the outstanding and proposed loans of the entity for which the final maturity is greater than one year.

"(4) The Secretary shall impose such fees and charges to cover the administrative expense related to any guarantee made under this section as the Secretary determines reasonable.

"(5) Any contract of guarantee executed by the Secretary under this section shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder of the guarantee had actual knowledge at the time it become a holder.

"(6) The Secretary shall not guarantee any loan under this section unless all additional requirements of section 104 have been met.

"(b) In order to encourage non-governmental lenders to make loans to eligible entities, or to provide a greater portion of the credit needs of an applicant for a loan under section 102, the Secretary is authorized to share the Government's lien on the loan applicant's or borrower's assets or to subordinate the Government's lien on the property to be financed by the lender. The Secretary shall not offer such accommodation or subordination unless the Secretary determines that the security for all loans made or guaranteed under this Act, the payment of which the borrower is liable, will remain reasonably adequate.

"SEC. 104. ADDITIONAL REQUIREMENTS AND PROVISIONS RELATING TO LOANS AND GUARANTEES.—(a) The Secretary shall not make any loan under section 102 or guarantee any loan under section 103—

"(1) if all or any part of the loan to be made or guaranteed will be used to expand the service territory of the applicant or borrower, as the case may be, into an area in which consumers are being served by another utility;

"(2) if the applicant or the borrower, as the case may be, has not agreed to follow generally accepted accounting procedures and management practices;

"(3) if the applicant or borrower, as the case may be, is prohibited by a charter, bylaw, statute, or regulation, or is otherwise prohibited, from disposing of any or all of the property of the applicant or borrower by a vote greater than a majority of the membership of the applicant or borrower voting in person or by proxy; and

"(4) if the applicant or borrower fails to agree to provide to the Secretary a complete and current set of all residential, commercial, or industrial tariffs or rate schedules, power sale agreement, and transmission agreements, and any subsequent changes made thereto, and any additional power sale and transmission agreements entered into by the borrower, during the term of the loan; any such tariffs, schedules, and agreements provided to the Secretary shall be deemed public information and shall be made available within 10 working days of receipt of a verbal, written or electronically transmitted request reasonably describing the information sought.

"(b) The Secretary shall ensure that funds shall not be advanced under any loan made section 102 or guaranteed under section 103 unless the approval of any State or Federal agency required with respect to the project to be financed by the loan, or its financing, has been obtained and remains in effect.

"(c) If the Secretary determines that the level of general funds of an applicant or borrower is in excess of that needed for a reasonable reserve, the Secretary shall reduce (A) the amount of the loan request in the case of an applicant under section 102, (B) the amount of any advance on a loan made under section 102, or (C) the amount of any guarantee under section 103.

"(d) Loans may be made under section 102, or guaranteed under section 103, only to the extent that electrical service to consumers in rural areas will be provided or improved by the facility being financed.

"SEC. 105. GRADUATION PROGRAM.—(a) The Secretary shall establish a program under which at least once every 2 years each loan made under section 102 shall be reviewed to determine whether the borrower (1) is able to repay all or any part of the loan with general funds in excess of that needed for a reasonable reserve, or (2) may be able to obtain credit from a commercial, cooperative, or other legally organized non-governmental lending institution in an amount sufficient to meet all or any part of the credit needs of the borrower at reasonable rates and terms, taking into consideration prevailing rates for loans and obligations for similar purposes and periods of time.

"(b)(1) To the extent that the Secretary determines that the borrower is able to repay all or any part of the loan from general funds, the borrower shall make payment in full or in part on the loan, without penalty, at such time as the Secretary may require prior to the final maturity date of the loan.

"(2) If the Secretary determines that the borrower may be able to meet all or any part

of its credit needs from other lenders, with or without a loan guarantee under section 103, the borrower shall be required to—

"(A) apply for and accept credit from such lenders, and purchase any stock necessary in connection with the loan if the source is a cooperative lending institution; and

"(B) use the proceeds of such credit to make payment, in full or in part, without penalty, on any loan made to the borrower under section 102 at such time as the Secretary may require prior to the final maturity date of such loan.

"SEC. 106. FAILURE TO COMPLY WITH THE ACT.—If a borrower of a loan made under section 102 fails to comply with any provision of this Act, or any agreement between the borrower and the Secretary made pursuant thereto, including, but not limited to, the provisions of section 104(a)(6) and section 105, the amount outstanding on the loan shall become due and payable upon receipt of a written notice of such failure issued by the Secretary to the borrower. Such notice shall be given to the borrower as soon as possible after such failure to comply with the Act occurs.

"SEC. 107. LIMITATION ON AUTHORIZATION FOR APPROPRIATIONS.—In the case of each fiscal year 1996 through 2000, there are authorized to be appropriated to the Secretary for the cost, as defined in Section 502 of the Congressional Budget Act of 1974, of loans made and guaranteed under this title, $25,000,000.".

SEC. 116. CONFORMING AMENDMENT.

Section 201 of the Act (7 U.S.C. 921) is amended, in the first sentence, by—

(a) striking out "section 3 of"; and

(b) striking out "as are provided in section 4 of this Act" and inserting "as was provided in section 4 of this Act prior to its repeal.".

SEC. 117. RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.

Section 301 of the Act (7 U.S.C. 931) is amended by—

(a) redesignating subsection (a) as subsection (b);

(b) adding a new subsection (a) as follows:

"(a) The provisions of this title shall be applicable only to rural electric loans made prior to October 1, 1995, and to rural telephone loans."; and

(c) in subsection (b), as redesignated,

(1) in paragraph (1), striking out "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act";

(2) in paragraph (2), striking out "under sections 4, 5, and 201" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(3) in paragraph (3)—

(A) striking out "notwithstanding section 3(a) of title I"; and

(B) striking out "held under titles I and II of this Act" and inserting in lieu thereof "held under sections 2 through 18 of this Act, prior to the amendments made thereto by the "Rural Electrification and Rural Economic Development Improvement Act of 1995, and title II of this Act".

SEC. 118. CONFORMING AMENDMENTS.

Section 302 of the Act (7 U.S.C. 932) is amended by—

(a) in subsection (a), striking out "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(b) in subsection (b)—

(1) in paragraph (1), striking our "under sections 4, 5, and 201 of this Act" and inserting in lieu thereof "under sections 4 and 5, prior to their repeal, and section 201 of this Act"; and

(2) in paragraph (2), adding after "pursuant to section 3(a) of this Act" the following: "prior to its repeal".

SEC. 119. COST OF MONEY RATES FOR CERTAIN ELECTRIC BORROWERS.

Section 305(c)(2) of the Act (7 U.S.C. 935(c)(2)) is amended to read as follows:

"(2) COST OF MONEY LOANS.—

"The Secretary shall make insured electric loans, to the extent of qualifying applications, to eligible applicants that do not meet the requirements for hardship loans under paragraph (1) at the rate of interest equal to then current cost of money to the Government of the United States for loans of similar maturity.".

SEC. 120. LIMITATION OF TERMS OF LOANS.

Section 305(c) of the Act (7 U.S.C. 935(c)) is amended by adding at the end thereof a new paragraph (4) as follows:

"(4) LIMITATION ON TERMS OF LOANS.—

"The term of any loan made under this subsection may not exceed the expected useful life of the assets being financed or 35 years, whichever is less.".

SEC. 121. ACCOMMODATION AND SUBORDINATION OF LIENS TO ASSIST CERTAIN BORROWERS IN ACQUIRING CREDIT AFTER OCTOBER 1, 1996.

Effective October 1, 1995, section 306 of the Act (7 U.S.C. 936) is amended by—

(a) Adding "(a)" before the first sentence; and

(b) Adding at the end thereof a new subsection (b) as follows:

"(b) In order to assist borrowers with outstanding electric loans made under this Act prior to October 1, 1995, who are not eligible for loans under section 102 to meet their further credit needs from commercial, cooperative, or other legally organized lending institutions, the Secretary is authorized to share the Government's lien on the borrower's assets or to subordinate the Government's lien on the property to be financed by the lender to the extent that the Secretary determines that the security for all loans of the borrower made or guaranteed under this Act will remain reasonably adequate.".

SEC. 122. REPEAL OF AUTHORIZATION TO REFINANCE FEDERAL FINANCING BANK LOANS.

Section 306C of the Act (7 U.S.C. 936c) is repealed.

SEC. 123. REPEAL OF REQUIREMENT FOR SPECIAL TREATMENT OF CERTAIN ELECTRIC BORROWERS.

Section 306E of the Act (7 U.S.C. 936e) is repealed.

SEC. 124. REPEAL OF 30 PERCENT LIMITATION ON REQUIRED FINANCING FROM OTHER SOURCES.

Section 307 of the Act (7 U.S.C. 937) is amended by striking out the last sentence thereof.

SEC. 125. REPEAL OF AUTHORIZATION TO REFINANCE CERTAIN RURAL DEVELOPMENT LOANS.

Section 310 of the Act (7 U.S.C. 940) is repealed.

SEC. 126. USE OF FUNDS.

Section 312 of the Act (7 U.S.C. 940b) is repealed.

SEC. 127. REPEAL OF CUSHION OF CREDIT PAYMENTS PROGRAM.

Section 313 of the Act (7 U.S.C. 940c) is repealed.

SEC. 128. REPEAL OF CERTAIN AUTHORIZATIONS FOR APPROPRIATIONS.

Section 314 of the Act (7 U.S.C. 940d) is amended in subsection (b) by—

(a) striking out paragraphs (1) and (2); and

(b) renumbering paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

TITLE II—PRESERVATION OF EXCLUSIVE STATE JURISDICTION OVER RETAIL ELECTRIC SERVICE TERRITORIES.

SEC. 201. AMENDMENT TO THE FEDERAL POWER ACT OF 1935.

Section 201 of the Federal Power Act of 1935 (16 U.S.C. 824) is amended by adding at the end thereof the following new subsection:

"(h) EXCLUSIVE STATE JURISDICTION OVER ALLOCATION OF RETAIL ELECTRIC SERVICE TERRITORIES.—

"Notwithstanding any other provision of law, the regulation and allocation of service territories or service areas to providers of electric service shall be subject only to State law and shall not be subject to the requirements of this Act, or any other provision of Federal law. No Executive agency (as defined in section 105 of title 5, United States Code) shall have authority to preempt or interfere with the operation of any law of a State or a political subdivision of a State relating to a service territory or service area allocation to providers of electric service.".

TITLE III—IMPROVEMENTS TO THE DELIVERY OF RURAL DEVELOPMENT PROGRAMS

SEC. 301. ELIGIBILITY FOR WATER AND WASTE LOAN AND GRANT PROGRAMS.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by—

(1) in subsection (a) of section 306 (7 U.S.C. 1926(a)), striking out the second sentence; and

(2) in section 365 (7 U.S.C. 2008), striking out subsection (h).

SEC. 302. REGULATIONS UNDER SECTION 370 OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

If the Secretary of Agriculture has not issued final or interim final regulations to ensure compliance with the provisions of section 370(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008e) on or before September 30, 1995, the Secretary shall not make any loan, loan advance, or grant for rural development purposes under any provision of such Act or any loan, loan advance, or grant under any provision of the Rural Electrification Act of 1936 until such regulations are issued.

SEC. 303. ADMINISTRATION OF RURAL DEVELOPMENT PROGRAMS.

The Consolidated Farm and Rural Development Act of 1972 (7 U.S.C. 1921 et seq.) is amended by adding at the end therefore the following new section:

"SEC. 372. ADMINISTRATION OF RURAL DEVELOPMENT PROGRAMS.

"Notwithstanding any other provision of law, in administering all rural development programs and activities, other than rural development programs relating to rural businesses and industry development, the Secretary shall give priority, in the awarding of all loans and grants (including, but not limited to, grants and loans provided under Title V of the Rural Electrification Act of 1936), to rural development projects that are included in a local, regional, or State-wide development plan and the Secretary shall give the highest priority to public bodies and nonprofit entities that operate on a nonprofit basis.".

SEC. 304. EQUAL ACCESS TO FEDERAL RURAL DEVELOPMENT FUNDS.

Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is amended—

(a) in paragraph (1) of subsection (b)—

(1) in the first sentence, by striking out "Borrowers under this Act" and inserting in

lieu thereof "Borrowers under this Act and all nonprofit entities"; and

(2) by striking out the second sentence.

(b) in section (b), by adding at the end thereof the following new paragraph:

"(4) PREFERENCE FOR NONPROFIT ENTITIES.—In reviewing applications for assistance, the Secretary shall give the highest priority to those applications and preapplications submitted by nonprofit entities that operate on a nonprofit basis."; and

(c) in subsection (e), by striking out the second sentence.

SEC. 305. ELIMINATION OF DUPLICATIVE PROGRAMS.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926-1) is repealed.

ADDITIONAL COSPONSORS

S. 158

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 158, a bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 494

At the request of Mr. KYL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 494, a bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits.

S. 650

At the request of Mr. SHELBY, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. LOTT], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. ASHCROFT] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

AMENDMENTS SUBMITTED

THE ALASKA POWER ADMINISTRATION SALE ACT TRANS-ALASKA PIPELINE AMENDMENT ACT OF 1995

MURKOWSKI AMENDMENT NO. 1078

Mr. MURKOWSKI proposed an amendment to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; as follows:

Strike the text of Title II and insert the following text:

TITLE II

SEC. 201. SHORT TITLE.

This Title may be cited as "Trans-Alaska Pipeline Amendment Act of 1995".

SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the "Trans-Alaska Pipeline Authorization Act," as amended (43 U.S.C. 1652), is amended by inserting the following new subsection (f):

(f) EXPORTS OF ALASKAN NORTH SLOPE OIL.—

(1) Subject to paragraphs (2) through (6), of this subsection and notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over right-of-way granted pursuant to this section may be exported after October 31, 1995 unless the President finds that exportation of this oil is not in the national interest. In evaluating whether the proposed exportation is in the national interest, the President—

(A) shall determine whether the proposed exportation would diminish the total quantity or quality of petroleum available to the United States; and

(B) shall conduct and complete an appropriate environmental review of the proposed exportation, including consideration of appropriate measures to mitigate any potential adverse effect on the environment, within four months after the date of enactment of this subsection.

The President shall make his national interest determination within five months after the date of enactment of this subsection or 30 days after completion of the environmental review, whichever is earlier. The President may make his determination subject to such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that the exportation is consistent with the national interest.

(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to this section, shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.

(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

(5) If the Secretary of Commerce finds that anticompetitive activity by a person exporting crude oil under authority of this subsection has caused sustained material crude oil supply shortages or sustained crude oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused sustained material adverse employment effects in the United States, the Secretary of Commerce may recommend to the President appropriate action against such person, which may include modification of the authorization to export crude oil.

(6) Administrative action with respect to an authorization under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.

SEC. 203. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

"In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration for Defense District V have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.".

SEC. 204. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, *shall* provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

SEC. 205. EFFECTIVE DATE.

This title and the amendments made by it shall take effect on the date of enactment.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public two time changes with respect to hearings which have previously been scheduled before the Committee on Energy and Natural Resources.

First, the hearing scheduled on Thursday, May 25, before the full committee regarding S. 638, the Insular Development Act of 1995, will begin at 9:30 a.m. instead of 2 p.m., as previously scheduled.

Second, the hearing scheduled on Thursday, May 25, before the Subcommittee on Forests and Public Land

Management regarding property line disputes with the Nez Perce Indian Reservation in Idaho will begin at 2 p.m. instead of 9:30 a.m., as previously scheduled.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be permitted to meet on Monday, May 15, beginning at 2 p.m. in room SD–215, to conduct a hearing on the Caribbean basin initiative.

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

SUBCOMMITTEE ON PERSONNEL AND READINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittees on Personnel and Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Monday, May 15, 1995, in open session, to receive testimony regarding Department of Defense military family housing issues in review of S. 727, the National Defense Authorization Act for fiscal year 1996, and the future years defense program.

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

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, May 15, 1995, to review Federal pension reform.

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

ADDITIONAL STATEMENTS

IRANIAN NUCLEAR PLANS

• Mr. D'AMATO. Mr. President, I rise today to comment on an interview that appeared in the New York Times, on Sunday, May 14, 1995, entitled, "Iran Says It Plans 10 Nuclear Plants But No Atom Arms."

I must say that the interview is quite candid in as much as we have the Director of Iran's Atomic Energy Organization, Reza Amrollahi, stating that his nation intends to build as many as 10 nuclear reactors throughout the country. What we have is an Iranian official publicly stating the number of reactors Iran wants to build, as well as confirming that Iran is buying two more Chinese reactors, in addition to the Russian reactors they intend to purchase. This is remarkable and scary.

Mr. President, this interview only confirms what I have been saying all along. The terrorist regime in Iran is bent on aggression and will not stop. It is bad enough that they are abusing the human rights of the Iranian people and hijacking their rich history, but they are sacrificing the Iranian people's welfare in return for a headlong drive for nuclear armament. This is all very unfortunate for the abused Iranian people and dangerous for the world. I hope that Iranians remember what their corrupt government did to them.

Mr. President, I ask that the text of the above-mentioned article be printed in the RECORD.

[From the New York Times, May 14, 1995]

IRAN SAYS IT PLANS 10 NUCLEAR PLANTS BUT NO ATOM ARMS

(By Elaine Sciolino)

TEHERAN, IRAN, May 13—Iran's top nuclear official said today that his country intended to build about 10 nuclear power plants in the next two decades, but denied charges by the United States that Iran is trying to develop nuclear weapons.

The official, Reza Amrollahi, also said that last year he signed a formal contract with China for two nuclear power reactors and that Chinese experts had completed a feasibility study and had begun to draw up blueprints and engineering reports for a site in southern Iran.

Iran has already made a "down payment" for the project, which will cost $800 million to $900 million and involve training by Chinese experts, said Mr. Amrollahi, director of Iran's Atomic Energy Organization.

Although the United States has doubted that China is capable of building the reactors on its own because the original model included parts from Germany and Japan, Mr. Amrollahi said the Chinese now believed that they had successfully duplicated the technology.

The United States has led a global campaign to prevent Iran from receiving any nuclear technology because of its suspected weapons program. Mr. Amrollahi's statements suggest that the agreement with China is much further along than was previously known, and that Iran is planning a vast long-range nuclear energy program. They seem certain to strengthen the conviction both within the Clinton Administration and Congress that Iran is determined to become a nuclear power.

In addition to its oil reserves Iran has the second largest natural gas reserves in the world, and natural gas is much cheaper to develop than nuclear energy. That makes American officials suspicious that Iran wants nuclear power as part of a weapons program.

In a clear attempt to answer charges that Iran is developing nuclear weapons, Mr. Amrollahi made his remarks in a two-and-a-half-hour interview at his agency's new six-story building. It is part of a sprawling complex in central Teheran that includes a small nuclear research reactor built for Iran by the United States in the late 1960's, when the monarchy was in power and the relationship with Washington was close. Officials offered a brief tour of the complex, including a visit to two radio isotope laboratories for medical research, although they did not allow a tour of the reactor.

"In case we get enough money, in case we have enough trained people, we have a plan to take 20 years to get 20 percent of our energy from nuclear," Mr. Amrollahi said. Asked whether that could mean about 10 reactors, he said, "Something like that."

If Russia completes two reactor projects in Iran, and China builds two, it would mean that the Iranian Government intends to build six more throughout the country.

At the summit meeting in Moscow this week, President Clinton tried without success to persuade President Boris N. Yeltsin to abandon an ambitious nuclear energy project with Iran, arguing that its Islamic Government had embarked on a crash nuclear weapons program and that even peaceful nuclear cooperation was dangerous. Secretary of State Warren Christopher was similarly rebuffed when he made the same point to China's Foreign Minister, Qian Quichen, in New York last month.

Mr. Amrollahi reiterated that Iran had already invested $6 billion in the project—which is subject to international inspection and safeguards—and wanted to finish it. He said the contract with Moscow consists of a $780 million deal in which Russia will complete one of two reactors that a German firm was building at the southern port city of Bushehr before the project was halted after the 1979 revolution. If that project goes well, Russia will finish the second reactor.

The United States opposes the project in part because it will give Iran access to expertise, technology and training it would not otherwise have.

Mr. Amrollahi said that 150 Russian nuclear experts were already working at the site and that 500 would eventually be based there; a much smaller number of Iranians will be trained in Russia on how to operate the plant, he added. "Training people is part of that nuclear power plan," he said. "I don't know why they make such a hot fudge of it."

Mr. Amrollahi denied reports that Iran had negotiated—or even discussed—a plan to buy a gas centrifuge from Russia that could have rapidly enriched uranium to bomb-grade quality. "This was a diplomatically made cake," he said of reports from Washington about the existence of a separate, albeit tentative agreement with Russia.

Russia has agreed to supply the enriched uranium needed to operate the plant it will finish, he said. Asked whether Iran was pursuing a program to enrich uranium, at first he said, "Not now," but added quickly: "No. Not forever. Not. No. Not at all."

Asked why Iran simply doesn't use natural gas for fuel, Mr. Amrollahi said, "natural gas is one of the best fuels, and many countries at the moment need it. So we think it is better to sell it." Like many of Iran's nuclear specialists, Mr. Amrollahi has been educated and trained in the West. He holds a master's degree in electrical engineering from the University of Texas and a doctorate in physics from the University of Paris.

He briefly worked for the Belgian Government in nuclear safety in the 1970's. He has headed Iran's nuclear program for 15 years, and spoke with precision when discussing Iran's official nuclear reactor and research sites in Iran. But the United States and Germany have amassed substantial evidence that Iran is secretly buying components and technology from abroad that they claim are not necessary for nuclear energy development or research and can only be useful in a determined weapons program.

American and German intelligence officials believe that Mr. Amrollahi controls only part of Iran's nuclear program and that Iran has created a parallel program through the military that is largely responsible for purchases of nuclear related items. According to this view, the Defense Ministry Organization inside the Defense Ministry uses front organizations like the Sharif University of Technology in Teheran to help buy nuclear-related equipment.

On the basis of reports by Germany's foreign intelligence agency in 1992 and 1993 that Sharif was involved in secret nuclear activities, Germany began to reject all requests for equipment by the university. Early last year, the German agency said that the university's physics research center was involved in buying technology that could be used in making weapons, including nuclear-related materials.

Mr. Amrollahi strongly denied the claim that he was not fully in charge. "I am responsible for the atomic energy of Iran," he said, "Believe it, we don't have any other institutions or departments that pay attention to nuclear issues."

Mr. Amrollahi also denied reports that Iran secretly has been buying nuclear technology and equipment from abroad, noting that the International Atomic Energy Agency, which is responsible for monitoring nuclear programs around the world, turned up nothing suspicious during a visit to Sharif University.

But the nuclear chief was unfamiliar with intelligence reports about Iran's nuclear-related overtures abroad and asked for copies of news clippings describing the details.

Asked, for example, about a report that Iran tried unsuccessfully to buy cylinders of fluorine for Sharif University in 1991, Mr. Amrollahi said, "Wrong. I deny it totally." Asked about a report that Sharif University approached the German firm Thyssen in 1991 for specialized magnets he replied, "No, we never did."

Asked whether Sharif University tried to buy balancing machines from another German firm in 1991, he replied, "You can go and ask Sharif University."

Asked about a seizure by Italian authorities of high technology ultrasonic equipment that could be used in nuclear reactor testing in the Italian port of Bari last January, he replied, "Believe it, that's wrong, totally."

Asked about an earlier seizure by Italian customs of eight steam condensers destined for Iran in 1993, he said, "I don't know really. I don't know. It's totally wrong."

Mr. Amrollahi also denied a recent charge by Mr. Christopher, based on American intelligence reports, that Iran tried to buy enriched uranium from Kazakhstan in 1992. Other senior American officials in Washington said that Iran sent a purchasing team to Kazakhstan three years ago, but that it came home empty-handed.

The visit contributed to a decision by the Pentagon last year to secretly airlift 500 kilograms of bomb-grade uranium from Kazakhstan's nuclear fabrication plant for safe storage in the United States.

"We didn't send any team," Mr. Amrollahi said. "Definitely not. What is the use of enriched uranium for? The Russians do have many, many nuclear weapons but they couldn't use them. I think the bomb age is over. We don't think we need a nuclear weapon."•

TRIBUTE TO DON COLLINS

• Mr. KERRY. Mr. President, it is with great sadness that I note the death of Donald L. Collins after a brief but fierce battle with cancer. At the time of his death last February, Mr. Collins was Deputy Federal Insurance Administrator of the Federal Emergency Management Agency [FEMA] in Washington, DC. That position of leadership capped a remarkable career in Federal service of more than 20 years. It is a genuine honor to commend to my colleagues in the Senate the life and service of Don Collins.

Don had many remarkable achievements in his Federal career that I would like to touch on briefly. But perhaps, for anyone who ever met him, Don Collins' most memorable qualities were his deep, unabashed love for his Catholic faith, his genuine compassion for others, and his quick sense of humor that could disarm and charm any opponent. For Don, there were never any strangers, never any enemies—even after the most heated debate. He was available to everyone, at any time. While Don always assumed the lion's share of the work for every project, he still always had time for everyone on his staff. There was never a closed door to his employees at the Federal Insurance Administration [FIA] or to the public he served. His love and caring were contagious. Don had, in the words of his brother, long arms—always ready to draw people to himself, no matter how different their point of view.

Don loved and respected the law as well—which he demonstrated by always molding policy interpretations for the National Flood Insurance Program [NFIP] to comply with the intentions of Congress for that program. His regard and respect for law were developed early as he worked his way through undergraduate school at Fordham University in New York City and law school at night. He completed his juris doctor at Saint John's University, also in New York. He was admitted to practice in the following courts: the courts of the State of New York, District of Columbia Court of Appeals; U.S. Circuit Court of Appeals, Second Circuit; U.S. District Court of the Eastern District of New York; U.S. District Court for the Southern District of New York; and U.S. Court of Military Appeals (DC).

Marking another dimension of this charming, approachable, funny man were the awards he received to commemorate a textbook Federal career. In 1991, Don Collins received the Presidential Rank Award-Meritorious Executive, Senior Executive Service. That award recognized in part his lasting contributions and service to the Federal Insurance Administration, especially for his efforts to shape and implement the NFIP program. In that connection, Mr. Collins played a major role in framing the public policy debate about how to reduce the public's losses from floods, which resulted in the enactment of the Flood Disaster Protection Act of 1973. That legislation redirected the Nation toward a more prudent course in flood loss reduction. From 1990 to 1994, he worked closely with the White House and congressional leaders to shape the NFIP Reform Act of 1994 which strengthens the NFIP and provides lenders with the tools needed to comply with legal requirements for flood insurance.

Over the years, Don Collins also helped foster a close working relationship with the insurance industry. His integrity and disarming personality were largely responsible for the good will enjoyed by the program with its industry partners. He developed and administered the entire claims and underwriting systems in support of the NFIP and developed all NFIP policy forms and the agents' manuals. Similarly, he developed all flood insurance regulations and was central to the development of all significant policies governing the NFIP.

In sum, Don Collins was a model Federal executive. More than that, Don Collins was an exemplary person. He was a man of deep faith, a loving husband and father, a person dedicated to his community, and a manager who set the standard for excellence at the Federal Insurance Administration and the National Flood Insurance Program. When my staff and I worked with Don on NFIP legislation over the course of 2 years, his knowledge, diligence, good humor, grace, and personal warmth were always present, and prevented a series of difficult negotiations from becoming unpleasant and onerous. None who worked with him will forget him. Indeed, he will be appreciated and fondly remembered by all.•

THE COLUMBIA GORGE INTERPRETIVE CENTER

• Mr. GORTON. Mr. President, it is my privilege to recognize the grand opening of the Columbia Gorge Interpretive Center in Stevenson, WA on Wednesday, May 17, 1995. The grand opening celebration will start at 10:30 a.m. with the award-winning Stevenson High School Band and choir, and conclude with Nelson Moses of the Wishram Tribe and members of his family giving a native American blessing to the project.

The Interpretive Center is dedicated to preserving the natural and cultural history of the magnificent Columbia River Gorge. Exhibits and displays will educate, entertain and inform adults and children alike. As they tour the center they will see the First Peoples and Harvesting Resources galleries and the multi-media Creation Theatre, which shows the cataclysmic events that shaped the gorge. They will also learn about the people who built the communities of the gorge—pioneers, missionaries, riverboat captains, soldiers, dam-builders and all the rest—in all, a wonderful cast of characters.

Other exhibits feature natural resources, dams and other developments on the river. This center encourage Washingtonians to consider their role in the stewardship of the mighty Columbia River, one of our great natural wonders.•

THE IMPORTANCE OF THE LEGAL SERVICES CORPORATION

• Mr. SIMON. Mr. President, I am extremely concerned that in the rush to shrink the size of the Federal Government, Congress may eliminate or severely limit the services provided by many important programs. One such program, which gives low-income individuals a fighting chance, is the Legal Services Corporation [LSC]. Established by an act of Congress in 1974, the LSC provides grants to local agencies that in turn offer legal services to the poor. In its 20 plus years in existence, the LSC has provided funding for legal services to tens of thousands of low-income Americans in areas ranging from inner-cities to native American reservations.

The U.S. District Court for the Northern District of Illinois recently issued a resolution supporting the continued funding of the LSC. This resolution is significant because it comes from those who administer justice in our courts, and who have first-hand knowledge of the benefits of legal services. The resolution asserts that the LSC is essential to providing equal opportunities for justice for all Americans.

I applaud the action taken by the justices in the Northern District of Illinois, and ask that the text of the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION

This court, the United States District Court for the Northern District of Illinois, understands that there are proposals before Congress to restrict or eliminate funding for the Legal Services Corporation and to transfer to the states the responsibility for providing legal assistance to low-income persons and families. In Illinois, at least, the likelihood that such assistance would be provided by the state, given its present and prospective fiscal difficulties, is remote, and the restriction or elimination of federal funding would, in all probability, lead to a corresponding restriction or to the elimination of legal assistance. We believe such a decision would have a major adverse impact upon the administration of equal justice.

This court is aware that many low-income persons and families in Illinois have no means to obtain redress except through the five federally-supported legal services programs in this state. The Legal Assistance Foundation of Chicago alone represented over 38,000 low-income persons and families in 1994, primarily by counseling or by working the matter out with other parties without resort to governmental agencies or to the courts. These matters included resolution of landlord-tenant disputes, the provision of public benefits, providing representation in marriage dissolution matters including assisting in obtaining adequate child support, obtaining orders of protection for victims of domestic violence, enforcing consumer protection laws, assisting in employment and housing discrimination matters, assisting working low-income people in obtaining unemployment insurance benefits, and assisting migrant workers, the disabled and crime victims. In many instances LAFC enlists the aid of private attorneys, who provide services at minimal compensation. Many of these matters involve enforcement of federal law, either constitutional rights or, more commonly, statutes duly enacted by Congress. Their enforcement requires adequate representation, and that representation will not be available without federally supported legal assistance.

Also of particular concern to this court is the Federal Court Prison Litigation Project, through which LAFC provides necessary training and support. Private counsel, through the district's trial bar, accept appointment as counsel in prisoner cases without expectation of compensation. Having counsel is of great benefit not only to the plaintiffs but also to the defendants and the court, as that representation is helpful in separating meritorious claims from non-meritorious claims at an earlier stage and in facilitating orderly progression of the litigation. LAFC provides training, consultation, research assistance and a data and materials bank. We believe that few private counsel would be willing to participate in that program if those services were not available.

Now, therefore, be it *Resolved*, That the United States District Court for the Northern District of Illinois supports the continuation of the federally funded legal services program as essential to the administration of equal justice.•

HONORING MORTON GOULD

• Mr. D'AMATO. Mr. President, I would like to express my sincere congratulations today to a great artist and a great man, Morton Gould. Considering Mr. Gould's numerous lifetime achievements in music, he is well deserving of the high honor that has been presented to him, the 1994 Pulitzer Prize for music composition.

Born in Richmond Hill, NY, on December 10, 1913, Mr. Gould's music career began at age 6 with his first published piece, a waltz, appropriately titled "Just Six." At age 8, Mr. Gould entered the Institute of Musical Arts in New York City on scholarship and continued studying and playing music until his teens. After having to leave school for financial reasons and working for a while as a pianist for vaudeville acts, he landed a job as a pianist for the Radio City Music Hall. By the time he was 21, Mr. Gould was introducing his work through conducting and arranging a weekly series of orchestra radio programs for the Mutual Radio Network.

Mr. Gould's unique blend of music, resonating of jazz, folk, hymns, spirituals, gospel, and Latin-American, reflects the lyrical cross-section of America that makes his work so well loved. Some of his more popular works include: "Latin-American Symphonette"; "Spirituals for Orchestra"; "Tap Dance Concerto"; "Jekyll and Hyde Variations"; "American Salute and Derivations for Clarinet and Band" written for the late Benny Goodman. "Pavanne," from Gould's "Second Symphonette" has become one of the most widely performed instrumental standards.

During his distinguished career he has composed works for Broadway musicals, dance, ballet, film, and television. His work has been commissioned by symphony orchestras, the Library of Congress, the Chamber Music Society of Lincoln Center, the New York City Ballet, and the American Ballet Theatre. His compositions have been performed around the world by many great conductors of today as well as those of the past, including the great talents of Arturo Toscanini, Leopold Stokowski, Artur Rodzinski, Dimitri Mitopoulos, and Fritz Reiner.

While Mr. Gould's work has spanned the greater part of this century, he has always managed to remain contemporary. Beginning with LP's, his multitude of works have made their way into each new recording medium, including the new digital recording technology which he was one of the first to use as early as 1978.

As an artist himself, Mr. Gould has long fought to protect the rights of all musical creators. Since 1935, he has been a member of the American Society of Composers, Authors and Publishers, the oldest performing rights organizations in the world. He has also served on the organization's board of directors since 1959 and from 1986–94, he was its president.

His many awards include a Grammy and a number of Grammy nominations; the 1983 Gold Baton Award, presented by the American Symphony Orchestra League; the 1985 Medal of Honor for Music from the National Arts Club; 1986 election to the American Academy of Arts and Letters; and the National Music Council's Golden Eagle Award. And in December 1994, Mr. Gould was presented with a lifetime achievement award by the Kennedy Center.

Last March 10, 11, and 12, Mstislav Rostropovich conducted the National Symphony Orchestra of Washington, DC, in the world premier of Mr. Gould's "Stringmusic," for which he received the Pulitzer Prize. This extraordinary piece was commissioned by the Hechinger Foundation in honor of Mr. Rostropovich's last season as musical director of the National Symphony Orchestra and to honor Mr. Gould's 80th birthday.

As a fellow New Yorker and fellow American, I salute Mr. Gould's accomplishments and contributions through his music which have given so much to us all and forever enriched our lives.•

COMMEMORATING THE ESTABLISHMENT OF THE PADOVANO COLLECTION AT THE UNIVERSITY OF NOTRE DAME

• Mr. BRADLEY. Mr. President, I rise today in recognition of the lifetime achievements of my constituent, Dr.

Anthony T. Padovano, who has bequeathed his personal papers to the archives of the Theodore Hesburgh Memorial Library at the University of Notre Dame.

A leader in the post-Vatican-II Catholic reform movement and chairman of the literature program at Ramapo College of New Jersey, Dr. Padovano has dedicated over 30 years to the study and advancement of the Catholic Church. Ordained a Catholic priest in 1959, Dr. Padovano was closely associated with the Vatican II Ecumenical Council which met from 1962 to 1965. During this time, he emerged as an advocate for the ordination of married men and women, more democratic and participatory church discussion, significant church involvement in issues of social justice, and greater interreligious harmony.

Throughout the 1960's and early 1970's, Dr. Padovano authored key letters for the National Council of Catholic Bishops and taught systematic theology at Gregorian University's Seminary until he married in 1974. Unable to remain at the seminary, but still able to follow his religious calling, Dr. Padovano became involved in the founding of Ramapo College and its mission of interdisciplinary learning as a professor of American literature and religious studies.

A professor, award-winning author, and reform leader, Dr. Padovano continues his study of morality and ethics in our society. As founder and president of CORPUS, National Association for a Married Priesthood, and vice president of the International Federation of Married Catholic Priests, Dr. Padovano continues to address the most controversial issues confronting the Catholic Church.

The Padovano collection carries with it 30 years of scholarship, authorship, and independent thought which will guide students of theology, the Catholic Church and its reform movement in their quest for greater understanding. I am honored to pay tribute, on behalf of New Jersey and the Nation, to Dr. Padovano, his scholarship and his generous gift to the University of Notre Dame.●

HONORING DR. JAN MOOR-JANKOWSKI

● Mr. D'AMATO. Mr. President, at this time I would like to pay tribute to an outstanding professor at New York University by the name of Jan Moor-Jankowski. Dr. Moor-Jankowski, a world renowned research physician and trailblazer on scientific first amendment rights, has been unanimously elected to the late Dr. Linus Pauling's chair at the French National Academy of Medicine, Division of Biologic Sciences.

The origins of the French Academy of Medicine extend to the Royal Academies of the 18th century. The Academy provides a forum for medical debates and advises the French Government on health-related matters. Louis Pasteur was one of its notable members. A limited number of distinguished non-French scientists are elected to provide representation of the worldwide scientific community. An election is for lifetime and only occurs when a chair is vacated.

Election to the Academy is one of France's highest and rarest honors, reserved for the most respected scientist in the world. At the time of his election, Nobel Prize winner Dr. Pauling was virtually a household name thanks to his groundbreaking theories on the effects of vitamins on cancer and other diseases. Like Dr. Pauling, Dr. Moor-Jankowski was chosen from a list of highly regarded candidates as the sole U.S. citizen to be honored with membership on the biological sciences board of the Academy.

For example, this latest award is only the last in a string of scientific honors bestowed on Dr. Moor-Jankowski. In 1994, he was given the William J. Brennan, Jr. Defense of Freedom Award by the Libel Defense Resource Center. In addition, in 1984, Dr. Moor-Jankowski was made a Knight of the French Order "Ordre National de Merite" for World War II resistance and scientific achievements. Other medals and awards from Israel, the U.S.S.R., Italy, and Switzerland have punctuated his career.

Dr. Moor-Jankowski is an alumnus of the Swiss universities of Fribourg and Berne. He began his career at the University of Geneva where his research interests in the study of polymorphic phenotypic expressions of the genetic substrate of man led to his discovery of clinically silent hemophilia B, and of the significant genetic drift of blood group frequencies in the inhabitants of the highest Alpine villages. During subsequent research at Cambridge University, Dr. Moor-Jankowski discovered the polymorphism of allotypes of serum proteins in mice and monkeys.

For the past 30 years, Dr. Moor-Jankowski's laboratory, LEMSIP, has been participating in international collaborative studies leading to the development of the first tests for and vaccines against various forms of infectious hepatitis, and since 1987, in collaboration with Institute Pasteur, Paris, in the development of the first vaccines against AIDS.

He also serves as Director of the World Health Organization Collaborating Center for Hematology of Primate Animals, and is editor-in-chief of the Journal of Medical Primatology.

Again I would like to take this time to honor an outstanding New York resident who has devoted his life to enhancing the quality of life in this country and toward solving world health problems. We wish him continued success in all future endeavors.●

TRIBUTE TO PETE BARBUTTI

● Mr. REID. Mr. President, I rise today to recognize Pete Barbutti, whose talent, warmth, and generosity is deeply admired and appreciated throughout Las Vegas. I rise to pay tribute to Pete, a classic entertainer who helped make Las Vegas the entertainment capital of the world.

Born in Scranton, PA, Pete Barbutti began his entertainment career at the young age of 11. At once, his musical genius on the accordion and percussion was apparent. By high school, it was no wonder he was voted "Most Popular Boy" and "Class Clown" for Pete was truly liked by all.

After serving as assistant conductor in the Army Reserves, Pete brought his musician-comic flair to Las Vegas, where he formed his own group, a music-vocal-comedy quartet called the Millionaires. The group quickly became the favorite of many Las Vegas strip celebrities.

Pete has worked with the best in entertainment including Steve Allen, Nat King Cole, Henry Mancini, and Frank Sinatra. Today, he maintains high visibility by working clubs, conventions, and fairs throughout the United States and Canada, and is famous for his hundreds of appearances on television talk shows. He has received countless awards including Las Vegas Entertainer of the Year and the Artistic Achievement Award from the American Federation of Musicians.

Aside from his performing brilliance, Pete should be recognized for his philanthropic contributions. He played a key role in the success of the Take a Senior to Lunch program and has donated numerous hours helping seniors of the Las Vegas community.

I extend my deepest appreciation to Pete Barbutti for graciously sharing his talent at the 1995 Senior Fair, and for the many smiles he has brought to Nevadans.●

AUTHORITY FOR COMMITTEE TO REPORT

Mr. LOTT. Mr. President, I do have some unanimous consent requests now. I am advised that they have all been provided to the Democratic leadership and have their approval.

I ask unanimous consent that the Budget Committee have until 10 p.m. tonight to file their report to accompany the budget resolution.

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

ORDERS FOR TUESDAY, MAY 16, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Tuesday, May 16, 1995; that following

the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 534, the Solid Waste Disposal Act, under the previous order.

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

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy luncheons to meet; further, that notwithstanding the recess of the Senate on Tuesday, all Members have until 2:30 p.m. to file any first-degree amendments to S. 395.

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

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, under the agreement reached on Friday of last week the Senate will resume consideration of S. 534, the solid waste disposal bill, at 9:30 tomorrow morning. Senators should be aware that rollcall votes are anticipated as early as 10:30, on or in relation to any of the remaining amendments to the bill.

Following the disposition of the solid waste bill tomorrow, the Senate will resume consideration of S. 395, the Alaska Power Administration bill. A cloture motion was filed on that measure today, so all Members will have until 2:30 p.m. on Tuesday to file any first-degree amendments to the bill.

Rollcall votes can be expected into the evening on Tuesday in order to make progress on S. 395.

Mr. President, I observe no Senators on the floor still wishing recognition but I understand Senator SIMPSON will be arriving shortly. So I ask that no further business come before the Senate other than that of Senator SIMPSON, who will speak as in morning business, I believe, and I ask the Senate stand in recess under the previous order after that statement.

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

Mr. LOTT. 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. SIMPSON. 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. SIMPSON. Mr. President, are we in a period of morning business at this point?

The PRESIDING OFFICER. The Senator may speak as if in morning business.

Mr. SIMPSON. I will be very short. I understand that you are ready to adjourn for the evening.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 805 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for not to exceed 5 minutes, notwithstanding the previous order.

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

ANTITERRORISM LEGISLATION

Mr. DOLE. Mr. President, I want to join today with President Clinton and with all of America in honoring the 157 law enforcement officers who were killed last year in the line of duty. These brave men and women paid the ultimate sacrifice so that all Americans may continue to live in freedom and peace today, and every day, our thoughts and prayers are with the victims and their families.

Unfortunately, President Clinton could not resist the temptation to score some political points when he chose today's memorial ceremony to criticize congressional efforts to enact meaningful antiterrorism legislation. In his remarks, the President claimed he sees "disturbing signs of the old politics of diversion and delay." And just yesterday, the White House Chief of Staff made the untenable statement that antiterrorism legislation is not moving in Congress "because there is this diversion going on to try to create attention on the Waco incident." Mr. Panetta even went so far as to describe as "despicable" the idea that congressional oversight should be brought to bear on the Waco tragedy.

I know there has been a lot of talk recently about paranoia. But, judging by these remarks, it appears that the paranoia bug has infected the White House. Contrary to what President Clinton may believe, there is no hidden conspiracy on the Hill to divert or delay consideration of antiterrorism legislation. And Mr. Panetta may be disappointed to learn that we have not concocted a secret plot to focus attention on Waco as a means of diverting attention from the administration's own antiterrorism plan.

Just look at the record: We have had 3 days of hearings, including hearings on the administration's controversial proposal to amend the Posse Comitatus Act. We have introduced comprehensive legislation that incorporates many of the administration's own antiterrorism proposals. And we continue to press ahead. In fact, my staff has been meeting regularly, even today, with White House and Justice Department officials to review—and perhaps improve—all of the various antiterrorism proposals that are now on the table.

So, as we move ahead on an ambitious legislative agenda here in the Senate, including an historic plan to balance the Federal budget by the year 2002, I hope the President and his Chief of Staff would show some restraint and patience.

Yes, we will give the administration's proposal every consideration. Yes, we will pass tough antiterrorism legislation. But our resolve to confront the terrorist threat must also be tempered with wisdom and restraint. What we do this year must withstand the test of time. After all, nothing less than our constitutional liberties are at stake.

One would think and hope that the President of the United States would understand this simple, but immensely important, point.

Mr. President, we have indicated to the President we would try to have a bill on his desk by the end of this month. That is still our hope. There have been a lot of delays, but we believe we can meet that challenge.

But I must say, we want to be very careful and not do something based on the emotion of the moment. We want to take a look at this legislation a year from now, 2 years from now, 5 years from now, to make certain we have not trampled on someone's constitutional rights, some group or some individual, down the road.

I think it is very important that we move prudently and we will do that, as we indicated and promised the American people.

I hoped the President would be working with us, instead of taking shots at us based on misinformation. I assume somebody gave him bad information; otherwise, I am certain he would not make a statement like that.

I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 9:30 a.m., Tuesday, May 16, 1995.

Thereupon, at 6:15 p.m., the Senate recessed until Tuesday, May 16, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 1995:

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE U.S. INFORMATION AGENCY

FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS STATED, AND FOR THE OTHER APPOINTMENTS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR; AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JUDITH A. FUTCH, OF VIRGINIA
GEORGE ADAMS MOORE, JR., OF MARYLAND

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

WILLIAM CARROLL CRADDOCK III, OF WASHINGTON
PATRICK C. FLEURET, OF CALIFORNIA
SHANE MACCARTHY, OF VIRGINIA
NIMALKA S. WIJESOORIYA, OF CONNECTICUT

U.S. INFORMATION AGENCY

MARILYN E. HULBERT, OF FLORIDA
MARY ANNE KRUGER, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

BELINDA K. BARRINGTON, OF ARIZONA
STEVEN H. BERNSTEIN, OF VIRGINIA
THOMAS ARTHUR DAILEY, OF CONNECTICUT
HERBERT D. HAMBY, OF CALIFORNIA
LINDA LOU KELLEY, OF VIRGINIA
BOBBIE ELAINE MYERS, OF CALIFORNIA
LAWRENCE ERLING PAULSON, OF WASHINGTON
THOMAS HILL PIERCE, OF VIRGINIA
JOHN R. POWER, OF VIRGINIA
JOHN THOMAS RIFENBARK, OF MISSOURI
DEV P. SEN, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

RICHARD T. DRENNAN, OF MARYLAND
MARK A. DRIES, OF VIRGINIA
HUGH J. MAGINNIS, OF FLORIDA
MELINDA D. SALLYARDS, OF FLORIDA

AGENCY FOR INTERNATIONAL DEVELOPMENT

LISA ROSE FRANCHETT, OF CALIFORNIA
MICHAEL J. KAISER, OF NEW JERSEY
KIM MARI KERTSON, OF WASHINGTON
PETER C. KOECHLEY, OF COLORADO
JOAN CLAYTON LARCOM, OF CALIFORNIA
SCOTT S. NICHOLS, OF VIRGINIA
MARY E. NORRIS, OF OHIO
JOHN MICHAEL SULLIVAN, OF ILLINOIS
ALVERA SWEET, OF KANSAS
TUNG THANH TU, OF TEXAS
JIMMIE O. WHITE, OF CALIFORNIA
DAVID P. YOUNG, OF VIRGINIA

FOR REAPPOINTMENT IN THE FOREIGN SERVICE AS A FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MICHAEL J. HONNOLD, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

MARCIA P. BOSSHARDT, OF TEXAS
MELISSA GARTH FORD, OF CALIFORNIA
SUSAN HEBERT-CLEARY, OF NEW YORK
RICHARD W. HUCKABY, OF SOUTH CAROLINA
REBECCA J. IDLER, OF PENNSYLVANIA
LISA C. KENNEDY, OF CALIFORNIA
PETER GEORGE PINESS, OF VIRGINIA
EMILIA A. PUMA, OF CALIFORNIA
JO DELL SHIELDS, OF PENNSYLVANIA
KATHERINE VAN DE VATE, OF TENNESSEE
KAREN L. WILLIAMS, OF MISSOURI

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ERIC M. ALEXANDER, OF NEW MEXICO
KEITH MIMS ANDERTON, OF ALABAMA
MICHAEL A. BARKIN, OF FLORIDA
LEONARD E. BOLLEN, JR., OF VIRGINIA
JAMES A. CAROUSO, OF ARIZONA
JONATHAN JAMES CARPENTER, OF CALIFORNIA
BENJAMIN CHANG, OF VIRGINIA
JINHEE CHOI, OF TEXAS
GREGORY A. CRAWFORD, OF FLORIDA
RICHARD DEAN CUMMINS, OF VIRGINIA
ALANNA CUNNINGHAM, OF NEW YORK
WILLARD L. ELLEDGE, JR., OF FLORIDA
DORIS A. ELLENBERGER, OF VIRGINIA
MARK R. EVANS, OF VIRGINIA
MITCHELL L. FERGUSON, OF CALIFORNIA
TROY DAMIAN FITRELL, OF THE DISTRICT OF COLUMBIA
SHAWN ERIC FLATT, OF MISSOURI
MARTINA FLINTROP, OF VIRGINIA
MARC FORINO, OF VIRGINIA
STEVEN B. FOX, OF NEW YORK
JOSEPH GALLAZZI, OF FLORIDA
MIGUEL A. GRANADOS, OF VIRGINIA
KENT M. HARRINGTON, OF VIRGINIA
NATHAN V. HOLT, JR., OF FLORIDA
MELISSA ANNE HUDSON, OF TEXAS
SANDRA J. INGRAM, OF OHIO
BEN E. JOHNSON, OF VIRGINIA
ISTVAN S. KALNOKY, OF VIRGINIA
BRIAN J. KELLEY, OF VIRGINIA
RAYMOND J. KENGOTT, OF FLORIDA
MICHEL MARY KWIATKOWSKI, OF NEW YORK
STEPHAN A. LANG, OF MISSOURI
BENJAMIN WARD MOELING, OF CONNECTICUT
ERIC F. MOLLER, OF VIRGINIA
MARK DAVID MOODY, OF MISSOURI
STANLEY M. MOSKOWITZ, OF VIRGINIA
MIREMBE NANTONGO, OF VIRGINIA
CHERYL L. NORMAN, OF TEXAS
J. MARTIN O'MEARA, OF VIRGINIA
GREGORY C. PAYTOSH, OF VIRGINIA
LINDA M. PERKINS, OF MARYLAND
JAMES ALLEN PLOTTS, OF CALIFORNIA
ALEJANDRO M. PUIG, OF PUERTO RICO
CHRISTOPHER TODD ROBINSON, OF PENNSYLVANIA
WILLIAM SCOFIELD ROWLAND, OF GEORGIA
MICHAEL E. SALZMAN, OF VIRGINIA
DAVID V. SCOTT, OF UTAH
REBECCA J. SHOLL, OF VIRGINIA
BRIAN WESLEY SHUKAN, OF MASSACHUSETTS
DON L. SIMPSON, OF TEXAS
BARBARA L. SINEGAL, OF VIRGINIA
KEITH L. STEPP, OF VIRGINIA
STEVEN W. STORMOEN, OF VIRGINIA
J. FRANK SUMMERS, OF VIRGINIA
ANDREW CHESTER WILSON, OF WASHINGTON
JOY ONA YAMAMOTO, OF CALIFORNIA

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. GEORGE R. CHRISTMAS [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL K. VAN RIPER [redacted]

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES E. WILHELM [redacted]

HOUSE OF REPRESENTATIVES—*Monday, May 15, 1995*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. FUNDERBURK].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 1995.

I hereby designate the Honorable DAVID FUNDERBURK to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. MICA] for 5 minutes.

SETTING THE RECORD STRAIGHT

Mr. MICA. Thank you, Mr. Speaker.

Mr. Speaker, I come before the House this morning to set the record straight, to provide you, Mr. Speaker, and my colleagues, with correct information on statements that have been made about comments that I made on the floor in the regulatory reform debate which took place recently in the House of Representatives during our debate on the Contract With America, and specifically on the regulatory reform issues that came before this Congress.

In this Congress and during the past Congress, I have been an outspoken critic of the manner and conduct of the regulatory process at the Federal level. Quite frankly, I came here several years ago believing that the regulatory edicts and mandates sent out by the Federal Government had overreached their bounds, had imposed undue burdens and costs on our citizens, on our local governments, on business and industry, and were eating at the very fabric of productivity and competitiveness in this country.

During the debate on the question of regulatory reform, I stood at that podium and I talked about several instances of what I considered excess regulation and regulatory overkill.

I used several examples, and two of the examples I used were actually from my local dentist, who when I was in his dental chair and in his dental office had told me several years ago about some of the excesses of certain Federal departments and agencies, and how he felt imposed upon by those agencies and how he was constricted by those agencies, and at least felt the pressures of those agencies on his practice and on his professional conduct.

So I made those comments in the regulatory reform debate in the House, and shortly thereafter "ABC News" and Peter Jennings and company made a little series, and I wanted to report to the House on that series, and also on the response. The people of the United States and Congress tuned into the "ABC News" and heard a certain response, and I never got an opportunity. You know, they interview you for, in this case, about an hour of tape, and then they take little segments out, and then they put on the national news those segments.

Interestingly enough, and as Paul Harvey said, there is a little bit more. Here is the rest of the story. I want to present that to the House this morning.

Let me quote from the National Review, and I did not prompt their doing this piece or I did not ask them to look into this matter. It just appeared, and some of my constituents sent it to me. But let me quote exactly from it. I will read it.

Hot on the heels of the GOP's capture of Congress, ABC World News Tonight has unveiled a new segment, "For the Record," designed to ferret out congressmen who engage in exaggeration, false statistics, misleading anecdotes, and other evils. The inaugural segment focused on Representative John Mica (R., Fla.), who alleged that certain Occupational Safety and Health Administration regulations forbid kids to take pulled teeth home from the dentist, and that others compel dentists to keep logs for possession and disposal of white-out. Wild congressional exaggeration, right? Actually, OSHA's Blood Borne Pathogen Standard labels bodily tissues as biohazards. Teeth are considered tissue, and technically must therefore be placed in a red bag and picked up by a licensed disposer. Furthermore, because certain brands of white-out contain toluene, OSHA requires that Manufacturers Safety Data Sheets be kept in office files. Dr. Edward Stein, a health scientist at OSHA, says that white-out's levels of toluene are far below those which concern OSHA and that the requirement does not pertain to offices with fewer than 10 people. However, he concedes that if an individual in an office with fewer than 10 people filed a complaint about white-out, OSHA would be free to investigate. As for the teeth? A dentist in the Northeast refused to return a tooth to a 6-year-old boy because he was concerned about the health regulation. OSHA's unofficial position is that this was unnecessary. However, the regulation does require such action. For the Record.

In conclusion, this story by National Review does set the record straight, and that is, my colleagues, the rest of the story.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 37 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FUNDERBURK] at 12 noon.

PRAYER

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

Teach us always, gracious God, to use our words as instruments of information and understanding, as agents of communication and contact, so that our expressions bring us together and allow us to share in our common heritage and our collective concerns. Remind us that we should choose our words wisely for we know that comments clearly stated and given for the purpose of knowledge can promote harmony and mutual assurance and can lead all people to greater respect and reverence toward one another. Bless us and all Your people, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT]

come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT 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. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 64. Concurrent resolution authorizing the 1995 Special Olympics Torch Relay to the run through the Capitol Grounds.

VETERANS BENEFITS

(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, check this out. Military bases are closing all over America. Veterans benefits are being cut. Veterans cost-of-living allowances are being cut. Veterans outpatient clinics are being closed. Veterans pensions are being slashed.

Think about that. What bothers me is our Government is going to provide 25,000 dollars' worth of vouchers to buy houses for Russian soldiers. Beam me up. Maybe I missed something down here. We have got veterans literally sleeping on steel grates, trying to find an opportunity to get a job, but we are giving $160 million to Russia so that these Russian troops coming back from the Baltics will be able to find a place to live. If they cannot, we, the American taxpayer, will build them a house for $25,000.

Ladies and gentlemen, is there any reason why we are bankrupt? America has the best government that Russia ever had and that most of these other countries ever had. While we are going south, they are all doing well with our tax dollars.

I say it is time to send some of these American gurus who made this decision over to Siberia, let them freeze their buns a little bit over there and maybe it will get them a house back here in America.

(Mr. TRAFICANT asked and was given permission to proceed out of order for 3 minutes.)

H.R. 390

Mr. TRAFICANT. Mr. Speaker, since no one else is here at this point, H.R. 390 is a bill that would change the burden of proof in the tax case. Right now, if you go to a tax court on a civil case, the IRS can lien your house, take your bank account, take your parakeet, take your rubber duckie, and you have to prove you are innocent because you are considered guilty in that court.

H.R. 390 says, first of all, whenever a taxpayer goes to court in America there is one standard, and that is an American is innocent until proven guilty, and I shall switch and the American taxpayer shall be deemed innocent as well.

Second of all, you have 10 days where the IRS has to let you know what problem you have with your tax form. Cite the position of the regulation or the statute, in which your tax report has some problems. And finally, before they can take your house, take your car, take your bank account, they have to present facts to a court of law and have a court order to do so.

I think it is time, my colleagues. If innocent until proven guilty worked for the Son of Sam and Jeffrey Dahmer, how is it that grandma and grandpa, mom and dad or American taxpayers are guilty and a court must prove them innocent? Let us get on with our business. I am asking whoever is in the Congress who may be watching this to cosponsor H.R. 390 and have the Committee on Ways and Means bring the bill out.

The American people should be treated at least as well as a common murderer in a tax court.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. YOUNG of Alaska) at 12 o'clock and 23 minutes p.m.

MORE FOREIGN AID CUTS URGED

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

Mr. FUNDERBURK. Mr. Speaker, America's foreign policy structure needs to be overhauled. The current system is a relic of the cold war. It is duplicative and inefficient, and its foreign aid programs are a disaster.

Despite billions of dollars, those we have given aid to are mired in poverty. In fact, we have done these countries more harm than good by promoting socialist economic and agricultural programs. Of the 15 countries receiving the most U.S. aid, the Heritage Foundation's freedom index rates 12 as "mostly unfree," 1 has a repressed economy, and 2 are rated "mostly free."

A foreign aid program which supposedly buys the good will of foreign leaders while they ruin their own countries cannot be tolerated. If it is to be handed out it must promote free market reforms. Also a majority of the countries receiving U.S. aid consistently vote against us at the U.N. Foreign aid must be tied to America's interests. Is it not about time we had an American desk at the State Department.

At a time we are talking about cutting back on housing, student aid, and farming programs it is not fair to cut foreign policy programs by only $1 billion each year for the next 5 years as the International Relations Committee bill does. It is not enough. Streamlining the State Department's bureaucracy both here and abroad is vital. Let us tell the American people that we are serious about setting new priorities for American foreign policy. Let us cut the fat at Foggy Bottom.

WHO WILL BE HURT BY CUTS TO MEDICARE AND MEDICAID?

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

Mr. PALLONE. Mr. Speaker, I would like to use my 1 minute to quote some sections of a Star Ledger editorial which was in the Star Ledger, New Jersey's largest circulation daily, on Thursday, May 11. It says:

The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget, and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. The only thing they do not tell you is how to cut $256 billion from Medicare and $175 from Medicaid, or who is going to get hurt if and when the cuts are made.

You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance.

You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.

Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.

No one bothers to mention that Medicaid clients are mainly women and their children, or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.

Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

Mr. Speaker, I include this whole editorial for the RECORD:

[From the Star-Ledger, May 11, 1995]

MEDICARE'S CUTTING EDGE

Why did Willie Sutton rob banks? Because that's where the money is, he said.

Why are Medicare and Medicaid scheduled to take the biggest blow in the budget cutting proposed by congressional Republicans? Same reason. Same crime.

The Republicans have offered a budget resolution that does it all, reduces the deficit, balances the budget and saves Medicare from bankruptcy—a piece of work crafted of smoke and mirrors. All you have to do is trim a bit from this, a bit from that and a whole bunch from Medicare and Medicaid over the next few years and voila!

The only thing they don't tell you is how to cut $256 billion from Medicare and $175 billion from Medicaid or who is going to get hurt if and when the cuts are made.

You cannot make up that kind of money by switching everybody in Medicare and Medicaid to managed care insurance. The best managed care plans are not holding health care increases down to the point that would have to be matched in order to reap the savings the Republican budget resolution promises.

You cannot make it up by cutting fees to doctors and hospitals, unless you want to see the old and the poor turned away.

Medicare is getting all the attention because it is the program for the elderly, a stronger political lobby than people on Medicaid, the program for the poor.

No one bothers to mention that Medicaid clients are mainly women and their children or that the biggest bite from that budget provides the only hope most of us will have of keeping our mothers and fathers in nursing homes without our families going bankrupt.

Many of the same Republicans who ranted last year that a national health care program would result in health care rationing are among the crowd now calling for the kind of budget cuts which could very well mean rationing for the elderly and the poor. Shows what a difference a year and an election can make.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FUNDERBURK). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and neas are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed will be taken after debate is concluded on all motions to suspend the rules, but not before 5 p.m. today.

GREENS CREEK LAND EXCHANGE ACT OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1266

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 "Greens Creek Land Exchange Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96–487 (94 Stat. 2371);

(3) the term "conservation system unit" has tne same meaning as defined in section 102(4) of ANILCA;

(4) the term "Green Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term in defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

SEC. 4. RATIFICATION OF THE AGREEMENT.

The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

SEC. 5. IMPLEMENTATION OF THE AGREEMENT.

(a) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(b) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to subsection (c) of this section. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to subsection (a) of this section.

(c) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(d) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(e) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(f) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(g) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this Act shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

SEC. 6. RECISION RIGHTS.

Within 60 days of the enactment of this Act, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this Act. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes, and the gentleman from Hawaii [Mr. ABERCROMBIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

First of all, Mr. Speaker, let me thank the gentleman from Hawaii [Mr.

ABERCROMBIE] for his work and cooperation on this bill.

Mr. Speaker, I am pleased to rise in support of the Greens Creek Land Exchange Act of 1995.

This act will approve a land exchange agreement between the U.S. Forest Service and Kennecott Greens Creek Mining Co. ("Kennecott"). These lands surround the Greens Creek Mine, a zinc-lead-silver-gold mine, located on Admiralty Island in southeast Alaska. The land exchange agreement is the product of a nearly 10-year-long negotiation between the two parties.

Under the Greens Creek Land Exchange Agreement, Kennecott receives the right to mine mineral deposits on about 7,500 acres of land, located in Admiralty Island National Monument. In return, Kennecott will: First, pay a royalty to the Federal Government on any production from these lands, and second, purchase and donate to the U.S. Forest Service 1 million dollars' worth of inholdings located within the Admiralty National Monument—an amount of land equal in value to the land received under the agreement.

The royalty is based on the value received from 1 sales after deduction of shipping, smelting, and refining charges. The royalty has two tiers depending on the value of the ore. When metal prices are average or better, the royalty will be 3 percent, and at low metal prices, the royalty will be three-quarters of 1 percent. This two-tier royalty will encourage the Greens Creek Mine to continue operation in times of low metal prices.

This land exchange will help promote sound economic and environmentally responsible resource development, support land consolidation in conservation system units within the Tongass National Forest, and raise revenues for the Federal Government.

Mr. Speaker, I urge an "aye" vote on H.R. 1266 and thank GEORGE MILLER for his leadership in the effort to approve this land exchange agreement. I look forward to the successful completion of the Greens Creek land exchange and hope that it will help provide new economic opportunities for those who live in southeast Alaska.

Mr. Speaker, I include for the RECORD the text of the Greens Creek Land Exchange Agreement:

AGREEMENT

This Agreement, by and between Kennecott Greens Creek Mining Company, Inc., a Delaware corporation ("KGCMC") and The United States of America, by and through the U.S.D.A. Forest Service ("USFS"), dated , 1994.

Whereas, on December 2, 1980, Congress established the Admiralty Island National Monument (the "Monument") by enactment of the Alaska National Interest Lands Conservation Act ("ANILCA") (P.L. 96-487):

Whereas, the Monument was established as part of the Tongass National Forest for the purpose of protecting objects of ecological, cultural, geological, historical, prehistorical and scientific interest, in particular its wildlife and supporting habitats;

Whereas, Congress designated approximately nine hundred thousand acres of the Monument as wilderness under ANILCA;

Whereas approximately 17,000 acres of the Monument was designated as non-wilderness to permit the development of a silver, lead, zinc and gold deposit;

Whereas, KGCMC, as manager of the Greens Creek Joint Venture ("GCJV") has developed the Greens Creek Mine (the "Mine") on 17 claims which were located prior to the establishment of the Monument (the "Existing Claims");

Whereas, operation of the Greens Creek Mine, which is located approximately 15 miles from Juneau, Alaska, can produce 450,000 tons of ore per year and contribute over 265 jobs to the local economy of Southeast Alaska;

Whereas, KGCMC hopes that the life of the Mine and the jobs it provides can be extended by further exploration and development of subsurface lands within the non-wilderness portion of the Monument adjacent to the Existing Claims;

Whereas, such development can occur without significant adverse environmental effects by utilizing existing facilities of the mine for the most part and minimizing surface disturbance on Monument lands;

Whereas, further exploration and potential development of the Mine can be accomplished without significant impact to the Monument and its purposes;

Whereas, KGCMC has proposed a land exchange to acquire rights to explore and mine adjacent subsurface lands in return for conveyance to the United States, through the USFS, of important private inholdings located within the Monument and/or other Conservation System Units within the Tongass National Forest, the assignment to the United States of a royalty interest in the returns from any future development from mining the lands acquired by KGCMC through the exchange, and a restrictive covenant and future interest in the Existing Claims, Mill Site #1 (MS 2514), and other lands held by KGCMC located on Admiralty Island;

Whereas, the result of such land exchange would include consolidation of Federal land ownership in the Monument Wilderness in return for the right through title to explore and mine the subsurface lands adjacent to the Mine within the existing non-wilderness area of the Monument, in an environmentally sound manner.

Whereas, the accomplishment of such land exchange for the purposes of Conservation System Unit consolidation and for the purpose of permitting further exploration and development of the Greens Creek Mine is in the pubic interest under the terms of Section 1302(h) of ANILCA; and

Whereas, this land exchange is being accomplished under the land exchange authority of Section 1302(h) of ANILCA:

Now, therefore, the parties to this Agreement agree as follows:

1. *General Description of the Exchange.* The USFS agrees to exchange the mineral estate, subject to a future interest and other provisions of this Agreement, in 7500 acres, more or less, of subsurface public land (the "Exchange Properties") delineated on a map and description title "KGCMC Exchange Properties" dated March 26, 1993, designated Exhibit A of this Agreement. KGCMC agrees to exchange in return: i) title, or alternatively, funds to acquire title, to private inholdings ("Exchange Inholdings") totalling no less than $1,000,000 in fair market value from lands located within Admiralty Island National Monument and, if necessary, other Conservation System Units within the Tongass National Forest, from a list titled "KGCMC Exchange Inholdings" dated November 6, 1993, designated Exhibit B hereto; ii) a royalty interest in "Net Island Receipts" realized from the sale of minerals that may be mined from the Exchange Properties, (excluding those minerals which are property of KGCMC by operation of extralateral rights); and iii) a restrictive covenant and future interest in the Existing Claims, Millsite #1 (MS 2514), and any other lands held by KGCMC located on Admiralty Island. The specific interests to be exchanged and terms and conditions thereto are described elsewhere in this Agreement.

2. *Effective Date.* This Agreement shall become effective upon its execution by both parties and approval by Act of Congress. The effective date of this Agreement shall be the date of enactment of Federal legislation approving this exchange.

3. *Termination.* In the event the exchange closing described in Section 4.A is not completed within seven years from the effective date of this Agreement, this Agreement shall terminate and become null and void upon expiration of seven years from the effective date. The terms of this Agreement shall otherwise be incorporated in the conveyances completed pursuant to this Agreement. Both parties state their intent to exert reasonable best efforts to complete the exchange closing as soon as practicable in advance of seven years from the effective date.

4. *Exchange Details.*

A. there shall be a single exchange closing. At the closing, the following conveyance shall occur:

(i)(a) the United States shall receive fee title via general warranty deeds to the surface and subsurface estate of Exchange Inholdings totalling no less than $1,000,000 in fair market value, subject only to any reservations, exceptions, or conditions approved prior to closing by the USFS. Upon conveyance, each Exchange Inholding shall become and be managed by the USFS as part of the Conservation System Unit having exterior boundaries within which the Inholding is located.

(b) In the event that the Congress enacts legislation establishing a special fund in the Treasury for the deposit of monies to be available until expended, without further appropriation, for the acquisition by the Forest Service of lands and interests in lands within the exterior boundaries of Admiralty Island National Monument or other Conservation System Units within the Tongass National Forest, KGCMC shall, in lieu of the conveyances described in (i)(a), pay to the United States the sum of $1,100,000 at the closing, for deposit in said fund. Monies from said fund shall be available for the purchase of lands and interests in lands and related administrative costs.

(ii) KGCMC shall receive title to the entire interest of the United States in the form of a patent upon completion, at KGCMC expense, of a survey meeting Bureau of Land Management standards, to the Exchange Properties, comprising the subsurface mineral estate of the lands described in Exhibit A, along with rights appurtenant to such estate identical to those provided for an "unperfected claim" as defined in section 504 of ANILCA (16 U.S.C. 432 note) once patent to the minerals of such claim is conveyed by the United States. Provided, the Exchange Properties conveyance shall specifically reserve the restrictive covenant and future interest in the United States as described in

Section 8, and shall specifically except extralateral rights as described in Section 4.B;

The Exchange Properties conveyance shall furthermore be specifically subject to:

a. valid existing rights;

b. the covenants described in Sections 4.C. and 4.D;

c. the Net Island Receipts interest described in Section 6 and Exhibit C hereto; including but not limited to the right of USFS to enter and inspect the Exchange Properties as provided in Exhibit C hereto;

d. a coextensive right of USFS to enter and inspect the Exchange Properties to monitor compliance with Sections 4.B and 4.C;

The Exchange Properties conveyance shall be furthermore subject only to any other exceptions, reservations, or conditions approved prior to closing by KGCMC.

B. The parties expressly agree that no extralateral rights for the Exchange Properties shall be conveyed under the terms of this Agreement. This Agreement shall not enlarge nor diminish any extralateral rights which KGCMC may now have or in the future establish with respect to its existing claims.

C. The parties expressly agree that no minerals extracted from the Exchange Properties other than hardrock and metalliferous minerals available for location and patent under the general mining laws of the United States (30 U.S.C. 21–53 *et seq.*) may be sold for commercial purposes. Any other mineral or mineral material on the Exchange Properties may be extracted and utilized by KGCMC in the exploration, development, mining and beneficiation process of Existing Claims and Exchange Properties for hard rock and metalliferous minerals, without payment to the United States.

D. Use and occupancy by KGCMC, its successors, or assigns of the surface overlying the Exchange Properties shall be limited as follows:

(1) Use and occupancy of the surface estate overlying the Exchange Properties shall be minimized to the maximum extent practicable, including but not limited to consolidating facilities and operations to the maximum extent practicable with facilities and operations related to the existing Greens Creek Mine, and reclamation in accordance with applicable law and regulation.

(2) There shall be no use or occupancy of the surface estate overlying the Exchange Properties until the operator, as defined in the regulations referenced herein, has applied for and received approval of a plan of operations, including reclamation, in accordance with the provisions of 36 CFR 228.80 and 36 CFR 228, Subpart A in effect on the effective date of this Agreement.

(3) There shall be no use or occupancy of the surface estate overlying the Exchange Properties for purposes of open pit, hydraulic, or other surface mining, or smelting operations.

(4) Neither the existence of privately owned minerals nor any provision of this Agreement shall be construed to preclude the United States and its assigns, including the general public, from occupancy or use of the surface estate overlying the Exchange Properties. The USFS shall as appropriate impose reasonable restrictions upon public occupancy and use for purposes of avoiding conflict with KGCMC operations, to protect public safety, or for other purposes. This provision shall not be construed to alter respective tort liability, if any, between USFS and KGCMC or other entities under applicable law.

E. Evidence of title to Exchange Inholdings shall be in a form acceptable to and in conformance with standards of the Attorney General of the United States.

F. USFS shall bear its own attorney fees, costs of document preparation for conveyance of the Exchange Properties to KGCMC, and costs of recording documents conveying Exchange Inholdings and other property interests to the United States. KGCMC shall bear all other closing costs, including abstract of title or title insurance, transfer taxes, brokerage fees, its attorney fees and recording costs. KGCMC shall also bear the cost of survey required for issuance of patent to the Exchange Properties and any survey required by the United States to complete conveyance of any Exchange Inholdings to the United States. Provided, if USFS completes the acquisition of Exchange Inholdings pursuant to Section 4.A(i)(b), the USFS shall bear all closing costs for the Exchange Inholdings. All costs borne by KGCMC pursuant to this paragraph shall not be credited against the $1,000,000, Net Island Receipts interest, or other consideration owing to the United States under this Agreement. The provisions of Public Law No. 91–646 shall not apply to this Agreement. KGCMC shall not be construed as an agent of the United States in acquiring Exchange Inholdings or otherwise under this Agreement.

G. The USFS agrees to cooperate with KGCMC in attempting to effect the transactions contemplated herein as tax free exchanges pursuant to Section 1031 of the I.R.C. (26 U.S.C. 1031 *et seq.*), but expressly disclaims any jurisdiction to determine or influence Internal Revenue Service determinations of the tax consequences of any transactions.

5. *Valuation of Exchange Inholdings.*

A. Attached as Exhibit B of this Agreement is a list of the properties which the USFS lists as qualified for conveyance as Exchange Inholdings. KGCMC shall be permitted to acquire and designate any such properties as Exchange Inholdings and convey or cause to be conveyed to the USFS such properties as is necessary to effect the Exchange. No particular lands are required to be conveyed, and there is no priority for these potential Exchange Inholdings except as described in Section C below.

B. The fair market value of each Exchange Inholding shall be the lesser of the actual amount paid for the Inholding by KGCMC, excluding closing costs borne by KGCMC described in Section 4.E above, or the fair market value adjusted to the effective date of this Agreement, determined by an appraisal. The appraisal for each Exchange Inholding shall be completed by KGCMC at its own expense and the appraisal report provided to USFS no sooner than 1 year and no later than 60 days in advance of closing for the Inholding concerned, for review and approval. Said appraisal shall be completed according to the then current Uniform Appraisal Standards for Federal Land Acquisitions. In the event KGCMC is not able to acquire Exchange Inholdings totalling exactly $1,000,000 in fair market value, KGCMC shall be obligated without further consideration to convey and bear the expense of acquiring any additional Exchange Inholding required to bring the total fair market value of the Exchange Inholdings conveyed to at least $1,000,000.

C. Exhibit B is divided into two parts: Part A lists lands located within Admiralty Island National Monument. Part B lists lands located within other Conservation System Units within the Tongass National Forest. KGCMC shall use reasonable efforts to acquire lands from the Part A list when available at fair market value and only acquire lands from the Part B list upon a determination by the USFS that lands from the Part A list are not available at fair market value after such reasonable efforts. KGCMC shall otherwise consult and cooperate with USFS in identifying opportunities of acquisition at fair market value of particular lands listed in Exhibit B, and use reasonable efforts to acquire such lands.

6. *Net Island Receipts Royalty Interest*—The Parties agree that the United States shall receive a percentage of the Net Island Receipts from mineral production from the Exchange Properties as described in Exhibit C of this Agreement. The United States shall be provided reasonable access by KGCMC to the Exchange Properties and any books, records, documents, and mineral samples, to audit the payment of the Net Island Receipts interest as provided in Exhibit C.

7. *Existing Extralateral Rights*—This Agreement, including the grant of the Net Island Receipts interest described in paragraph 6 and Exhibit C shall not enlarge or diminish any rights KGCMC may now have or in the future establish to minerals lying with the Exchange Properties through application of extralateral rights extending from KGCMC's Existing Claims. The Net Island Receipts interest to be granted to the United States under this agreement shall not burden, nor entitle the United States to any monies realized by KGCMC from the sale of concentrates or other mineral products from ores, the title to which belongs to KGCMC by operation of extralateral rights extending from KGCMC's existing claims and property interests.

8. *Restrictive Covenant and Future Interest in the United States.*

A. KGCMC shall grant the United States a restrictive covenant and future interest in (i) the Existing Claims; (ii) Millsite #1 (MS 2514); and (iii) the Exchange Properties, and the right to a future interest in (iv) the "Future Acquired Lands," defined as follows: any lands on Admiralty Island to which KGCMC, its successors, or assigns acquires title after the effective date of this agreement and prior to the vesting of title in the United States as defined in Section 8.B. occurs, excepting Exchange Inholdings conveyed to the United States pursuant to this Agreement. The grant shall be effected by: (1) a conveyance by deed regarding the Existing Claims and Millsite; (ii) a reservation and/or exception in the conveyance from the United States regarding the Exchange Properties; and (iii) a contractual right to conveyance by deed upon KGCMC acquiring title, regarding the Future Acquired Lands. KGCMC shall grant the restrictive covenant and future interest and rights thereto described herein at the exchange closing.

B. The terms of the restrictive covenant and future interest to be granted to the United States in Section 8.A. are as follows:

(1) Restrictive Covenant: Use of the subject lands by KGCMC, its successors, and assigns shall be limited solely to bona fide good faith mineral exploration, development, and production activities, including reclamation work. This covenant shall run with the land until such time as the vesting of title to the United States occurs.

(2) Future interest: Right of Reentry: The United States shall have a right to reenter and take title and possession to all right, title, and interest in the subject lands upon the following, whichever occurs earlier:

(a) abandonment by KGCMC, its successors, or assigns, of all bona fide good faith

mineral exploration, development, and production activities, including reclamation work, on each and all of i) the Existing Claims; ii) Millsite #1 (MS 2514); iii) the Exchange Properties; and iv) the Future Acquired Lands. Complete cessation for ten consecutive years of all bona fide good faith mineral exploration, development, and production activities, including reclamation work, on all the lands listed in i) through iv) herein, shall be conclusively deemed to constitute abandonment, without prejudice to abandonment occurring otherwise.

(b) January 1, 2045; if as of December 1, 2044, KGCMC, its successors, or assigns are not engaged in bona fide good faith mineral exploration, production, or production activities, including reclamation work, on any of the lands listed in (i) through (iv) in (a) above.

(c) January 1, 2095, irrespective of any ongoing activities and subject to the right of reentry occurring sooner based upon abandonment as described in (a) above.

The right of reentry and all other terms herein shall not in any way relieve KGCMC, its successors, or assigns of obligations described in Section 9 [indemnity] of other obligation otherwise applicable.

9. *Hazardous Waste and other Indemnity.* KGCMC, Kennecott Corporation, and their successors and assigns shall indemnify, defend and hold harmless the United States, its various agencies and employees, from any damage, loss, claim, fines, penalties, and costs whatsoever arising in any way and at any time from any use, occupancy or activities, past, present or future (provided said use, occupancy, or activities occur no later than the time at which title reverts to the United States), by any entity, on the Exchange Inholdings, Existing Claims, Millsite #1 (MS 2514) and other property in which a restrictive covenant and future interest is granted to the United States under this Agreement, specifically including, but not limited to: (a) those activities by which hazardous substances, hazardous materials, or wastes of any kind were generated, released, stored, used, or otherwise disposed on the described property or facility thereon, and (b) any response or natural resource damage actions conducted pursuant to any federal, state, or local environmental law, regulation, or rule, and related in any manner to said hazardous substances, hazardous materials, or wastes.

10. *Disclaimer of Value Warranty.* The parties expressly disclaim any warranty of value for any of the lands or interests exchanged under this Agreement. It is expressly recognized by the parties that potential revenues or proceeds from any of the lands or interests exchanged herein are purely speculative.

11. *Loss or Damage Prior to Conveyance.* Both parties agree not to do, or suffer others to do, any act prior to the conveyance described in this Agreement by which the value of the real property herein identified for exchange may be diminished or further encumbered. In the event any such loss or damage occurs from any cause, including acts of God, to the real property herein identified for exchange before execution of deed, the party who is grantee under this Agreement as to that property shall not be obligated to accept title to said property, and an equitable adjustment in the consideration shall be made at the option of said party. Information obtained from exploratory drilling or other acts otherwise authorized shall not be construed as diminishing or further encumbering the identified property, for purposes of this Agreement.

12. *Status Quo Ante.* In the event this Agreement becomes null and void prior to the completion of the exchange closing by operation of its terms or by order of a court of competent jurisdiction, the parties shall return to their status and rights prior to execution of the Agreement.

13. *Notices*—Notices required to be delivered under this Agreement shall be delivered in writing by U.S. mail, hand delivery with return receipt, or fax with confirmation as follows:

KGCMC

_____

General Manager
Kennecott Greens Creek Mining Co.
3000 Vintage Park Road
Juneau, Alaska 99801

_____

General Counsel
Kennecott Corporation
10 East South Temple
Salt Lake City, Utah 84113

U.S. Forest Service

_____

Regional Forester
Region 10
P.O. Box 21628
Juneau, Alaska 99802–1628

14. *Signatures for Execution.* The signers shall be: (i) for Kennecott Corporation and Kennecott Greens Creek Mining Company, respectively, the authorized officer for the Corporation and for the Company; and (ii) for the United States of America, Department of Agriculture, Forest Service, the USDA Assistant Secretary for Natural Resources and Environment.

15. *Counterparts.* This Agreement may be signed in separate counterparts by the parties which, when each have so signed, shall be deemed a single Agreement.

16. *Entirety of Agreement.* This instrument and attachments embody the whole Agreement of the parties. The Exhibits referenced herein are attached hereto and incorporated by reference as part of this Agreement. There are no promises, terms, conditions, or obligations other that those contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

17. *Modification.* This Agreement may be modified only upon written Agreement of the parties thereto and after notification in writing to the appropriate committees of the U.S. Congress.

18. *Clerical and Typographical Errors.* Clerical and typographical errors contained herein may be corrected upon notice to the Parties. Unless such errors are deemed substantive by either party within ten (10) days notice, corrections may be made without formal ratification by the Parties. In the event the delineation of a boundary upon a map included in an exhibit to this Agreement conflicts with a textual description of the boundary included in the exhibit, the map boundary shall control, subject to correction of errors in map boundaries under this section.

19. *Covenant Not to Sue.* The parties to this Agreement mutually covenant not to sue each other challenging the legal authority of either to enter into their Agreement or to effectuate any terms herein. Either party may enforce the covenants, terms, and conditions of this Agreement in a court of competent jurisdiction.

20. *Officials Not to Benefit.* No Member of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit (18 U.S.C. 431, 433).

Third Party Beneficiaries. This agreement is not intended, and shall not be construed, to create any third party beneficiary. Nothing in this Agreement shall be construed as creating any rights of enforcement by any person or entity that is not a party to this Agreement.

Successors and Assigns.

A. This Agreement shall be effective and binding upon each party and any successors or assigns thereto. The parties shall have the right to assign, transfer, convey, lease, sell or alienate any of their rights under this Agreement. The Parties further acknowledge that a transfer from KGCMC to Greens Creek Joint Venture, operating as a joint venture, is expressly permissible upon written notice to the USFS. An assignment, transfer conveyance, lease, sale or other alienation of rights, however, shall not release a party from its duties under this Agreement, except that an agency of the United States shall be released from its duties if the transfer is to a successor agency.

B. An assignment, transfer, conveyance, lease, sale or alienation shall not release any of the covenants or conditions which run with the land imposed by this Agreement. The covenants and conditions contained in this Agreement shall be construed as running with the land unless they are clearly intended as personal to a party to this Agreement. The parties may contract for the disposition or utilization of any rights granted by this Agreement.

23. *Equal Value and Public Interest Determination.* The Parties recognize the impossibility of precisely valuing the respective considerations flowing between the United States and GCJV pursuant to this Agreement. In accordance with Section 1302(h) of ANILCA, the USFS Regional Forester, Region 10, pursuant to authority delegated by the Secretary of Agriculture, has determined that although the mutual consideration flowing between the Parties may be unequal, it is in the public interest to consummate this exchange. This paragraph shall be construed as a finding by the Secretary that the public interest values of the interests in land exchanged pursuant hereto are equal.

In Witness Whereof, Kennecott Corporation, Kennecott Greens Creek Mining Company, and the USDA Assistant Secretary for Natural Resources and Environment, acting for and on behalf of the United States Department of Agriculture, has executed this Agreement.

United States Department of Agriculture
By: _____
Assistant Secretary for Natural Resources and Environment
Date: _____

Kennecott Greens Creek Mining Company
By: _____
Its: _____
Date: _____

Kennecott Corporation
By: _____
Its: _____
Date: _____

EXHIBIT B—PART A

KGCMC EXCHANGE INHOLDINGS—ADMIRALTY ISLAND NATIONAL MONUMENT

Tract	Acres	Location	Legal description	USGS quad
USS 796	7.88	Wheeler Creek	T44S, R65E, CRM	JUN A–3.
(406906)				
USS 1058	54.04	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 1159	71.47	Wheeler Creek	T44S, R65E, CRM	JUN A–3.
(938822) (Homestead Entry No. 85)				
Fraction of HES 85 totaling approx. 22 acres subdivided as:				
Tract A	4.965			
Tract B	4.965			
Tract C	4.965			
Tract D east part	0.366			
Tract D west part	1.5			
Tract E Lot 1	2.48			
Tract E Lot 2	2.48			
Fraction of HES 85 totaling approx. 16 acres				
Fraction of HES 85 totaling approx. 33 acres				
USS 1351	134.53	Mole Harbor	T49S, R70E, CRM	SIT C–1.
Tract A	3.44			
Tract B	131.09			
USS 1480	10.24	Hood Bay	T52S, R69E, Sec7	SIT B–2.
(T&M Pat. 1027446)				
USS 1575	14.63	Gambier Bay	T51S, R71E, CRM	SUM B–6.
Tract A	3.905			
Tract B	4.069			
Tract C	2.544			
Tract D	2.239			
Tract E	1.875			
USS 1984	32.59	Pybus Bay	T53S, R71E, CRM.	SIT B–1.
(1061484)				
Parcel 1&2	21.50			
Parcel 3	11.09			
USS 2412:				
Lot 16	3.51	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
Tract A	1.981			
Tract B & C	1.528			
USS 2412:				
Lot 21	4.55	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
(Homesite Pat. 1126506)				
Lot 23	5.00	Hood Bay	T52S, R68E, Sec12.	SIT B–2.
(Homesite Pat. 1130390)				
USS 2413:				
Lot 28	3.90	Hood Bay	T52S, R69E, CRM	SIT B–2.
Lots 30–37	23.1	Hood Bay	T52S, R69E, CRM	SIT B–2.
(PLO 774)				
PLO's 593, 774, 5156 & 5188 totaling:	612.63	Hood Bay	T52S, R68E, CRM T52S, R69E, Sec 7.	SIT B–2.
USS 10438:				
Lot 1	3.98	Hood Bay	T52S, R68E, CRM	SIT B–2.
Lot 2	22.59	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 10444	100.0	Hood Bay	T52S, R68E, CRM	SIT B–2.
USS 10459	60.0	Chaik Bay	T52S, R69E, CRM	SIT B–2.
MS 312	132.67	Kanalku Bay	T50S, R68E, CRM	SIT B–2.
MS 1032	82.28	Greens Creek	T43S, R66E, CRM	JUN A–2.
			Sec. 31 & 32	JUN A–3.
1152018	18.00	Murder Cove	T56S, R68E, CRM	SIT A–2.
Fraction	16.00			
Fraction	2.00			
AA–7741	158.04	Mitchell Bay	T50S, R68E, SEC 12.	SIT C–2.
Native Allot.				
Patent No. 50–93–0148				
Native Allot.	104.48	Favorite Bay	T51S, R68E	SIT B–2.

The above list of private holdings within Admiralty Island National Monument are considered desirable for acquisition. Data is from the USDA Forest Service, R–10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in numerical order without any regard as to priority or availability for acquisition.

EXHIBIT B—PART B

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS

Tract	Acres
Misty Fiords National Monument/Wilderness:	
MS 2267	647.12
USS 1663	10.08
USS 1980	14.00
USS 287	34.53
USS 1342	5.00
USS 2975	79.87
USS 2662	4.96
USS 2667	84.07
USS 1445	65.25

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres	
USS 2629	28.13	
USS 2320	116.77	
USS 2740	124.19	
IC 1072	12.75	
IC 1424	11.40	
IC 1188	19.20	
IC 929	4.65	
Subtotal	1,261.87	
South Prince of Wales Wilderness:		
USS 310	13.75	
IC 1107	33.20	
IC 1115	3.10	
Subtotal	50.05	
Peterson Creek/Duncan Salt Chuck Wilderness:		
MS 652	78.16	
USS 310	7.75	
Subtotal	85.91	
Stikine-LaConte Wilderness:		
USS 1023	160.00	
USS 2358	4.93	
Pat'd Land	159.63	Lot 172, W1/2NW, N1/2NWSE, S–26, T60S, R82E.
Pat'd Land	151.35	S1/2/2NWSE, W1/2SWSE, Lots 374, S–26; N1/2NENW, S–35, T60S, R82E.
Pat'd Land	141.65	Lots 1 & 3, S1/2SENE, S–31; Lot 4, S1/2SWNW, S–32, T60S, R82E.
Pat'd Land	135.39	Section 11, T61S, R83E.

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres	
Pat'd Land	114.38	Section 14, T61S, R83E.
Pat'd Land	157.76	Section 2, T61S, R83E; Section 31, T60S, R83E.
Subtotal	1,025.09	
West-Chichagof/Yakobi Wilderness:		
MS 2257	15.00	
MS 1574	201.64	
MS 965A	39.96	
MS 1587	32.84	
MS 1046 & 1453	35.79	
MS 1046	7.35	
MS 1460	33.53	
MS 936	23.56	
MS 1047	13.75	
MS 864	42.82	
MS 1576	12.34	
MS 1575	12.62	
MS 1461	4.77	
MS 1594	35.39	
MS 1498	16.66	
MS 1502 A & B	162.42	
MS 1504	19.81	
MS 957A	13.38	
MS 1497	1.17	
USS 1476	12.70	
Subtotal	737.50	
Chuck River Wilderness:		
MS 791	35.43	
MS 964	55.02	
MS 42	9.87	

KGCMC EXCHANGE INHOLDINGS—OTHER CONSERVATION SYSTEM UNITS—Continued

Tract	Acres
MS 1085	62.47
MS 577	154.46
MS 37, 38 & 39	55.45
USS 1509	40.22
USS 1940	37.66
USS 3082	4.51
MS 424	12.96
MS 525A	25.55
MS 267 A & B; 268 A & B; 269; 270.	63.98
MS 579 A & B	111.85
MS 40 & 41	28.00
USS 2845	3.78
Subtotal	701.21

The above list of private holdings within Conservation System Units on the Tongass National Forest are considered desirable for acquisition. Data is from the USDA Forest Service, R-10 data files and State of Alaska, Juneau District Recorders Office. The listing is considered to be approximately 95% complete as of the date of this agreement. Parcels to be considered under this exchange shall also include holdings conveyed into private ownership subsequent to the date of this agreement. The parcels are listed in random order without any regard as to priority or availability for acquisition.

EXHIBIT C—NET ISLAND RECEIPTS ROYALTY

A. DEFINITION OF NET ISLAND RECEIPTS

"Net Island Receipts (NIR)" shall be any excess of "Revenues Received (RR)" over "Allowable Deductions (AD)" for any calendar year. Net Island Receipts shall be calculated using the following formula: NIR = RR – AD.

Where:

NIR = Net Island Receipts for the calendar year (in dollars);

RR = Revenues received during the calendar year, as defined in Section D. below (in dollars);

AD = Allowable deductions incurred during the calendar year, as defined in Section D. below (in dollars);

B. ROYALTY CALCULATION

The dollar amount of the royalty payable to the Interest Holder shall be calculated using the following formula: Royalty = (X) (NIR).

Where (X) = three percent (3%) of NIR when NIR exceeds $120/ton, and three-fourths of one percent (0.75%) when NIR is equal to or less than $120/ton. Provided, the $120/ton threshold shall be adjusted annually according to the Gross Domestic Product Implicit Price Deflator, until the sooner of the following dates, whichever occurs earlier:

(1) the date 20 years subsequent to the date upon which mining operations commence at the Greens Creek Mine, whether or not operations include the Exchange Properties; or

(2) the date 30 years subsequent to the effective date of the Agreement.

C. PAYMENTS OF ROYALTY

The payor shall deliver to the Interest Holder a payment equal to the percentage, as set forth in section B. above, of all NIR realized by the Payor during any calendar year (January 1–December 31), within thirty days after the end of said calendar year, together with a copy of the accounting made in connection with such payment. All payments of royalty to the Interest Holder shall be subject to adjustment, including interest on any such adjustment at the rate provided by 31 U.S.C. 3717, on March 31.

D. OTHER DEFINITIONS

1. "Exchange Properties" shall mean the "Exchange Properties" described by Exhibit A of the Agreement.

2. "Payor" shall mean KGCMC, its successors and assigns.

3. "Interest Holder" shall mean United States of America, pursuant to the terms of the Agreement.

4. "Revenues Received (RR)" shall mean the payments received or credited from the sale of ores or products produced from ores mined from the Exchange Properties at the point of sale before subtracting the Allowable Deductions (AD). Sales to affiliates of KGCMC shall be valued at the fair market value of the products sold. Any credits or payments received from a buyer by KGCMC shall be credited as RR.

5. "Allowable Deductions" shall mean the following actual costs incurred by Payor: costs of all transportation and insurance for ores or products produced from ores mined from the Exchange Properties, between KGCMC Admiralty Island loading facilities and the point of delivery of said ores or products, smelting and/or refining charges, treatment charges, penalties, umpire charges, independent representative charges and all charges by purchasers of said ores or products.

E. ACCOUNTING MATTERS

All Revenues Received (RR) and Allowable Deductions (AD) shall be determined in accordance with generally accepted accounting principles and practices consistently applied. RR and AD shall be determined by the accrual method.

F. COSTS OF COMMON FACILITIES

Where any AD are incurred in conjunction with like costs for mineral products from other Properties controlled by the Payor, such costs shall be fairly allocated and apportioned in accordance with generally accepted practices in the mining industry.

G. AUDIT AND DISPUTES

1. The Interest Holder, upon written notice, shall have the right to have an independent firm of certified public accountants or utilize its own personnel at its own cost to audit the records that relate to the calculation of the NIR royalty within 24 months after receipt of a payment described in Section C of this Exhibit.

2. The Interest Holder shall be deemed to have waived any right it may have had to object to a payment made for any calender year, unless it provides notice in writing of such objection within 25 months after receipt of final payment for the calendar year. The parties may elect to submit the dispute to a mutually acceptable certified public accountant, or firm of certified public accountants, for a binding resolution thereof.

H. GENERAL

1. Unless otherwise specified, capitalized terms used herein shall have the same meaning as given to them in the Agreement.

2. Accurate records of tonnage, volume of products, analyses of products, weight, moisture, assays of pay metal content and other records related to the computation of the NIR royalty hereunder shall be kept by the Payor.

3. Up to four times per year, the Interest Holder or its authorized representative on not less than five (5) business days written notice to the Payor, may enter upon all portions of the Exchange Properties for the purpose of inspecting the Exchange Properties, all improvements thereto and operations thereon, and may inspect and copy all records and data pertaining to the computation of the NIR royalty, including without limitation such records and data which are maintained electronically. The Interest Holder or its authorized representative in exercising entry and inspection rights may not unreasonably hinder operations on or pertaining to the Exchange Properties. This provision does not diminish any other independent right which the Interest Holder may have to enter and inspect Payor's properties, records or data.

4. All notices or communications hereunder shall be made and effective in accordance with the provisions of the Agreement.

5. The NIR royalty interest shall be a real property interest that runs with the Exchange Properties and shall be applicable to any person who processes and sells products from the Exchange Properties.

6. All information and data provided to the Interest holder shall be treated as confidential by the USFS and disclosed to other parties only to the extent, if any, required by law.

7. The Payor shall have the right to commingle ore and minerals from the Exchange Properties with ore from other lands and properties; provided, however, that the Payor shall calculate from representative samples the average grade of the ore and shall weigh (or calculate by volume) the ore before commingling. If concentrates are produced from the commingled ores by the Payor, the Payor shall also calculate from representative samples the average recovery percentage for all concentrates produced during the calendar year. In obtaining representative samples, calculating the average grade of the ore, and calculating average recovery percentages the Payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

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

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

Mr. Speaker, good morning and aloha, and good morning and aloha to my good friend and most excellent chairman, the gentleman from Alaska [Mr. YOUNG].

Both the chairman, the gentleman from Alaska [Mr. YOUNG], and the ranking member, the gentleman from California [Mr. MILLER], introduced this bill, a hallmark of bipartisan cooperation dearly to be cherished and assiduously sought after in legislation to come. In my view, Mr. Speaker, and in the view of the gentleman from California [Mr. MILLER], H.R. 1266 provides for a beneficial resolution, both for the economy and the environment of southeast Alaska.

Mr. Speaker, the Committee on Resources has a long history of concern for the management of Admiralty Island National Monument.

□ 1230

While the wilderness and wildlife values of Admiralty Island are very special, responsible operation of the Greens Creek Mine is not necessarily compatible with the conservation purposes for which the monument was established. This legislation would allow Greens Creek to explore 7,500 acres of nonwilderness lands adjacent to the existing mine, allowing mine operations

to expand with relatively little surface disturbance.

By virtue of the agreement negotiated between the Forest Service and Kennecott, the environment will benefit both in the short term through $1.1 million of land acquisition from willing sellers, and in the long term when mining operations cease and the lands revert back to the Forest Service.

In addition, the bill creates a land acquisition account to be funded by the first $5 million of royalties collected for further land purchases in the Tongass National Forest, with priority to non-Federal lands within the national monument.

Pursuant to the terms of the agreement, if Greens Creek fails to purchase and deliver title to $1.1 million worth of lands acceptable to the Forest Service, the land exchange will not be consummated.

Mr. Speaker, it is important to consider this agreement in the context of efforts to reform the mining law of 1872. The notion that those of us who favor modernizing the mining laws are opposed to the mining industry in this country is simply false. My support of this legislation, which is likely to significantly enhance the economics and life of the Greens Creek Mine, should put that falsehood to rest.

This legislation does set an important precedent that the Government should receive a royalty share for the development of public lands. At the same time, I do not consider the 3-percent net royalty negotiated in this agreement as universally applicable for purposes of mining reform.

I recognize there were concessions from both sides in the negotiating process and I am reluctant to rewrite the deal. On balance, however, I applaud both Kennecott and the Forest Service for their efforts, and I ask Members to support the bill.

May I add personally, Mr. Speaker, again my congratulations to the gentleman from Alaska [Mr. YOUNG]. the chairman, and the appreciation of all the members on the minority side for his openness and, as always, his willingness to be cooperative with us.

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

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could only echo what the gentleman just said. There is a way we can work on many of these issues and solve the problem if we seek to do so.

The gentleman from Hawaii has always been able to work with me on his issues especially in his great State. We have a great deal in common. We hope to solve some of his problems with the Hawaiian natives which we have also solved in Alaska. I do compliment him.

I may suggest to the gentleman from California [Mr. MILLER], the ranking member, we ought to let the gentleman from Hawaii [Mr. ABERCROMBIE] manage these bills more often.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FUNDERBURK). The question is on the motion offered by the gentleman from Alaska [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 1266, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 1266, the bill just passed.

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

There was no objection.

CRONYISM INVOLVED IN REPUBLICAN BUDGET PROPOSAL

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

Ms. FURSE. Mr. Speaker, can this really be true? The 1996 budget before us cuts school lunches, makes Medicare more expensive, guts environmental protection, all in the name of balancing the budget, but the biggest item of all is not touched. In fact, it is increased. The millions of Americans who thought that the end of the cold war meant the end of huge Pentagon budgets will be sadly disappointed.

For years, when thoughtful people said that the waste in the Pentagon was enormous, we were criticized for not being strong on defense. But, of course, we were right all along.

An article in Sunday's Washington Post states, "Each year the Department of Defense inadvertently pays contractors millions of dollars that it does not owe."

"In addition," the article says, "the department has spent $15 billion"—and I repeat, $15 billion—"it cannot account for over the last decade."

Why are we cutting education, nutrition, health care, and environmental protection, but increasing Pentagon spending? Could it possibly be that defense contractors make huge contributions? But children, seniors, endangered species, they do not.

This is not an issue of security. This is an issue of cronyism.

Mr. Speaker, the article referred to is as follows:

[From the Washington Post, May 14, 1995]

LOSING CONTROL—DEFENSE DEPARTMENT—BILLIONS GO ASTRAY, OFTEN WITHOUT A TRACE

(By Dana Priest)

Each year, the Defense Department inadvertently pays contractors hundreds of millions of dollars that it does not owe them, and much of the money is never returned.

In addition, the department has spent $15 billion it cannot account for over the past decade.

And Pentagon purchasing agents appear to have overdrawn government checking accounts by at least $7 billion in payment for goods and services since the mid-1980s, with little or no accountability.

Unlike the infamous $7,600 coffee pot and $600 toilet seat pricing scandals of years past, these problems, and many more, are the result of poor recordkeeping and lax accounting practices that for years have characterized the way the Defense Department keeps track of the money—$260 billion this year—that it receives from Congress.

According to a series of investigations by the Department's inspector general and the General Accounting Office, and ongoing work by Pentagon Comptroller John J. Hamre, the department's systems of paying contractors and employees are so antiquated and error-prone that it sometimes is difficult to tell whether a payment has been made, whether it is correct, or even what it paid for.

Just how much money does the poor accounting waste?

Former deputy defense secretary and new CIA Director John M. Deutch wouldn't hazard a guess. "Lots," he scribbled recently on a reporter's notebook in response to a question.

For months after he took the job as chairman of the Joint Chiefs of Staff in late 1993, Gen. John Shalikashvili received paychecks for the wrong amount. In the last year and a half, Comptroller Hamre counted six problems with his own pay.

A paper-based system in which items frequently are misplaced or lost and computers that often cannot talk to each other are part of the problem. But there are other major systemic weaknesses. A lack of basic accounting procedures—such as matching invoices and payment records, or keeping track of money spent on a given piece of equipment from one year to the next—has made it impossible to determine how billions of dollars have been spent by each of the service branches.

In addition, Hamre explained, tracking the money has been nearly impossible because 300 different program directors—the Air Force F-16 fighter program director, the commanding officer of an aircraft carrier, the head of a maintenance depot, for example—have had separate checkbooks, each one free to write checks without regard to the balance in the Pentagon's central registry.

The U.S. Treasury has always paid the bills, even when there was no money in a given project's account, because it assumes any error was unintentional and someday would be corrected, said Pentagon officials and inspector general investigators.

"There's this huge pot of money over there in the Treasury that you can keep drawing down," said the Deputy Inspector General Derek J. Vander Schaaf. "As long as your

[overall] checkbook's good," he said, meaning the Treasury, "nobody screams."

The problems were created over several decades and made worse during the 1980s Reagan administration defense buildup during the latter days of the Cold War, when there was little political will to scrutinize the record sums being spent.

Today, however, even ardent defense hawks have become disturbed over the mismanaged flow of funds. Some Republicans who looked deeply into the matter are suggesting a freeze on military spending until the Pentagon's corroded payment system can be permanently fixed.

"The defense budget is in financial chaos," said Sen. Charles E. Grassley (R-Iowa), who is advocating a freeze. "The foundation of the defense budget is built on sand."

A Senate Armed Services subcommittee is scheduled to hold a hearing on the problems Tuesday. It will be chaired by Sen. John Glenn (Ohio), a Democrat, who was authorized by Republicans to conduct it because of his long-standing interest in the subject.

Among the problems detailed by the Defense Department, the Pentagon inspector general and the GAO:

Of the 36 Pentagon departments audited by the inspector general (IG) in the last year, 28 used "records in such terrible condition" as to make their annual financial statements—an accounting of money collected and money spent—utterly worthless, said Vander Schaaf.

Financial officials cannot account for $14.7 billion in "unmatched disbursements," checks written for equipment and services purchased by all military units within the last decade. This means that accountants know only that a certain amount of money was spent on the overall F–16 jet account, for example, but not how much was spent on F–16 landing gear or pilot manuals because they cannot find a purchase order from the government to match the check.

"You don't know what you're really paying for," Vander Schaaf said.

The $14.7 billion represents "hardcore problems" where department accountants have tried but failed to find the records. "We could be paying for something we don't need or want," said Russell Rau, the IG's director of financial management.

In the last eight years, various military offices appear to have ordered $7 billion worth of goods and services in excess of the amount Congress has given to them to spend. These "negative unliquidated obligations" may indicate that a bill has been paid twice or mistakenly charged to the wrong account because bookkeepers at hundreds of maintenance depots, weapons program offices and military bases did not keep track of payments they made, said Vander Schaaf.

Of the $7 billion "the government has no idea how much of this balance is still owed," Rau said.

Hamre has threatened to take part of the $7 billion out of the military services' current operating budget if they cannot find documentation for the expenditures by June 1.

Every year the Defense Department pays private contractors at least $500 million it does not owe them, according to Vander Schaaf. The GAO believes the figure is closer to $750 million.

The payment system is in such bad shape that the Pentagon relies on contractors to catch erroneously calculated checks and return them. Many of the overpayments are due to errors made on a paper-based system in which haried clerks are judged by how quickly they make payments. And because there is no adequate way to track the amount of periodic payments made on a contract, businesses often are paid twice for the work they have done.

Defense Department finance officials believe they are recouping about 75 percent of the overpayments, although they admit they have no way of knowing exactly how much is being overpaid.

Today, after an 18-month struggle by Hamre to turn the situation around, the department still has 19 payroll systems and 200 different contracting systems.

Hamre, who wins praise from Republicans and Democrats for his efforts, has undertaken a major consolidateion of payroll and contracting offices. He has opened more than 100 investigations into whether individual program managers or service agencies violated the law by using money appropriated for one program for something else or for paying contracts that exceeded their budget.

He has frozen 23 major accounts and has stopped payment to 1,200 contractors whose records are particularly troublesome. In July, clerks will be prohibited from making payments over $5 million to any contractor "unless a valid accounting record" of the contract can be found. By October, the amount drops to $1 million, which means it will affect thousands more contracts.

According to Hamre and Rau, a number of cases are under investigation for possible violations of the Anti-Deficeincy Act, the law that governs how congressionally appropriated money must be spent. Penalties range from disciplinary job action to criminal prosecution. Investigators are trying to determine:

Why there is an unauthorized expenditure of around $1 billion on the Mark 50 torpedo, and the Standard and Phoenix missiles. Hamre and Rau suspect that Navy officials used money appropriated for other items or wrote checks on empty accounts to pay contracts from 1988 and 1992.

Whether Air Force officials used money from various weapons programs to build a golf course at Wright-Patterson Air Force Base in Ohio beginning in 1987.

What happened when some programs ran out of money. "There are some [cases] in the Air Force now that really stink," Hamre said. When money for the Advanced Cruise Missile ran out, Air Force officials simply terminated the existing contract and rewrote another, more expensive one the following day, Pentagon investigators recently concluded. In order to pay for cost overruns associated with the new C–17 cargo plane, contract officials simply reclassified $101 million in development costs as production costs.

Hamre said the services allowed such money mingling to go on partly because of the complexity of the yearly congressional appropriations process. "People want to find an easier way to get the job done," he said. "They are trying to get some flexibility in a very cumbersome system."

But, he added, some services also have resisted correcting problems and punishing wrongdoers. "I'm very frustrated by it," he said. "In the past, they just waited until people retired. It was the old boy network covering for people."

The Defense Department is unlike any government agency in scope and size. It sends out $35 million an hour in checks for military and civilian employees from its main financing office in Columbus, Ohio. And it buys everything from toothbrushes to nuclear submarines; about $380 billion flows within the various military purchasing bureaucracies and out to the private sector each year.

It takes at least 100 paper transactions among dozens of organizations to buy a complex weapons system. Some supply contracts have 2,000 line items and, because of the congressional appropriations process, must be paid for by money from several different pots.

Fixing the problems without throwing the entire system into chaos, Hamre said, "is like changing the tire on a car while you're driving 60 miles per hour."

But some argue it has never been more important to make the fixes quickly.

"Here we are in a period of reduced spending, it's critically important today that we get a bigger bang for the buck," said Sen. William V. Roth Jr. (R–Del.), chairman of the Government Affairs Committee, where many of the current problems were first revealed. "We've got to put pressure on to expedite it. At best, it will take too long."

But in the world of Defense Department financing, time is not always a solution, as one small example illustrates.

In 1991, because of a computer programming error, the department's finance and accounting service centers erroneously paid thousands of Desert Storm reservists $80 million they were not owed. When officials realized the mistake, they began to send letters to service members to recoup the overpayments. Many veterans complained to Congress, which then prohibited the Pentagon from collecting any overpayment of less than $2,500 and made it give back money collected from people who received less than that amount.

To comply, the Defense Finance and Accounting Service (DFAS) payment centers in Cleveland, Denver, Indianapolis and Kansas City created new computer programs to cancel the debts and issue refunds. But they did not adequately test the new programs, IG and GAO investigators found.

As a result, the appropriate debts were not canceled, and improper amounts of refunds were issued, often to the wrong service member. The DFAS center in Denver, for example, canceled $295,000 that service members owed it for travel advances. In all, the botched effort to follow Congress's direction cost taxpayers an additional $15 million, Pentagon officials said.

"It isn't possible now" to recoup the money, Hamre said. "We can't reconstruct the records. We admit were really, really bad. We won't do it again." The IG's office has agreed that it would be too costly to reconstruct the records and recoup the loss.

As he often does when he testifies about these matters on Capitol Hill, Hamre confessed to the Senate Armed Services Committee recently: "We've made a lot of progress. Boy, we've got a long way to go."

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1243

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore [Mr. WELLER] at 12 o'clock and 43 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 146 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 146

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 consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 146 is the rule for the consideration of H.R. 614, a bill to convey the New London National Fish Hatchery to the State of Minnesota.

This is an open rule. It provides for 1 hour of general debate, to be divided between the chairman and ranking minority member of the Resources Committee. After general debate, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. Finally, the rule provides for a motion to recommit.

This underlying bill will convey the New London Fish Hatchery to the State of Minnesota, which has been operating the hatchery since 1983 when the Federal Government decided to discontinue operations. Minnesota assumed operations to ensure that the State's fish stocking program would continue into the future. The hatchery plays an important role in the walleye and muskie stocking program.

To date, Minnesota has spent nearly $800,000 on operations, maintenance, and improvement of the facility and has a strong interest in making certain capital improvements on the facility, but without ownership, they are, understandably, reluctant to do so. This bill would transfer all right, title, and interest in the hatchery so that the State may make those improvements. Should the State discontinue operations, ownership returns to the United States with the understanding that the facility be returned to the Federal Government in equal or better condition than it was at the time of transfer.

This rule provides for fair, open debate and is brought up under an open rule at the request of the chairman. Some Members may wonder why this bill is coming up under an open rule rather than coming up on the suspension calendar.

During consideration of the bill by the Subcommittee on Fisheries, Wildlife and Oceans, two amendments were offered by members of that subcommittee. While the first amendment was adopted, the second amendment was rejected by voice vote. This rule will allow that amendment to be brought up on the floor for consideration by the full House.

The amendment, offered by the gentleman from California [Mr. MILLER], would require the State of Minnesota to pay the Federal Government the fair market value for the fish hatchery facility at the time of transfer. Since amendments cannot be offered under suspension of the rules, Congressman Miller would have been prohibited from offering his amendment on the floor. This open rule will protect the right of Members to bring important issues to the floor by allowing that amendment, and any others, to be offered on the floor for consideration by the full House.

Mr. Speaker, I urge my colleagues to adopt this rule. It provides for fair consideration of a bill that is very important to the people of Minnesota, and at the same time it protects the rights of Members to offer amendments for consideration by the full House.

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

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

Mr. Speaker, this is an open rule, which the Committee on Rules reported for a noncontroversial bill. We support the rule, and we urge our colleagues to approve it today.

The Committee on Rules heard testimony last week about the noncontroversial nature of H.R. 614, which transfers ownership, without reimbursement, of the New London Fish Hatchery to the State of Minnesota. We were told that the State of Minnesota wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

This is just one of several fish hatcheries, formerly operated by the Federal Government, that the Fish and Wildlife Service plans to transfer to States, all without reimbursement to the United States for the land, equipment, and buildings at the hatchery sites.

The gentleman from California [Mr. MILLER] may offer an amendment to the bill that would require the State of Minnesota to pay the Federal Government the fair market value of the property.

Under this rule, the amendment is in order, as is any other germane amendment. Our colleagues will be able to hear Mr. MILLER'S arguments for requiring an appraisal of this and the other fish hatcheries being transferred to States that are evidently using them, very successfully, for State recreational purposes. His amendment will also require the State to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 145 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 145

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 consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. At the conclusion of 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. WELLER). The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 145 is a very simple resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on Resources.

After general debate the bill shall be considered as read for amendment under the 5-minute rule. At the conclusion of 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.

Finally, Mr. Speaker, the rule provides one motion to recommit.

Mr. Speaker, the chairman of the Committee on Resources, Mr. YOUNG, requested an open rule for this legislation. The open rule was reported out of the Committee on Rules by voice vote. Under the proposed rule each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body.

Once again, Mr. Speaker, the underlying legislation directs the Secretary of the Interior to convey a Federal fish hatchery, this time located in the State of Iowa in Fairport, IA. For the last 22 years the State of Iowa has operated the facility. And at this point in time the State would like to upgrade the facility, but is unable to justify the expense of the improvements without having legal title to the property.

H.R. 584 would transfer ownership of the hatchery and immediate property and buildings to the State of Iowa. The bill is supported by both the State of Iowa and the U.S. Fish and Wildlife Service, and it was reported out of the Committee on Resources by voice vote.

Once again, Mr. Speaker, this rule provides for any amendments to be brought up. We understand that a similar amendment to the preceding legislation that was just discussed may be offered, but under the open rule all Members will have the opportunity to have their voices aired, discussed, and voted on.

Mr. Speaker, I urge my colleagues to support this open rule.

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

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

Mr. Speaker, this is, as the gentlewomen pointed out, an open rule for a noncontroversial bill. We support the rule, and we urge our colleagues to do the same.

We also support the objective of the bill, H.R. 584, to convey the fish hatchery to the State of Iowa, which has been operating it for several years now.

We do have some concerns about transferring this property to the State of Iowa, which has been using the hatchery very successfully for State recreational purposes, without reimbursement. The gentleman from California [Mr. MILLER], who is the ranking member on the Resources Committee and its former chairman, may offer an amendment to the bill that we think deserves the attention of our colleagues.

Mr. MILLER raised several important points in his dissenting views on this bill. He questioned the give-away of Federal assets to the State of Iowa without reimbursement to the Federal taxpayers for their investment, especially since no one knows the true value of the property—there has been no appraisal of the buildings and land since 1983.

His amendment would require an updated appraisal of this property that has a choice location and a commercial potential that could result in significant revenue for the United States. Mr. MILLER'S amendment would also require payment of fair market value by the State to reimburse Federal taxpayers for their investment.

Under this open rule, Mr. MILLER and any other Member may offer germane amendments such as this one.

Again, we urge our colleagues to approve this rule for the bill conveying ownership of the Fairport Fish Hatchery to the State of Iowa.

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

Mrs. WALDHOLTZ. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 144 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 144

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 consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. The bill and the amendment recommended by the Committee on Resources now printed in the bill shall be considered as read. At the conclusion of 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 144 is another open rule providing for the consideration of H.R. 535, legislation directing the Secretary of the Interior to convey Corning National Fish Hatchery to the State of Arkansas.

Specifically, this rule provides 1 hour of general debate equally divided and controlled by the chairman and the ranking member of the Committee on Resources. After general debate is completed, the bill will be considered for amendment under the 5-minute rule. The bill and the amendment recommended by the Resources Committee now printed in the bill shall be considered as read. Finally, the rule provides one motion to recommit.

Mr. Speaker, House Resolution 144 will permit the House to consider legislation sponsored by our colleague, Representative BLANCH LAMBERT LINCOLN, to convey the Corning National Fish Hatchery, which is located in Corning, AR, to the State of Arkansas.

As will be described in more detail later, the State of Arkansas assumed control of the fish hatchery from the U.S. Fish and Wildlife Service in 1983, when it was closed as a result of Federal budget cuts. Currently, no Federal funds are being used to operate or maintain the hatchery. It is my understanding that the State is now interested in making capital improvements to the facility, in addition to long-term plans for its use. However, the State is hesitant to do so without first obtaining title to the property.

H.R. 535 would facilitate the transfer to the State of Arkansas of all right, title, and interest of the United States

in and to the property of the Corning Fish Hatchery. An amendment adopted during subcommittee consideration of the bill would ensure that these rights and interests will revert to the United States if the property is used for any purpose other than fishery resources management.

Mr. Speaker, let me take just a moment to respond to those who might question why we are considering this legislation under a rule at all, rather than under suspension of the rules. As our colleagues know, suspension of the rules is an effective tool for considering relatively noncontroversial legislation in an expedited manner. Debate is limited to just 40 minutes, and bills considered under suspension are unamendable on the floor of the House.

During our Rules Committee hearing on the bill last week, we discussed the possibility of at least two amendments to H.R. 535, including one to be offered by the sponsor of the bill, and one by the ranking minority member of the Resources Committee requiring the State of Arkansas to pay the Federal Government the fair market value of the Corning facility at the time of transfer. Under suspension, any such floor amendments would be prohibited. Under this open rule, however, an open amendment process is guaranteed. Any Member can be heard on any germane amendment to the bill at the appropriate time.

Mr. Speaker, H.R. 535 was favorably reported out of the Committee on Resources by voice vote, as was this rule by the Rules Committee. In fact, the Committee on Rules reported this resolution unanimously, without a single "nay" vote. I urge my colleagues to support this very open rule, and continue the spirit of openness and thoughtful debate that has enhanced the overall deliberative process in the House this year.

Mr. Speaker, I am including for the RECORD this chart that shows what rules have been offered in the 104th Congress and the 103d Congress.

The chart follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of May 12, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	27	77
Modified Closed[3]	49	47	8	23
Closed[4]	9	9	0	0
Totals:	104	100	32	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

□ 1300

Mr. BEILENSON. Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding the customary ½ hour of debate time to me.

Mr. Speaker, I yield myself such time as I man consume.

Mr. Speaker, this is an open rule, as the gentlewoman has stated.

The Committee on Rules reported the rule for this basically noncontroversial bill. We support the rule. We urge our colleagues to approve it today.

The gentlewoman from Arkansas [Mrs. LINCOLN] appeared before our committee last week to support the open rule for this bill, a bill which she

herself originally introduced. She reminded us of similar legislation passed last year under suspension of the rules and of the noncontroversial nature of the measure.

We also appreciated her testimony. The State of Arkansas wants to preserve this property and is willing to make improvements and implement long-term plans if it can assume ownership.

The State of Arkansas, along with several other States, is evidently operating these hatcheries with a good deal of success for recreational purposes. The Fish and Wildlife Service plans to transfer several other excess properties to other States, all without reimbursement. The gentleman from California [Mr. MILLER] may again offer an amendment to the bill which would require the State of Arkansas to pay the Federal Government the fair market value of the property.

Mr. Speaker, again, we support this open rule and urge our colleagues to approve it today.

Also, Mr. Speaker, I am inserting extraneous material at this point in the RECORD.

The material referred to follows:

Floor Procedure in the 104th Congress; Compiled by the Rules Committee Democrats

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments..	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute..	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time..	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.

*Contract Bills, 67% restrictive; 33% open. **All legislation, 59% restrictive; 41% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was on the table.

ELIMINATING NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL FROM THE GOALS 2000: EDUCATE AMERICA ACT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1045) to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1045

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

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.

(a) REPEALS.—Subsection (b) of section 241, sections 211 through 218 of Part B of title II, and section 316 of the Goals 2000: Educate America Act (20 U.S.C. 5841 et seq.) are repealed.

(b) AMENDMENTS TO GOALS 2000: EDUCATE AMERICA ACT.—

(1) Section 201(3) of the Goals 2000: Educate America Act (20 U.S.C. 5812(3)) is amended by striking all that follows after "opportunity-to-learn standards" and inserting a period.

(2) Section 203(a) of such Act (20 U.S.C. 5823(a)) is amended by striking paragraphs (3) and (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(3) Section 204(a)(2) of such Act (20 U.S.C. 5824) is amended by striking "described in section 213(f)".

(4) Section 219 of such Act (20 U.S.C. 5849) is amended—

(A) in subsection (a)(1) by striking "consistent with the provisions of section 213(c),"; and

(B) by striking subsection (b) and inserting the following:

"(b) APPLICATIONS.—Each consortium that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.".

(5) Section 220(a) of such Act (20 U.S.C. 5850(a)) is amended by striking "to be used" and all that follows through "by the Council".

(6) Section 221(a) of such Act (20 U.S.C. 5851(a)) is amended—

(A) in paragraph (1)—

(i) subparagraph (A), by striking "and the Council"; and

(ii) by striking subparagraphs (B) and (C) and redesignating subparagraph (D) as subparagraph (B); and

(B) in paragraph (2), by striking "and the Council, as appropriate,".

(7) Section 308(b)(2)(A) of such Act (20 U.S.C. 5888(b)(2)(A)) is amended by striking "including—" and all that follows through the end of clause (ii) and inserting "including through consortia of States".

(8) Section 314(a)(6) of such Act (20 U.S.C. 5894(a)(6)) is amended by striking ", if—" and all that follows through "(B)" and inserting "if".

(9) Section 315 of such Act (20 U.S.C. 5895) is amended in subsection (b)—

(A) paragraph (1)(A), by striking "paragraph (4) of this subsection" and inserting "paragraph (3)";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(D) in subparagraph (B) of paragraph (3) (as redesignated), by striking "paragraph (5)," and inserting "paragraph (4),"; and

(E) in paragraph (4) (as redesignated), by striking "paragraph (4)" each place it appears and inserting "paragraph (3)".

(c) NATIONAL SKILL STANDARDS ACT OF 1994.—

(1) Section 503 of the National Skill Standards Act of 1994 (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "28" and inserting "(27)";

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking "subparagraphs (E), (F), and (G)" each place it appears and inserting "subparagraphs (D), (E), and (F)";

(iii) in paragraph (2), by striking "subparagraph (G)" and inserting "subparagraph (F)";

(iv) in paragraph (4), by striking "(C), and (D)" and inserting "and (C)"; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking "subparagraph (E), (F), or (G)" and inserting "subparagraphs (D), (E), or (F)"; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking "subparagraph (E)" and inserting "subparagraph (D)"; and

(ii) in paragraph (2), by striking "subparagraphs (E), (F), and (G)" and inserting "subparagraphs (D), (E), and (F)".

(2) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(d) AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 14701(b)(1)(B)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8941(b)(1)(B)(v)) is amended—

(1) by inserting "and" before "the National Education Goals Panel"; and

(2) by striking ", and the National Education Statistics and Improvement Council".

(d) AMENDMENT TO GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103-382), is amended by striking "the National Education Standards and Improvement Council,".

SEC. 2. TECHNICAL AND COINFORMING AMENDMENTS.

The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II, by striking the items relating to sections 211 through 218 of part B of such title and the item relating to section 316.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

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

Mr. Speaker, I would announce in advance that the floor prep statement put out by my side of the aisle is incorrect on this particular issue.

Mr. Speaker, today we are considering H.R. 1045, a bill to repeal the National Education Standards and Improvement Council [NESIC]. This legislation has bipartisan support and I hope that when we pass this legislation today, the other body will take it up immediately and send it to the President for his signature.

The National Education Standards and Improvement Council [NESIC] created by Goals 2000 is a Presidentially appointed council that has the mission of reviewing and certifying national education standards and State education standards that are voluntarily submitted. Because decisions about educating our children are primarily decided at the local level by parents, teachers and students, NESIC, commonly referred to as a "national school board," has generated great controversy about continued local control of education.

The distance between standards and curriculum is not very great. Currently, there is a prohibition on the Federal Government dictating curriculum to States and school districts and there is good reason to be wary of Federal involvement in certifying education standards. The seriously flawed and justifiably controversial history standards illustrate how the standards-setting process can go awry and point out the dangers of having a Presidentially appointed unaccountable body certifying education standards.

However, I want to make it very clear, academic standards based reform remains one of the most promising strategies for improving education for all children in our Nation. Academic standards are a statement of learning outcomes. What children need to know and be able to do. I think parents want to know what their children actually learned rather than that they spent 180 days in school and earned a carnegie unit. There must be rigorous academic standards and not vague and fuzzy attempts to shape students' attitudes and values, matters that should be left to parents. The most important standards development must take place in our local communities and school districts. However, Federal certification of these standards is not necessary for this process to be effective or constructive.

While I recognize that many of my colleagues would like to go much further in limiting Federal involvement in education, I want to assure them that they will have the opportunity as our committee considers broader education reform legislation. By enacting this legislation today, it is my hope that this will put a stop to an unwarranted Federal intrusion into education while preserving education standards development by States and local school districts. To do less will certainly hamper any hope of the United States doing well in a very competitive world.

We must develop voluntary national and international standards in the academic subject areas and develop voluntary assessment tools to determine whether the standards are met. Teachers must then be prepared to teach to these higher standards.

I, therefore, urge my colleagues to support this bill.

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

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

Mr. Speaker, I rise today in support of this compromise.

I also want to thank my committee chairman and friend, BILL GOODLING, for his efforts. We have a long history of bipartisan cooperation in our committee and that, in large measure, is due to the influence of our committee chairman.

As someone who has served on this committee for 18 years, I want to underscore my own belief that education is a State responsibility, a local function, and an important Federal concern.

That is an appropriate balance which has deep roots in our Nation's history.

Our Nation is in the midst of a period of profound change. We are facing economic challenges from our global competitors that make it absolutely imperative that our children achieve to the highest possible academic standards. We are now a highly mobile society. People do not always live and work in the communities in which they were born. And, rarely does the employment base stay the same. Business and industry respond to the demands of the marketplace and so must our schools. We owe that to the children.

Mr. Speaker, reform of our system of public education is one of the most critical tasks we face. We made a good deal of progress in the last Congress. I believe the bill we have before us today will preserve that progress while it meets the consideration of those who felt some concern.

Again, my thanks to my committee chairman GOODLING and I would also like to acknowledge the hard work of your staff, particularly John Barth, Sally Lovejoy, Vic Klatt, and Jomarie St. Martin. And our staff Sara Davis, Broderick Johnson, and Dr. June Harris.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 1045, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1045, the bill just passed.

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

There was no objection.

BROKEN PROMISES TO THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, I rise this afternoon to express my deep concern over the proposed Republican budget cuts in Social Security and in Medicare and Medicaid. What is quite disturbing to me about these cuts is that they are broken promises to the American people, to our seniors who have labored so hard in this country to provide for this great Nation of ours, and what is equally disturbing about these cuts, which will cost the seniors, the Medicare cuts, will cost the seniors in the year 2002, 7 years from now, $1,000 a year.

What is additionally so disturbing is that in the same budget proposal are tax cuts for the wealthiest people in our society. Over 50 percent of the tax cuts; it is a $100 billion tax cut over 10 years, over 50 percent of those tax cuts go to people making over $100,000 a year.

There is something called the alternative minimum tax, and for those of you who are not familiar with that, back in the early 1980's we found that major corporations, in fact, 130 of the top 250 corporations in America, were paying no taxes at all between 1981 and 1985, during at least 1 year, no taxes. And it was, the rest, the burden was picked up by everyone else. So we decided to change that law. Even Ronald Reagan agreed that it was embarrassing, and it was an outrage. We changed the law that required major corporations to pay at least something, a minimal tax.

Well, under the tax proposal we passed last month under the Contract With America, the Republicans got rid of that minimum tax, and now we are back to where we were, where we will have major corporations not contributing their fair share to the tax burden on the American people. So what you have in this tax bill is getting rid of the alternative minimum tax, you have got 50 percent of the benefits going to the top virtually 1 percent, so if you are making $230,000 a year, you are going to get $11,000 in tax breaks.

We think the tax cut is weighted very too heavily to benefit the wealthiest people in our society. And to give you an example of that, I should talk to you about one provision we had on the floor about a month and a half ago that would allow billionaires in our society, and millionaires, very few billionaires, but there are some, to avoid paying taxes if they renounce their American citizenship. We tried to close that loophole on the floor of the House. Republicans defended it all. All but 5 Republicans voted to keep that loophole for the wealthiest people in our society. You might say. "Well who does that?" About 24 people. You know what the cost to us as a country is over 10 years as lost revenue because of that? $3.6 billion.

So they have got this tax bill that benefits primarily the wealthiest people in our society, and they have got this budget bill that will hit the most vulnerable people in our society, our young people and our older people, and when it comes to Medicare, they take a giant whack out of the disposable income of our senior citizens.

Let me just tell you exactly what they do. The Republicans in Congress are proposing a new budget that will mean serious cuts. It will even cut back COLA increases. Over the next 7 years, Medicare will be cut by 25 percent. Medicaid, which provides the only long-term care many seniors now have access to at all, will be cut by 30 percent. Social Security COLA's will be cut by 0.6 percent a year starting in 1999. For the average senior citizen, this will mean higher out-of-pocket expenses, fewer benefits, less choice of doctors. It will mean higher Medicare premiums, higher deductibles, higher copayments.

By the year 2002, Medicare costs will increase over $1,000, as I said, for every senior citizen. Social security COLA's will be $240 less for every senior. Cuts in Medicaid will mean 2.9 million Americans will lose long-term care.

When we talk about Medicaid, it is not only the poor in this country, but we are talking about a program that provides, I believe, about 40 percent of long-term care for our seniors in this country. 2.9 million Americans will lose long-term care, and these cuts will not pay for fixing the Medicare system. Instead they will go into a tax package that provides tax breaks for the wealthiest people in the country and allows some of our wealthiest corporations, as I said, to pay no tax at all. That is not fair. It is not right. It is a broken promise to the American people.

These cuts in Medicare and Medicaid and Social Security are not just going to affect senior citizens. Now, how is the average working family going to pay for additional costs of caring for their parents and grandparents? How will they pay for the rising costs of long-term care, prescription drugs, home health care, and hospital bills? How are the middle-aged children of these elderly people in our society, how are they going to maintain these increased costs for their parents and their grandparents? And if they have kids who may want to move up in our society through the education system and get a college education and if their kids are on student loans, those kids, in fact, will, in fact, be hit hard because under the same budget proposal the costs of a student going to college who is on student loans now, we call them Stafford loans, but they are better known as student loans around the country, in Michigan, that student will pay an extra $4,000.

□ 1315

So, they are getting squeezed on each end. If you got kids, and you got elderly parents, you are going to get hit on both ends.

Mr. Speaker, it was 50 years ago last week that Americans defeated Nazi Germany in World War II, and all over America we celebrated that day by remembering the brave men and women on both the battlefront and the home front who led our country to victory, and, looking at pictures of our parents and our grandparents from back then, they were so young, and they were so full of life, it is hard to believe that they would ever grow old. But they have, Mr. Speaker.

The generation that beat Hitler, built our economy, raised our families, are now America's senior citizens, and today many of them are living on fixed incomes. Their Social Security is the only thing many older Americans have each month to pay their rent, to pay their heating bills, to pay for their food, for medicine and doctor bills, and for most of them it is not easy. They have to struggle to make ends meet. Those of us who go home each weekend in our district meet them constantly. We know of the struggle they have to go through.

But today, instead of trying to make life easier and more fulfilling for them, Mr. Speaker, Republicans in Congress are trying to make their lives harder. In their budget proposal House Republicans have not only proposed cutting Social Security by $240 a person, they are also asking every senior to pay an additional $3,500 for Medicare.

Now, as I have said, Medicare, of course, is the system we have in this country for health insurance for our senior citizens. We did not have that before 1965. You did not have Medicare, and, as a result, many seniors, when they got into their senior years, had no health insurance and fell directly into poverty. Social Security adopted by Franklin Roosevelt, a Democrat, in 1935; Medicare, adopted in the administration of a Democratic President, Lyndon Johnson, and a Democratic Congress; changed the lives of tens of millions of American seniors and kept them out of poverty in their senior years.

After sending out press releases after press releases bragging about how they were going to leave Social Security and Medicare alone, House Republicans have broken that promise, and they have targeted our seniors, and the worst part, Mr. Speaker, they are not being asked to sacrifice to balance the budget, or to cut the deficit, or to make the Medicare system even stronger. The Republicans, as I said, are cutting Medicare and Social Security for one reason and one reason only, to pay for tax breaks, over 50 percent of which go to the wealthiest people in our society. And if you look at the numbers, they nearly match up. Their Medicare cuts equaled the tax breaks, what the Wall Street Journal called the biggest tax bonanza in years for the upper-income Americans. It is not me saying it, but the Wall Street Journal. The voice of the wealthy in this country said it was the biggest tax savings bonanza in years for upper-income Americans, and, under the Republican plan, we are going to take more money from seniors whose average income is $17,000 a year so we can give a $20,000 tax break to families earning over $250,000 a year.

Does that sound fair to you? Is that what this country is all about? Is that what this last election was all about? Is that what our parents fought for and sacrificed for in the greatest battle for democracy in human decency that the world has even seen? I do not think so.

Last week the New York Times revealed in an article by Robert Pear, in a confidential memo, something that every American should read. It was circulated. This memo was circulating among House Republicans, a memo detailing where some of these Medicare cuts will come from. Among other things, it recommended doubling the annual deductible, increasing the monthly premium by 50 percent, charging patients for a portion of home health care, and the list goes on, and on, and on, and this just does not affect seniors. You know, as I said earlier, where is the average working family going to come up with the money to pay for this?

Well, Mr. Speaker, in the past week we have seen Republican after Republican come to this floor and try to convince us that nobody is going to be hurt by these cuts, and they bring out charts, and they throw numbers around, and they talk about limiting growth on projected spending, and they try to tell us how a cut really is not a cut.

But, you know, none of this Washington bureaucratic talk means much to a constituent of mine, Iris Doyle who I have known for a long time. Iris Doyle is a proud senior citizen who lives in my district. For 16 years she taught a class on U.S. citizenship. She literally spent her life helping people gain access to the American dream, and to this day she still has a framed copy of the Declaration of Independence hanging on her wall. But the times have not been easy for Iris. Eleven years ago her husband died, 3 years after that her only son died, and during the time of their illnesses she was sick herself; she had cancer. For 18 months she endured chemotherapy treatment after chemotherapy, and she says, "Thank god. Thanks to the wonders of modern medicine the cancer is in remission."

In order to pay off their hospital bills which totaled over $12,000, she literally had to sell her house. Then more bad luck hit. She came down with Legionnaire disease which forced her to stop working. Today she lives on a monthly Social Security check totaling about $550, and a small school pension kicks in in another 134 months. Out of that small amount of money she has to pay for everything, rent, and food, and medicine, and heat, and transportation, and clothing, as well as her medical bills which thankfully, are not as high as they could be. Now twice a year she sees an oncologist for cancer, but Medicare does not cover the cost of the visit because she does not quite meet the annual deductible. So her oncologist let her set a payment plan. Every 6 months she pays about a $75 bill. And you know what? She struggles to make that payment.

Now you tell Iris these Medicare cuts are not going hurt anybody. Tell Iris that a 50-percent increase in Medicare premiums is nothing. Tell her that she can afford these cuts. Because, if you do, she will probably tell you what she told me. She said, "You know, DAVID, it's unfortunate that when you get in the later years of your life, when you've taught kids, and you have to worry about things like this, but I don't think those people in Washington know what they're doing to people," and then she said, "I don't think they care."

Mr. Speaker, I think she is right. I do not think my friends, many of my friends in this institution, realize what these cuts are going to do to these people, particularly my friends on the other side of the aisle. But I do know one thing. This is not what the American people voted for last November. We did not vote to cut Medicare in order to pay for tax breaks for the privileged few. Our parents and our grandparents stood by America in times of war and peace, and we must stand by them today. That is the sacred promise that we made on Medicare, and I believe it is time we lived up to that promise.

We will be engaged in a very vociferous debate for the remainder of this week, and I daresay for the remainder of this Congress, on this very issue. The cuts that have been put forward by the Republicans in the House, in the Senate, will devastate millions of people in this country, not only seniors, but their children who must care for them in their later years. This is an unconscionable act in light of the outrageously inappropriate, unfair, unequal tax cut that the Republicans have put forward for the wealthiest few in our society.

I do not know how to get this message across to the American people except to talk to them at home and to talk to them on the floor of the House of Representatives. There was an interesting piece today in the Washington Post on the front page about how a large majority of people in this country today do not read the newspaper,

do not watch the national news, and only pick up their news from talk radio and, occasionally, from tabloid television, and so in many instances miss the news, and those are the very people that will be hurt by what the Republicans are trying to do to Social Security, to Medicare, and to Medicaid.

Now I can only say to my colleagues that this is in my almost 20 years in this institution, or 19 years in this institution and 4 years as an elected official in Michigan, the most inequitable and the most egregions acts of unkindness in terms of a budget that I have ever seen. I assume people will become outraged. I know the AARP issued a report on Friday detailing the effects of these cuts. I know the Hospital Association is concerned because what there cuts really mean in addition is that many of our hospitals are going to close around the country.

I know our seniors are going to be concerned because, if they have a doctor that they like to go to, basically what this plan does is move them into a managed care system where they will not have the choice of the doctor they want unless they pay an even higher premium that I have quoted on the floor this afternoon. So, you are losing choice of doctor, you are paying more out of your pocket, all in order to save $300 billion over 7 years, $300 billion that will be used to pay for this tax cut that will go to the wealthiest people in our society.

I do not think I have seen in my years of public service anything as bold and as inequitable as this tradeoff. It is right there for everyone to see, and people will have to make up their minds whether this is what they had in mind when they voted on November 8, 1994.

The American family is squeezed today. Since 1979, 98 percent of all new income growth in the country went to the top 20 percent of households in America. The other 80 percent stayed even or went down, and most of them went down. We are seeing a bifurcation in our society today of wealth and people who cannot make it, and it is tearing this country apart, and it is having more of an effect on this Nation than just pure buying power or economics.

□ 1330

It is making people lose faith in the system. It is making people feel hopeless. It is what drives gangs to violence in inner cities and militias to violence in rural areas. We have to get back to the time in our country and our society and in this institution where there is some basis of equity and fairness and justice. The rich cannot have it all, and that is the direction we are going. This latest assault on seniors is a rollback not only of the New Deal of Franklin Roosevelt or the Fair Deal of Harry Truman or the programs of the Great Society of Lyndon Johnson, it is a rollback to the days when we were indeed a society of extreme wealth and people struggling to make ends meet.

We bridged a lot of that gap. We made America a place of promise for virtually 80 percent of our population after the Second World War. And this latest budget is a rollback.

So I would say to my senior friends particularly who are watching, but also to my friends and colleagues from the country who approximate my age, 50, that these cuts will take a terrible, terrible toll, a psychological toll, a financial toll, and a spiritual toll, on the Nation.

I urge my colleagues in this body to reject this budget when we vote on it on Thursday of this week. Send it back to the Committee on the Budget. Let us have hearings on it. This was rolled out at midnight, by the way. Nobody saw it. Democrats did not see this until 1 o'clock in the morning, and they rolled it out a few days later on votes.

The American people need to see what is in this budget, and when they get a load of what has happened, to students, to our seniors, to Social Security. There was a promise made by the Speaker, Mr. GINGRICH, sitting up directly behind me, that they would not touch Social Security, and they have. They have cut COLA's, and it will affect every senior in this country hundreds, if not thousands, of dollars.

They said they would not monkey with Medicare, but they have. They have. It should not be surprising that they have. The majority leader, Mr. ARMEY, when he first ran for Congress, ran against Social Security. He does not really think we ought to have it, he thinks we can devise a better system, we should get rid of it. Back in 1986, Speaker GINGRICH hedged Medicare and the payments on Medicare against additional defense spending.

There are no friends of Social Security or Medicare, or few friends, I should say, on this side of the aisle. There are some. I do not mean to impugn the motives and actions of all of the Members on the Republican side of the aisle, because there are some who do care for these. But, for the most part, they will be voting in lockstep on Thursday to implement these cuts.

So I would just like to conclude, Mr. Speaker, by urging each and every one of my colleagues to look at the Robert Pear piece in the New York Times which outlines the memo that talks about the additional cuts in Social Security, the additional deductibles on Medicare, the additional premium increases, and also to look at the AARP report with respect to the same issue.

One final comment on choice, because I know it is so important, because so many of our seniors rely on a certain doctor for their care. They have confidence in that doctor. They should know that with this new system that we are about to embark on, if it becomes law, that choice will be taken away. Or you can keep it if you want, but you are going to have to pay an even higher premium, an even higher premium than I have talked about here on the floor this afternoon.

RECESS

The SPEAKER pro tempore. Without prejudice to the resumption of legislative business, pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 1 o'clock and 36 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WELLER] at 5 o'clock p.m.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1114

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1114.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1120

Mr. RAMSTAD. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1120.

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

There was no objection.

PERSONAL EXPLANATION

Mr. HANCOCK. Mr. Speaker, for the first time in over 6 years, I was out of town on personal business last Thursday and Friday, and missed a portion of the rollcall votes on H.R. 961. I ask that the RECORD reflect that had I been present, I would have voted in the following manner: "No" on rollcall votes 321, 322, 323, 324, 325, and 328; and "aye" on rollcall votes 326, 327, and 329.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 2 minutes p.m.), the House adjourned subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore [Mr. WELLER] at 6 o'clock and 3 minutes p.m.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO SIT TOMORROW, TUESDAY, MAY 16, 1995, DURING 5-MINUTE RULE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on International Relations and its subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole under the 5-minute rule.

It is my understanding the minority has been consulted and there is no objection to this request.

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

There was no objection.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 961.

□ 1804

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 further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, May 12, 1995, the amendment offered by the gentleman from Texas [Mr. DE LA GARZA] had been disposed of, and title VIII was open at any point.

Are there any amendments to title VIII?

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT:

Strike title VIII of the bill (page 239, line 3, through page 322, line 22) and insert the following:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wetlands and Watershed Management Act of 1995".

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares the following:

(1) Wetlands perform a number of valuable functions needed to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including—

(A) reducing pollutants (including nutrients, sediment, and toxics) from nonpoint and point sources;

(B) storing, conveying, and purifying flood and storm waters;

(C) reducing both bank erosion and wave and storm damage to adjacent lands and trapping sediment from upland sources;

(D) providing habitat and food sources for a broad range of commercial and recreational fish, shellfish, and migratory wildlife species (including waterfowl and endangered species); and

(E) providing a broad range of recreational values for canoeing, boating, birding, and nature study and observation.

(2) Original wetlands in the contiguous United States have been reduced by an estimated 50 percent and continue to disappear at a rate of 200,000 to 300,000 acres a year. Many of these original wetlands have also been altered or partially degraded, reducing their ecological value.

(3) Wetlands are highly sensitive to changes in water regimes and are, therefore, susceptible to degradation by fills, drainage, grading, water extractions, and other activities within their watersheds which affect the quantity, quality, and flow of surface and ground waters. Protection and management of wetlands, therefore, should be integrated with management of water systems on a watershed basis. A watershed protection and management perspective is also needed to understand and reverse the gradual, continued destruction of wetlands that occurs due to cumulative impacts.

(4) Wetlands constitute an estimated 5 percent of the Nation's surface area. Because much of this land is in private ownership wetlands protection and management strategies must take into consideration private property rights and the need for economic development and growth. This can be best accomplished in the context of a cooperative and coordinated Federal, State, and local strategy for data gathering, planning, management, and restoration with an emphasis on advance planning of wetlands in watershed contexts.

(b) PURPOSES.—The purposes of this Act are—

(1) to help create a coordinated national wetland management effort with efficient use of scarce Federal, State, and local financial and manpower resources to protect wetland functions and values and reduce natural hazard losses;

(2) to help reverse the trend of wetland loss in a fair, efficient, and cost-effective manner;

(3) to reduce inconsistencies and duplication in Federal, State, and local wetland management efforts and encourage integrated permitting at the Federal, State, and local levels;

(4) to increase technical assistance, cooperative training, and educational opportunities for States, local governments, and private landowners;

(5) to help integrate wetland protection and management with other water resource management programs on a watershed basis such as flood control, storm water management, allocation of water supply, protection of fish and wildlife, and point and nonpoint source pollution control;

(6) to increase regionalization of wetland delineation and management policies within a framework of national policies through advance planning of wetland areas, programmatic general permits and other approaches and the tailoring of policies to ecosystem and land use needs to reflect significant watershed variance in wetland resources;

(7) to address the cumulative loss of wetland resources;

(8) to increase the certainty and predictability of planning and regulatory policies for private landowners;

(9) to help achieve no overall net loss and net gain of the remaining wetland base of the United States through watershed-based restoration strategies involving all levels of government;

(10) to restore and create wetlands in order to increase the quality and quantity of the wetland resources and by so doing to restore and maintain the quality and quantity of the waters of the United States; and

(11) to provide mechanisms for joint State, Federal, and local development and testing of approaches to better protect wetland resources such as mitigation banking.

SEC. 803. STATE, LOCAL, AND LANDOWNER TECHNICAL ASSISTANCE AND COOPERATIVE TRAINING.

(a) STATE AND LOCAL TECHNICAL ASSISTANCE.—Upon request, the Administrator or the Secretary of the Army, as appropriate, shall provide technical assistance to State and local governments in the development and implementation of State and local government permitting programs under sections 404(e) and 404(h) of the Federal Water Pollution Control Act, State wetland conservation plans under section 805, and regional or local wetland management plans under section 805.

(b) COOPERATIVE TRAINING.—The Administrator and the Secretary, in cooperation with the Coordinating Committee established pursuant to section 804, shall conduct training courses for States and local governments involving wetland delineation, utilization of wetlands in nonpoint pollution control, wetland and stream restoration, wetland planning, wetland evaluation, mitigation banking, and other subjects deemed appropriate by the Administrator or Secretary.

(c) PRIVATE LANDOWNER TECHNICAL ASSISTANCE.—The Administrator and Secretary shall, in cooperation with the Coordination Committee, and appropriate Federal agencies develop and provide to private landowners guidebooks, pamphlets, or other materials and technical assistance to help them in identifying and evaluating wetlands, developing integrated wetland management plans for their lands consistent with the goals of this Act and the Federal Water Pollution Control Act, and restoring wetlands.

SEC. 804. FEDERAL, STATE, AND LOCAL GOVERNMENT COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall establish a Federal, State, and Local Government Wetlands Coordinating Committee (hereinafter in this section referred to as the "Committee").

(b) FUNCTIONS.—The Committee shall—

(1) help coordinate Federal, State, and local wetland planning, regulatory, and restoration programs on an ongoing basis to reduce duplication, resolve potential conflicts, and efficiently allocate manpower and resources at all levels of government;

(2) provide comments to the Secretary of the Army or Administrator in adopting regulatory, policy, program, or technical guidance affecting wetland systems;

(3) help develop and field test, national policies prior to implementation such as wetland, delineation, classification of wetlands, methods for sequencing wetland mitigation responses, the utilization of mitigation banks;

(4) help develop and carry out joint technical assistance and cooperative training programs as provided in section 803;

(5) help develop criteria and implementation strategies for facilitating State conservation plans and strategies, local and regional wetland planning, wetland restoration and creation, and State and local permitting programs pursuant to section 404(e) or 404(g) of the Federal Water Pollution Control Act; and

(6) help develop a national strategy for the restoration of wetland ecosystems pursuant to section 6 of this Act.

(c) MEMBERSHIP.—The Committee shall be composed of 18 members as follows:

(1) The Administrator or the designee of the Administrator.

(2) The Secretary or the designee of the Secretary.

(3) The Director of the United States Fish and Wildlife Service or the designee of the Director.

(4) The Chief of the Natural Resources Conservation Service or the designee of the Chief.

(5) The Undersecretary for Oceans and Atmosphere or the designee of the Under Secretary.

(6) One individual appointed by the Administrator who will represent the National Governor's Association.

(7) One individual appointed by the Administrator who will represent the National Association of Counties.

(8) One individual appointed by the Administrator who will represent the National League of Cities.

(9) One State wetland expert from each of the 10 regions of the Environmental Protection Agency. Each member to be appointed under this paragraph shall be jointly appointed by the Governors of the States within the Environmental Protection Agency's region. If the Governors from a region cannot agree on such a representative, they will each submit a nomination to the Administrator and the Administrator will select a representative from such region.

(d) TERMS.—Each member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) shall be appointed for a term of 2 years.

(e) VACANCIES.—A vacancy in the Committee shall be filled, on or before the 30th day after the vacancy occurs, in the manner in which the original appointment was made.

(f) PAY.—Members shall serve without pay, but may receive travel expenses (including per diem in lieu of subsistence) in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) COCHAIRPERSONS.—The Administrator and one member appointed pursuant to paragraph (6), (7), (8), or (9) of subsection (c) (selected by such members) shall serve as cochairpersons of the Committee.

(h) QUORUM.—Two-thirds of the members of the Committee shall constitute a quorum but a lesser number may hold meetings.

(i) MEETINGS.—The Committee shall hold its first meeting not later than 120 days after the date of the enactment of this Act. The Committee shall meet at least twice each year thereafter. Meetings will be opened to the public.

SEC. 805. STATE AND LOCAL WETLAND CONSERVATION PLANS AND STRATEGIES; GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.

(a) STATE WETLAND CONSERVATION PLANS AND STRATEGIES.—Subject to the requirements of this section, the Administrator shall make grants to States and tribes to assist in the development and implementation of wetland conservation plans and strategies. More specific goals for such conservation plans and strategies may include:

(1) Inventorying State wetland resources, identifying individual and cumulative losses, identifying State and local programs applying to wetland resources, determining gaps in such programs, and making recommendations for filling those gaps.

(2) Developing and coordinating existing State, local, and regional programs for wetland management and protection on a watershed basis.

(3) Increasing the consistency of Federal, State, and local wetland definitions, delineation, and permitting approaches.

(4) Mapping and characterizing wetland resources on a watershed basis.

(5) Identifying sites with wetland restoration or creation potential.

(6) Establishing management strategies for reducing causes of wetland degradation and restoring wetlands on a watershed basis.

(7) Assisting regional and local governments prepare watershed plans for areas with a high percentage of lands classified as wetlands or otherwise in need of special management.

(8) Establishing and implementing State or local permitting programs under section 404(e) or 404(h) of the Federal Water Pollution Control Act.

(b) REGIONAL AND LOCAL WETLAND PLANNING, REGULATION, AND MANAGEMENT PROGRAMS.—Subject to the requirements of this section, the Administrator shall make grants to States which will, in turn, use this funding to make grants to regional and local governments to assist them in adopting and implementing wetland and watershed management programs consistent with goals stated in section 101 of the Federal Water Pollution Control Act and section 802 of this Act. Such plans shall be integrated with (where appropriate) or coordinated with planning efforts pursuant to section 319 of the Federal Water Pollution Control Act. Such programs shall, at a minimum, involve the inventory of wetland resources and the adoption of plans and policies to help achieve the goal of no net loss of wetland resources on a watershed basis. Other goals may include, but are not limited to:

(1) Integration of wetland planning and management with broader water resource and land use planning and management, including flood control, water supply, storm water management, and control of point and nonpoint source pollution.

(2) Adoption of measures to increase consistency in Federal, State, and local wetland definitions, delineation, and permitting approaches.

(3) Establishment of management strategies for restoring wetlands on a watershed basis.

(c) GRANTS TO FACILITATE THE IMPLEMENTATION OF SECTION 404.—Subject to the requirements of this section, the Administrator may make grants to States which assist the Federal Government in the implementation of the section 404 Federal Water Pollution Control program through State assumption of permitting pursuant to sections 404(g) and 404(h) of such Act through State permitting through a State programmatic general permit pursuant to section 404(e) of such Act or through monitoring and enforcement activities. In order to be eligible to receive a grant under this section a State shall provide assurances satisfactory to the Administrator that amounts received by the State in grants under this section will be used to issue regulatory permits or to enforce regulations consistent with the overall goals of section 802 and the standards and procedures of section 404(g) or 404(e) of this Act.

(d) MAXIMUM AMOUNT.—No State may receive more than $500,000 in total grants under subsections (a), (b), and (c) in any fiscal year and more than $300,000 in grants for subsection (a), (b), or (c), individually.

(e) FEDERAL SHARE.—The Federal share of the cost of activities carried out using amounts made available in grants under this section shall not exceed 75 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

SEC. 806. NATIONAL COOPERATIVE WETLAND ECOSYSTEM RESTORATION STRATEGY.

(a) DEVELOPMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in cooperation with other Federal agencies, State, and local governments, and representatives of the private sector, shall initiate the development of a National Cooperative Wetland Ecosystem Restoration Strategy.

(b) GOALS.—The goal of the National Cooperative Wetland Ecosystem Restoration Strategy shall be to restore damaged and degraded wetland and riparian ecosystems consistent with the goals of the Water Pollution Control Amendments and the goals of section 802, and the recommendations of the National Academy of Sciences with regard to the restoration of aquatic ecosystems.

(c) FUNCTIONS.—The National Cooperative Wetland Ecosystem Restoration Strategy shall—

(1) be designed to help coordinate and promote restoration efforts by Federal, State, regional, and local governments and the private sector, including efforts authorized by the Coastal Wetlands Planning, Protection, and Restoration Act, the North American Waterfowl Management Plan, the Wetlands Reserve Program, and the wetland restoration efforts on Federal, State, local, and private lands;

(2) involve the Federal, State, and local Wetlands Coordination Committee established pursuant to section 804;

(3) inventory and evaluate existing restoration efforts and make suggestions for the establishment of new watershed specific efforts consistent with existing Federal programs and State, regional, and local wetland protection and management efforts;

(4) evaluate the role presently being played by wetland restoration in both regulatory and nonregulatory contexts and the relative success of wetland restoration in these contexts;

(5) develop criteria for identifying wetland restoration sites on a watershed basis, procedures for wetlands restoration, and ecological criteria for wetlands restoration; and

(6) identify regulatory obstacles to wetlands ecosystem restoration and recommend methods to reduce such obstacles.

SEC. 807. PERMITS FOR DISCHARGE OF DREDGED OR FILL MATERIAL.

(a) PERMIT MONITORING AND TRACKING.—Section 404(a) (33 U.S.C. 1344) is amended by adding at the end thereof the following: "The Secretary shall, in cooperation with the Administrator, establish a permit monitoring and tracking programs on a watershed basis to monitor the cumulative impact of individual and general permits issued under this section. This program shall determine the impact of permitted activities in relationship to the no net loss goal. Results shall be reported biannually to Congress.".

(b) ISSUANCE OF GENERAL PERMITS.—Paragraph (1) of section 404(e) is amended by inserting "local," before "State, regional, or nationwide basis" in the first sentence.

(c) REVOCATION OR MODIFICATION OF GENERAL PERMITS.—Paragraph (2) of section 404(e) is amended by striking the period at the end and inserting "or a State or local government has failed to adequately monitor and control the individual and cumulative adverse effects of activities authorized by State or local programmatic general permits.".

(d) PROGRAMMATIC GENERAL PERMITS.—Section 404(e) is amended by adding at the end thereof the following new paragraph:

"(3) PROGRAMMATIC GENERAL PERMITS.—Consistent with the following requirements, the Secretary may, after notice and opportunity for public comment, issue State or local programmatic general permits for the purpose of avoiding unnecessary duplication of regulations by State, regional, and local regulatory programs:

"(A) The Secretary may issue a programmatic general permit based on a State, regional, or local government regulatory program if that general permit includes adequate safeguards to ensure that the State, regional, or local program will have no more than minimal cumulative impacts on the environment and will provide at least the same degree of protection for the environment, including all waters of the United States, and for Federal interests, as is provided by this section and by the Federal permitting program pursuant to section 404(a). Such safeguards shall include provisions whereby the Corps District Engineer and the Regional Administrators or Directors of the Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Marine Fisheries Service (where appropriate), shall have an opportunity to review permit applications submitted to the State, regional, or local regulatory agency which would have more than minimal individual or cumulative adverse impacts on the environment, attempt to resolve any environmental concern or protect any Federal interest at issue, and, if such concern is not adequately addressed by the State, local, or regional agency, require the processing of an individual Federal permit under this section for the specific proposed activity. The Secretary shall ensure that the District Engineer will utilize this authority to protect all Federal interests including, but not limited to, national security, navigation, flood control, Federal endangered or threatened species, Federal interests under the Wild and Scenic Rivers Act, special aquatic sites of national importance, and other interests of overriding national importance. Any programmatic general permit issued under this subsection shall be consistent with the guidelines promulgated to implement subsection (b)(1).

"(B) In addition to the requirements of subparagraph (A), the Secretary shall not promulgate any local or regional programmatic general permit based on a local or regional government's regulatory program unless the responsible unit of government has also adopted a wetland and watershed management plan and is administering regulations to implement this plan. The watershed management plan shall include—

"(i) the designation of a local or regional regulatory agency which shall be responsible for issuing permits under the plan and for making reports every 2 years on implementation of the plan and on the losses and gains in functions and acres of wetland within the watershed plan area;

"(ii) mapping of—

"(I) the boundary of the plan area;

"(II) all wetlands and waters within the plan area as well as other areas proposed for protection under the plan; and

"(III) proposed wetland restoration or creation sites with a description of their intended functions upon completion and the time required for completion;

"(iii) a description of the regulatory policies and standards applicable to all wetlands and waters within the plan areas and all activities which may affect these wetlands and waters that will assure, at a minimum, no net loss of the functions and acres of wetlands within the plan area; and

"(iv) demonstration that the regulatory agency has the legal authority and scientific monitoring capability to carry out the proposed plan including the issuance, monitoring, and enforcement of permits in compliance with the plan.".

(e) GRANDFATHER OF EXISTING GENERAL PERMITS.—Section 404(e) is further amended by adding at the end the following:

"(4) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Wetlands and Watershed Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.".

(f) DISCHARGES NOT REQUIRING A PERMIT.—Section 404(f) (33 U.S.C. 1344(f)) is amended by striking the subsection designation and paragraph (1) and inserting the following:

"(f) EXEMPTIONS.—

"(1) ACTIVITIES NOT REQUIRING PERMIT.—

"(A) IN GENERAL.—Activities are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

"(i) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(ii) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

"(iii) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance or reconstruction of drainage ditches and tile lines (including resloping of drainage ditches to control bank erosion);

"(iv) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

"(v) are for the purpose of construction or maintenance of farm roads or forest roads, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(vi) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

"(vii) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section; and

"(viii) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard.".

(g) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—Section 404(f) is further amended by adding the following:

"(3) AREAS NOT CONSIDERED TO BE NAVIGABLE WATERS.—

"(A) IN GENERAL.—For purposes of this section, the following shall not be considered navigable waters:

"(i) Irrigation ditches excavated in uplands.

"(ii) Artificially irrigated areas which would revert to uplands if the irrigation ceased.

"(iii) Artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and which are used exclusively for stock watering, irrigation, or rice growing.

"(iv) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons.

"(v) Temporary, water filled depressions created in uplands incidental to construction activity.

"(vi) Pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States.

"(vii) Artificial stormwater detention areas and artificial sewage treatment areas which are not modified natural waters.

"(B) DEMONSTRATION REQUIRED.—Subparagraph (A) shall not apply to a particular water body unless the person desiring to discharge dredged or fill material in that water body is able to demonstrate that the water body qualifies under subparagraph (A) for exemption from regulation under this section.".

SEC. 808. TECHNICAL ASSISTANCE TO PRIVATE LANDOWNERS, CODIFICATION OF REGULATIONS AND POLICIES.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(u)(1) The Secretary and the Administrator shall in cooperation with the United States Fish and Wildlife Service, Natural Resources Conservation Service, and National Marine Fisheries Service provide technical assistance to private landowners in delineation of wetlands and the planning and management of their wetlands. This assistance shall include—

"(A) the delineation of wetland boundaries within 90 days (providing on the ground conditions allow) of a request for such delineation for a project with a proposed individual

permit application under this section and a total assessed value of less than $15,000; and

"(B) the provision of technical assistance to owners of wetlands in the preparation of wetland management plans for their lands to protect and restore wetlands and meet other goals of this Act, including control of nonpoint and point sources of pollution, prevention and reduction of erosion, and protection of estuaries and lakes.

"(2) The Secretary shall prepare, update on a biannual basis, and make available to the public for purchase at cost, an indexed publication containing all Federal regulations, general permits, and regulatory guidance letters relevant to the permitting of activities in wetland areas pursuant to section 404(a). The Secretary and the Administrator shall also prepare and distribute brochures and pamphlets for the public addressing—

"(A) the delineation of wetlands,

"(B) wetland permitting requirements; and

"(C) wetland restoration and other matters considered relevant.".

SEC. 809. DELINEATION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(v) DELINEATION.—

"(1) IN GENERAL.—The United States Army Corps of Engineers, the United States Environmental Protection Agency, and other Federal agencies shall use the 1987 Corps of Engineers Manual for the Delineation of Jurisdictional Wetlands pursuant to this section until a new manual has been prepared and formally adopted by the Corps and the Environmental Protection Agency with input from the United States Fish and Wildlife Service, Natural Resources, Natural Resources Conservation Service, and other relevant agencies and adopted after field testing, hearing, and public comment. Any new manual shall take into account the conclusions of the National Academy of Sciences panel concerning the delineation of wetlands. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, shall develop materials and conduct training courses for consultants, State, and local governments, and landowners explaining the use of the Corps 1987 wetland manual in the delineation of wetland areas. The Corps, in cooperation with the Environmental Protection Agency and the Department of Agriculture, may also, in cooperation with the States, develop supplemental criteria and procedures for identification of regional wetland types. Such criteria and procedures may include supplemental plant and soil lists and supplementary technical criteria pertaining to wetland hydrology, soils, and vegetation.

"(2) AGRICULTURAL LANDS.—

"(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt from the requirements of subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any discharge related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.".

SEC. 810. FAST TRACK FOR MINOR PERMITS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(w)(1) Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations to explore the review and practice of individual permits for minor activities. Minor activities include activities of 1 acre or less in size which also have minor direct, secondary, or cumulative impacts.

"(2) Permit applications for minor permits shall ordinarily be processed within 60 days of the receipt of completed application.

"(3) The Secretary shall establish fast-track field teams or other procedures in the individual offices sufficient to expedite the processing of the individual permits involving minor activities.".

SEC. 811. COMPENSATORY MITIGATION.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(x) GENERAL REQUIREMENTS.—(1) Each permit issued under this section that results in loss of wetland functions or acreage shall require compensatory mitigation. The preferred sequence of mitigation options is as set forth in subparagraph (A) and (C). However, the Secretary shall have sufficient flexibility to approve practical options that provide the most protection to the resource—

"(A) measures shall first be undertaken by the permittee to avoid any adverse effects on wetlands caused by activities authorized by the permit.

"(B) measures shall be undertaken by the permittee to minimize any such adverse effects that cannot be avoided;

"(C) measures shall then be undertaken by the permittee to compensate for adverse impacts on wetland functions, values, and acreage;

"(D) where compensatory mitigation is used, preference shall be given to in-kind restoration on the same water body and within the same local watershed;

"(E) where on-site and in-kind compensatory mitigation are impossible, impractical, would fail to work in the circumstances, or would not make ecological sense, off-site and/or out-of-kind compensatory mitigation may be permitted within the watershed including participation in cooperative mitigation ventures or mitigation banks as provided in section 404(y).

"(2) The Secretary in consultation with the Administrator shall ensure that compensable mitigation by a permitee—

"(A) is a specific, enforceable condition of the permit for which it is required;

"(B) will meet defined success criteria; and

"(C) is monitored to ensure compliance with the conditions of the permit and to determine the effectiveness of the mitigation in compensating for the adverse effects for which it is required.".

SEC. 812. COOPERATIVE MITIGATION VENTURES AND MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following:

"(y)(1) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Administrator shall jointly issue rules for a system of cooperative mitigation ventures and wetland banks. Such rules shall, at the minimum, address the following topics:

"(A) Mitigation banks and cooperative ventures may be used on a watershed basis to compensate for unavoidable wetland losses which cannot be compensated on-site due to inadequate hydrologic conditions, excessive sedimentation, water pollution, or other problems. Mitigation banks and cooperative ventures may also be used to improve the potential success of compensatory mitigation through the use of larger projects, by locating projects in areas in more favorable short-term and long-term hydrology and proximity to other wetlands and waters, and by helping to ensure short-term and long-term project protection, monitoring, and maintenance.

"(B) Parties who may establish mitigation banks and cooperative mitigation ventures for use in specific context and for particular types of wetlands may include government agencies, nonprofits, and private individuals.

"(C) Surveys and inventories on a watershed basis of potential mitigation sites throughout a region or State shall ordinarily be required prior to the establishment of mitigation banks and cooperative ventures pursuant to this section.

"(D) Mitigation banks and cooperative mitigation ventures shall be used in a manner consistent with the sequencing requirements to mitigate unavoidable wetland impacts. Impacts should be mitigated within the watershed and water body if possible with on-site mitigation preferable as set forth in section 404(x).

"(E) The long-term security of ownership interests of wetlands and uplands on which projects are conducted shall be insured to protect the wetlands values associated with those wetlands and uplands;

"(F) Methods shall be specified to determine debits by evaluating wetland functions, values, and acreages at the sites of proposed permits for discharges or alternations pursuant to subsections (a), (c), and (g) and methods to be used to determine credits based upon functions, values, and acreages at the times of mitigation banks and cooperative mitigation ventures.

"(G) Geographic restrictions on the use of banks and cooperative mitigation ventures shall be specified. In general, mitigation banks or cooperative ventures shall be located on the same water body as impacted wetlands. If this is not possible or practical, banks or ventures shall be located as near as possible to impacted projects with preference given to the same watershed where the impact is occurring.

"(H) Compensation ratios for restoration, creation, enhancement, and preservation reflecting and overall goal of no net loss of function and the status of scientific knowledge with regard to compensation for individual wetlands, risks, costs, and other relevant factors shall be specified. A minimum restoration compensation ratio of 1:1 shall be required for restoration of lost acreage with larger compensation ratios for wetland creation, enhancement and preservation.

"(I) Fees to be charged for participation in a bank or cooperative mitigation venture shall be based upon the costs of replacing lost functions and acreage on-site and off-site; the risks of project failure, the costs of long-term maintenance, monitoring, and protection, and other relevant factors.

"(J) Responsibilities for long-term monitoring, maintenance, and protection shall be specified.

"(K) Public review of proposals for mitigation banks and cooperative mitigation ventures through one or more public hearings shall be provided.

"(2) The Secretary, in consultation with the Administrator, is authorized to establish

and implement a demonstration program for creating and implementing mitigation banks and cooperative ventures and for evaluating alternative approaches for mitigation banks and cooperative mitigation ventures as a means of contributing to the goals established by section 101(a)(8) or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403). The Secretary shall also monitor and evaluate existing banks and cooperative ventures and establish a number of such banks and cooperative ventures to test and demonstrate:

"(A) The technical feasibility of compensation for lost on-site values through off-site cooperative mitigation ventures and mitigation banks.

"(B) Techniques for evaluating lost wetland functions and values at sites for which permits are sought pursuant to section 404(a) and techniques for determining appropriate credits and debits at the sites of cooperative mitigation ventures and mitigation banks.

"(C) The adequacy of alternative institutional arrangements for establishing and administering mitigation banks and cooperative mitigation ventures.

"(D) The appropriate geographical locations of bank or cooperative mitigation ventures in compensation for lost functions and values.

"(E) Mechanisms for ensuring short-term and long-term project monitoring and maintenance.

"(F) Techniques and incentives for involving private individuals in establishing and implementing mitigation banks and cooperative mitigation ventures.

Not later than 3 years after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report evaluating mitigation banks and cooperative ventures. The Secretary shall also, within this time period, prepare educational materials and conduct training programs with regard to the use of mitigation banks and cooperative ventures.".

SEC. 813. WETLANDS MONITORING AND RESEARCH.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(z) The Secretary, in cooperation with the Administrator, the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and appropriate State and local government entities, shall initiate, with opportunity for public notice and comment, a research program of wetlands and watershed management. The purposes of the research program shall include, but not be limited—

"(1) to study the functions, values and management needs of altered, artificial, and managed wetland systems including lands that were converted to production of commodity crops prior to December 23, 1985, and report to Congress within 2 years of the date of the enactment of this subsection;

"(2) to study techniques for managing and restoring wetlands within a watershed context;

"(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

"(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.".

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(aa) ADMINISTRATIVE APPEALS.—

"(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

"(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

"(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

"(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

"(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

"(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

"(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

"(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(2) the activity is required by any State or Federal water quality program.".

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(cc) STATE CLASSIFICATION SYSTEMS.—

"(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

"(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.".

SEC. 817. AGRICULTURAL LANDS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

"(dd) AGRICULTURAL LANDS.—

"(1) PERMIT AUTHORITY.—The Secretary of Agriculture is authorized to issue permits under this section for any activity subject to permitting under this section that is carried out on agricultural land (other than agricultural land subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823)). Any activity allowed by the Secretary of Agriculture under such sections 1221–1223 shall be treated as having a permit issued under this section and no individual request for or granting of a permit shall be required under this section.

"(2) MITIGATION.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section.".

SEC. 818. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

"(26) The term 'wetland' means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

"(27) The term 'discharge of dredged or fill material' means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

"(28) The term 'mitigation bank' shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

"(29) The term 'cooperative mitigation ventures' shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

"(30) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(31) The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.".

Conform the table of contents of the bill accordingly.

Mr. BOEHLERT (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. BOEHLERT. Mr. Chairman, it is unfortunate what is now happening, because both cloakrooms have indicated that there will be no votes this evening, and consequently Members understandably have remained in their districts or with their families. At a time when we have scheduled debate on one of the most sensitive environmental issues not just of the day or the week or the month, of the year, but probably of this generation. We are talking about the Clean Water Act amendments, the Clean Water Act of 1972, which history demonstrates has been one of the most successful pieces of environmental legislation in history.

What we should have, what the American people are entitled to, is spirited debate, give and take. Those who have problems with the Clean Water Act amendments should have the opportunity to present those problems on the floor. Those who have proposed solutions, and I am among that group, should be able to offer their proposed solution.

But the problem is, because of the change from last Thursday, when we were told we would go into session today at 5 o'clock, and then we would have votes on the Suspension Calendar, then we would proceed with this very important debate, and people had every right to expect that the People's House would take up one of the most serious issues of this Congress and we would have good attendance, we would have good participation, and we would go about the people's business in a responsible manner.

But as I say, the cloakrooms have advised Members that no votes are intended this evening. So we have here a few die-hard, spirited individuals.

The gentleman from Alaska [Mr. YOUNG] always can be there and counted on, the gentleman from Louisiana [Mr. HAYES], the gentleman from California [Mr. MINETA], a few Members who are here because they really care. The Members who are not here really care too. This is not to fault them. We have been working at a hectic pace since the first of the year, since January 4. This House has done outstanding work for the first 100 days of this historic 104th Congress. We have dealt with a balanced budget amendment, we have dealt with welfare reform and a line-item veto, the list goes on and on. This House has been responsive, has been dealing in a serious manner with serious issues.

Now we have another serious issue that deserves that serious attention. But unfortunately we are going to have to carry over until tomorrow, so that the Members can come back from their districts, their meetings, and their families and participate as they should, as they want to participate.

The amendment I am offering is designed to streamline current law while continuing to safeguard vital wetlands. It is in full the National Governors' Association language on wetland protection. Let me repeat this: My amendment is the National Governors' Association language on wetland protection.

Now that deserves special emphasis, because I think one of the messages of November 8, 1994, is that the American people are saying to us, loudly and clearly, that Washington is not the source of all wisdom. They want those of us who have special responsibility here in our Nation's Capital to reach out across America, to deal with State and local governments in a responsible manner, and to ask of them input and guidance as we develop national policy that will apply in like manner to all, and we have done that.

This amendment, the Boehlert wetlands amendment, contains the National Governors' Association language in full. And it is identical to the proposal I made as parts of last Wednesday's substitute. Let me point that out once again. It is identical in language as it deals with wetlands to the proposal I made as part of last Wednesday's substitute, which earned 184 votes.

There would have been more. People said to me well, you have a very comprehensive package, I like certain component parts, particularly as you deal with wetlands, but I cannot accept the entire package. One hundred eighty-four did, and boy did we defy the odds. People said, "BOEHLERT, you are not going to get more than 100 votes; it's a done deal." We got 184, and there are more waiting, there are more waiting, because they have been listening to America. They have been reading editorial comment across this Nation. And they recognize that we have a special responsibility.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 5 additional minutes.)

Mr. BOEHLERT. I want to emphasize that we start from the same premises as the drafters of H.R. 961 did. Keep in mind, I am privileged to serve as chairman of the Subcommittee on Water Resources and the Environment. I have been through the entire deliberations. I have chaired seven hearings, six in Washington, DC, to which we brought experts from all over the country, and one specifically geared to nonpoint-source pollution in upstate New York. Seven hearings, experts from all over America, from all walks of life came before us. So we start as the drafters of H.R. 961, the committee bill, did, with the same premise. We want to remove redtape, to increase local control, to address the legitimate concerns of farmers and other property owners, but unlike H.R. 961, we have managed to accomplish those goals without allowing the wholesale elimination of more than half of our Nation's wetlands.

During last week's debate opponents of the National Governors' Association wetlands proposal often mischaracterized it, so let me lay it out right at the outset how this amendment, the National Governors' Association proposal, would reform current law.

First, our amendment recognizes the needs of farmers. Agriculture is vital to the American economy, and we recognize it.

Our amendment not only includes each and every agriculture exemption granted by H.R. 961, the committee bill, but it also adds an additional exception for the repair of tiles.

Second, our amendment increases local control, very important. Not everything coming from Washington, not all of the decisionmaking coming from Washington. We say we are partners with State and local governments and we want to increase local control.

Our amendment makes it easier and faster for States to become the permitting authority for their wetlands.

Third, our amendment does not create any new regulating entity. The coordinating committee that was referred to in last week's debate is an advisory body that includes State and local representatives as well as Federal

officials. State, local, Federal, serving on an advisory panel.

Fourth, our amendment speeds the regulatory process, and boy is this long overdue. We provide a fast-track permitting process that would require decisions involving wetlands of 1 acre or less within 60 days, 2 months, no longer.

Fifth, our amendment provides a reasonable appeals process. You have to have an appeals process. If you do not like the decision, where do you go for an appeal? We provide a mechanism for that. In fact we have exactly the same administrative appeal provisions as the committee bill, H.R. 961.

These are real reforms, reforms the Nation's Governors have requested.

What neither the Governors nor the public have requested is the wholesale elimination of wetlands; what neither the Governors nor the public have requested is a bill that cavalierly ignores the findings of science; what neither the Governors nor the public have requested is a wetland regime that threatens our tourism and fishing industries and increases the likelihood of flooding.

A lot has been said these past few days about the last elections. To my knowledge, the public did not vote for dirty water, did not vote for environmental destruction, did not vote for the end of any sense of common good.

□ 1815

What the public did vote for is a reduction in the size of the Federal Government, an end to overreaching regulation, and a reversion of local control.

We have responded to that vote in this amendment. I will not belabor this. We have been through it many, many times.

But H.R. 961 poses a false choice between regulatory reform and environmental protection. Both are possible simultaneously. Both are accomplished in this moderate, sensible, bipartisan amendment that would codify the National Governors' Association proposal.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us make it clear for the record: There is no National Governors' Association support for this legislation. There has not been, and there is none today.

I would like to go through what the gentleman has just stated. What is wrong with the amendment? In the amendment there is no reform to wetlands delineation criteria. That is a fact. There is no recognition of different wetland values in the processing of permits. That is a fact. There is no compensation of property owners for devaluation of the properties. I want to stress that again. The one thing that has driven this amendment process and the bill process has been this Government is under attack today imposing their thoughts and their wisdom upon the private property holders without compensation. That is not in the amendment. It, in fact, does not compensate the private property landholders at all.

It, in fact, does not reform the wetlands program at all. It adds to the existing programs that exist today which become so burdensome. It has serious implications regarding Federal land use and planning regarding nonpoint sources, which reminds me, I just received a letter from the American Farm Bureau Federation strongly opposing this amendment, in fact, all amendments to the bill that is truly a clean water bill; H.R. 961 creates true ecological clean water policy.

And I can also suggest that is not the only one, that says this amendment that is being offered today is totally wrong. We can go all the way through this list of about 16 other different groups that are not manufacturing groups that strongly oppose this, most of them agricultural groups.

The amendments were written by and for wetlands by regulatory bureaucrats. I want to stress that. This amendment was written by regulatory bureaucrats. It was not written by the gentleman from New York. It was written by this individual bureaucratic group that insists that their position is the right position. And, in fact, this amendment guts the reforms of H.R. 961 that we tried to achieve. Now, that is what is wrong with the amendment.

Now, I also, if I may say, Mr. Chairman, we were notified last Thursday that if anyone wishes to debate this issue should be on the floor tonight. We were also notified it followed that any votes would be taken upon suspension of the rules. There were no votes today, because no one asked for them. I want to clear that up for the record.

Let us go over what H.R. 961 really does in section 404. It represents a long overdue reform of the troubled wetlands regulatory section of the 404 program. The regulatory burdens are currently excessive, and costs in time and money too often do not result in significant environmental benefits.

Title VIII, modeled after the earlier version of H.R. 1330, and by the way, 6 sponsors of that bill are now Governors of States, 6 sponsors of the original bill 2 years ago are now Governors of States, the major reforms made by H.R. 961 include wetlands must be clarified based on relative value and to be regulated accordingly. Wetlands must have a reasonable relationship to water. No longer any 10,000-foot mountains can be considered wetlands, nor that sloping hills around Juneau can no longer be considered wetlands, and we cannot build a school.

A property owner must be compensated for regulatory action that significantly devalues his property, and that is the Supreme Court decision and is what should be put into law. Property owners are allowed to appeal agency decisions. States are encouraged to share the responsibility in implementing the program. Permit requirements are routine; for routine and minor activities are eliminated.

Mr. Chairman, this, as it is written, is a good bill. Now, the gentleman from New York had an opportunity in the committee to offer his amendment to the committee and was defeated overwhelmingly by a bipartisan effort because I have heard that word used here today. In fact, 13 of the 26 Democrats voted against his amendment, plus I believe, of our side, only 4 were voted on his side of the amendment.

One of the weaknesses of this system is we have amendments after public hearing offered in the committee process, soundly defeated, and yet people are allowed to bring them to the floor, bring them to the floor and discuss them supposedly after they have been decided in the committee they do not have great worth or value. I am suggesting, very frankly, this is a mischievous amendment to destroy something that is very crucial to this bill.

And, last, it is hard for me to keep away from it, that the amendment offered by the gentleman from New York neglects to acknowledge the right of private property owners and the right of States that own land and the rights of the individual American native that acquired the lands from this Congress. He now tells those people that were given land by this body that their land is of no value, because they, the bureaucrats, have decided it is a wetland.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, their land has no longer any value because the Government has decided it is wetland. If anything I have heard enough about the Government today, in the last 3 or 4 weeks, if you wonder why there is an unrest out there, and it does exist today, regardless of what our President says or what I hear from certain Members on this floor of the House, is because of the heavy-handedness and the lack of recognition of this Congress that the individual rights of a person or a select group of individuals who were given property by this Congress has to be protected, yet we do not recognize that.

I am going to suggest to the gentleman from New York you have got to go out and walk in their moccasins; he ought to be able to look at their land, and say, "We gave it to you, but we are going to take it back because I think it is wetland. For the good of the environment, we are going to protect it." I say to the gentleman from New York that

is absolutely immoral and wrong. We have an opportunity in the original bill, as passed out of this committee as a good bill, to protect those wetlands, and those are the good wetlands that will be protected, but if, in fact, in the national interest they are that valuable, that individual shall be compensated.

This amendment should be voted down, turned down overwhelmingly.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the distinguished ranking member. I would like to respond to my distinguished colleague from Alaska because he made several points that need to be addressed.

First of all, he said this is not the National Governors' Association language; it is written by some bureaucrat someplace.

Let me point out here that I will submit at the proper time for the RECORD a letter from the National Governors' Association. Let me read a couple of excerpts.

Mr. YOUNG of Alaska. If the gentleman will yield, what is the date of the letter?

Mr. BOEHLERT. The letter is March 28. The gentleman from California has the time. He has yielded some time to me, and I am going to respond to that.

The letter is addressed to me:

We have been greatly encouraged by your willingness, as well as that of Representative Shuster and others in the bipartisan group, to include States in the development of H.R. 961.

Very important that we be inclusive.

We support the intent of this bill to provide substantially greater flexibility for States and local governments in our efforts to protect water. We support the water resources and environmental subcommittee in its efforts to expeditiously move this comprehensive legislation reforming the Clean Water Act. We have not yet completed our review of all provisions of the bill. However, as you know, the provisions on wetlands are not consistent with the recommendation of the National Governors. We raised concerns over this issue in our March 22 letter to Representative Shuster. In response to your request, we enclose an alternative approach to wetlands reform, developed by the Association of State Wetlands Managers based on National Governors' Association policy recommendations.

Now, this is very important. The Boehlert amendment, the pending amendment, word for word contains every singe word and phrase of the National governors' Association recommendations, plus we had some exemptions that we feel are very important for agriculture.

The second point the gentleman from Alaska made, that there were votes last Thursday and it was announced to all that we would be considering this matter Monday evening. He is absolutely right. he is right more often than he is wrong. But he fails to tell what Paul Harvey wants us all to know, the rest of the story, and the rest of the story is simply this: Last Thursday we had every expectation we would return to Washington on Monday and we would have a spirited debate and votes, which is an incentive for people to come back, when suddenly we announced there are not going to be any votes.

What does the typical Member of Congress do? Continues with the responsibilities at home in the district, meeting with business people and schoolchildren and going to hospitals and spending a little time with their families. I understand that. This is a family-friendly Congress. No votes scheduled tonight. So we do not have widespread attendance here. I understand that. So does my distinguished colleague from Alaska.

Next, I would like to point out that he says that there was a vote in the committee. And why are we revisiting this subject here when we have already spoken to the subject in the committee? Well, I read the Constitution. There is nothing in the Constitution about committees, although they are very important, but there is a lot in the Constitution about the House of Representatives, which serves as the representative body for all 250 million Americans and all 50 States. The committees work their will, and I was very much a part of that process, as was my distinguished colleague from Alaska. We acted on that bill in committee.

Now we bring it to the full House for open consideration, and that is what we are doing right now.

I thank my distinguished ranking minority member, the gentleman from California [Mr. MINETA], for yielding to me.

Mr. MINETA. Mr. Chairman, I thank our fine colleague from New York for his clarifying statement and for his clarity on this amendment as it relates to the wetlands.

Mr. Chairman, I rise to support the Boehlert amendment. While I do not believe that the amendment will solve all of the issues which confront the section 404 program, I believe that it is infinitely preferable to the existing provisions in H.R. 961, and it will assist in the goal of greatly encouraging State participation in the wetlands program.

Throughout this debate, I have been told consistently that this is not a bill written by polluters or for polluters. No, I have been told that this bill represents a wide range of interests, and that it is designed to be consistent with the wishes of State and local governments, and not just the regulated business community. I have been told that this is not a bill written by special interests because so much of the bill represents the wishes of the States. I have been told that we have to listen to the people in the States who are actually running the program to know what the new Clean Water Act should look like.

The Boehlert amendment listens to the States. The Boehlert amendment reflects the preferred position of the National Governors Association. The Boehlert amendment is the position of the people in the States who actually administer wetlands programs. If reflects the product of the Association of State Wetlands Managers.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 5 additional minutes.)

Mr. MINETA. Mr. Chairman, the States want a workable program with increased State participation. The States have testified in favor of a wetlands program based upon science. The National Academy of Sciences study says that hydrology, vegetation, and soils must all be considered in order to accurately assess what is or is not a wetland. H.R. 961, in contrast, imposes a very simplistic test which considers only one aspect of hydrology, namely surface inundation, and ignores not only vegetation and soils, but also other aspects of hydrology such as soil saturation.

Mr. Chairman, the States are not interested in creating huge new loopholes in the wetlands program, they are interested in preserving wetlands resources, and the Boehlert amendment reflects that.

The States are not interested in convoluted interpretations of the fifth amendment and similar amendments in State constitutions, and States remain opposed to the takings provisions in the wetlands program in H.R. 961. And the Boehlert amendment reflects that.

The States are not interested in expensive and arbitrary wetlands classification schemes, and they have not proposed one. In fact, the State wetlands managers have opposed the classification system of H.R. 961. The States recognize that there are infinitely better ways to evaluate wetlands and use scarce government resources.

The recent report of the National Academy of Sciences concludes that it simply is not within the state of the art to do a nationwide prior classification study establishing relative values of wetlands in very different regions. The underlying bill requires exactly what the NAS says is not feasible.

The committee has continually been told that this provision or that provision should be supported because it has wide, bipartisan support. Well, the Boehlert amendment has wide, bipartisan support among the Governors and the environmental leaders of our State governments.

In fact, the States have indicated that States would not take a greater role in assuming wetlands permitting responsibilities should H.R. 961 become law. And, the two States which have assumed the wetlands program would likely return it.

If you are supportive of the wishes of the States, support the Boehlert amendment. If you are supportive of special interests over the needs of the States do not support the amendment. But if this amendment fails, you will have defined your allegiance as not to the States, but to those who would weaken wetlands protection and shamelessly raid the Treasury.

Support the Boehlert amendment.

□ 1830

Mr. WAMP. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. Chairman, I very reluctantly rise in opposition to my distinguished chairman's amendment. He was gracious enough to ask me to serve as the vice chairman of the Subcommittee on Water Resources through which this legislation moved. But today this is a litmus test issue, I believe, on whether or not we are going to stand for any more Government regulation.

The people spoke clearly last year. They believe they are overregulated, overtaxed, overlitigated, and I rise in grave concern tonight.

Just last week our friends in the Senate said to the American people they were going to retreat from litigation reform. The folks back home tell me, "Do not retreat from regulatory reform, do not retreat from litigation reform," and today I bring my colleagues an elaborate chart on the wetland process. I mean this is unbelievable.

We are here to try to bring the pendulum and the balance of regulations back to the middle, and I am showing my colleagues a chart of exactly how complicated it is to actually get a permit for a wetland in our country. This is a chart which actually shows how mischievous it can be for our Federal bureaucrats to slow the progress and actually take away, over time, the constitutional rights of our citizens.

I say to my colleagues, Let's say that you inherited a piece of property, and then you determine that maybe one-tenth of one acre of this multiacre site may happen to be lower than the threshold of the water table, and it's determined to be a wetland. So, first you have to go and demonstrate, through this elaborate process, that, yes, in fact it's a wetland, and that's not easy to do, to determine whether or not you even have a wetland. Then you have to make a decision through these regulatory processes exactly what kind of a wetland it is, and that's a whole other process, takes weeks, costs a lot of money. Now you're ready to apply for a permit for your wetland, and then they say, "Wait a second, wait a second here now. Have you been to the Corps of Engineers? How about the Environmental Protection Agency? How about the Fish and Wildlife folks? And what about all those State and local agencies?" In my home State you also have to go to the Tennessee Valley Authority.

I say to my colleagues, By this time you're about to give up. It's taken weeks and months, and you spent countless moneys trying to determine whether or not in fact this property is yours or whether this property belongs to the Federal Government. I mean after all don't we live in the United States of America where we have a clear definition in the Constitution of what belongs to us and what belongs to the Government? This is a complex maze, and you have to get through it.

The Boehlert amendment was conceived by good folks with good intentions, but let me tell my colleagues this. It costs more money than what we have today, and it adds to the bureaucracy over and above the level of bureaucracy that we have today. Wetlands, unlike point-source and nonpoint-source pollution, which I understand whey we need a balance of regulation with respect to point-source and nonpoint-source pollution. We need some regulations.

Wetlands in many parts of this country are nonsensical. Our legislative initiatives in the past have led to a system of frustration. The American people are not achieving justice through the regulation of wetlands. Many people's constitutionally guaranteed private property rights have been usurped by a Federal Government gone amuck. All we are asking by reforming the Clean Water Act here in 1995 is that we return to common sense.

The chairman's mark with respect to wetlands, which we are here to pass, H.R. 961, addresses wetlands in a sensible, reasonable, rational approach. The Boehlert amendment gives us more Federal Government. Our party, I am grateful to say, the Republican Party, is big enough for the gentleman from New York [Mr. BOEHLERT] and his vice chairman, myself, to debate this issue and very much disagree, and I am glad that we have a party big enough to have these differing opinions.

But I take the side of the constitutionalists, the Framers, those that guaranteed private property rights, those who said, "Beware of the Federal Government becoming too big and too powerful. Over time it can creep up on you. You don't even know it's happening," and here we are in 1995 saying wetlands is a constitutional question.

I am going to side with those who framed this Constitution, those who own the private property across this country. Let us clean this mess up. Let us give the power back to the citizenry. Let us take this bureaucratic system and reduce it to something that is reasonable.

I urge our colleagues to vote against this amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I want to commend the gentleman from New York for offering this amendment, for demonstrating the type of courage in his party, I say a party that many adhere to and take on the label of conservative, but I have yet to find some conservationists or as many conservationists that call themselves conservatives as I would like to. I would be happy to yield to one that I think can and probably does wear that label.

Mr. BOEHLERT. Mr. Chairman, I would ask the pages if they would return to the easel with that very dramatic permit process chart because I would like to use it for a moment. All the work that went into the preparation of this chart, I do not want it to go to waste.

Let me tell my distinguished vice chairman from Tennessee I could not agree more with him. The American people are overtaxed and overregulated, and this is exactly, this convoluted maze is exactly, why we need the Boehlert amendment, because we want to change the permitting process. We want to give more control, more authority, to State governments. We want to bring them into the process, and he talks about the problem people in Tennessee have, people around the country, with, as my colleagues know, pieces of land one-eighth acre. I could not agree more with him; he is absolutely right.

That is why the Boehlert amendment provides the fast-track provisions for all property across this country of 1 acre or less. The permitting process would take no longer than 60 days, the clock would start running, and, boy, the American public is entitled to a swift and complete answer from the Government, and it would be provided under the Boehlert amendment.

I would also like to point out one last thing, and then I will sit down. Over 90 percent of the permits applied for are approved, over 90 percent. There is only a small fraction that causes some problems and causes some delays.

Mr. VENTO. Mr. Chairman, I thank the gentleman from New York [Mr. BOEHLERT] for his advocacy of this position. I just suggest to my colleagues:

Can we have a strong national environmental policy with a weak role for the Federal Government?

The fact of the matter is that the types of confrontation that my colleagues and the type of conflicts that they have repeatedly tried to demonstrate in terms of the Federal and

State governments and local governments is, I think, more based on myth, and anecdotes, and what I call cockamamie stories, than it is based on, in fact, on fact. To most of the people that we represent, the distinction between the Federal Government and its role in the State governments and our local governments is almost one that is seamless. In fact, it is based more on cooperation than collaboration and very much an interdependency in order to accomplish this.

Can, in fact, the Mississippi River be protected only in Minnesota? I think not. I think that when we are talking about the environment, we are talking about natural resources, we are almost inherently talking about issues that do not respect the boundaries.

The legislation before us frankly reneges, it retreats, in terms of clean water. We stand up here and talk about the progresses that have been made in 25 years, and in the next breath, then there is an effort to try and destroy that.

I see the evidence right in my own State. I suggest most of my colleagues see it in their own States, but all of a sudden the de facto policies in terms with regards to wetlands are no longer satisfactory. Those de facto policies, because of development, because of pressure, because of what is going on in regard to progress and because of what we are learning, we have the obligation not just to do what was good enough in 1960 or 1970. We have an obligation to bring to the front the best and the finest and the information, the knowledge, the new knowledge, that has been acquired and to put that into policy and law.

Is it uncomfortable? Is it difficult? Is it tough? I say to my colleagues, "You bet," and we have compounded that problem by cutting back during the 1980's and the 1990's on the number of land use planners and managers that we have that are trying to accomplish that task. There is a breakdown of communication, and there are those that are obviously promoting their own interests, and their interests are to walk away from the Federal Government's commitment to renege on this important issue of wetland preservation.

These wetlands are absolutely essential in terms of our communities. I say to my colleagues, "If you care about a clean water supply, if you care about the aquifers, if you care about the groundwater supply, if you care about erosion of the land and flooding, if you care about the natural resources and the type of biosphere or the type of biodiversity that occurs in that environment, then you have to care about these wetlands."

Mr. Chairman, how we solve these problems will set the benchmark, not just for today, but for many decades to come in terms of if we are going to take and march forward with progress with regards to wetlands or if we are going to renege and abandon this particular fight.

This legislation that comes before us takes 60 to 80 percent of the lands that have wetland protection, sets up a three-tier scheme, and then turns around and says, "If a county has more than 20 percent of the wetlands in it, then you deny that. Then you pull the rug out from under it, and you don't do it."

This is not a scientific approach. This might be a good political solution, but this represents political expediency, not a good solution to the problem, and I hope that the chairman and those that have the votes, maybe, on these issues will begin to pay attention to some of the facts. We have an obligation to stand on the shoulders of those that came before us and did the tough work, that did the sweat, blood and tears, to make these laws work, not to abandon them, and that is what this legislation does, and that is why my colleagues should support, at the very least, the Boehlert amendment.

Mr. Speaker, I rise in support of the Boehlert amendment to H.R. 961, to strike the bill's wetlands provisions and replace them with language based on a proposal by the National Governors' Association. The amendment is far from perfect, but a great improvement on the basic measure being advanced by the majority party in Congress today. I credit the gentleman Mr. BOEHLERT for standing up to others in this body for this amendment.

The bill H.R. 961, as proposed, eliminates 60 to 80 percent of the Nation's remaining wetlands from protection using scientifically indefensible definitions, H.R. 961 arbitrarily divides the surviving wetlands into three categories, intended to correspond to high, medium, and low value wetlands. This policy flies in the face of sound science and defies even common sense. Worse still, the measure then withdraws protection from even the high value wetlands when such land is concentrated above a certain amount in a county.

The Boehlert amendment recognizes that there have been problems with the wetlands permitting process, but unlike the current wetland provisions in H.R. 961 which greatly weaken wetland protection, the Boehlert amendment streamlines the permitting process without leaving millions of acres of wetlands unprotected. The proposed amendment utilizes recommendations made by the National Governor's Association to simplify and expedite the wetlands permitting process without establishing an overburdened paperwork classification system. This amendment gives States the flexibility they need to manage their wetlands and offers technical assistance to private landowners at the same time affording sound management and conservation of our Nation's wetlands.

I think most of us realize how important wetlands are for water quality, flood control, and wildlife. Dismantling wetland protection will have serious long-term ramifications—as we all should understand, every action has a consequence, what we do on one parcel of land, indeed affects another. What has been missing from this wetlands debate is an acknowledgment that regulations are motivated by a desire for a healthier and safer society. They are promulgated to empower people and policy in protection of private lands and citizens. Congress should continually strive to make these work better, not tear them down for special interest concerns and short-term goals.

On May 9, the National Academy of Sciences issued a report which confirmed that there is absolutely no scientific justification for the wetland provision currently in H.R. 961. This should not have come as a surprise. The authors of this measure, H.R. 961, were and are responding as a purely political gesture to developers, industry, and a small but vocal number of property owners who feel that their property rights have been violated. This is shortsighted, arrogant, and irresponsible. We should use sound science to make environmental policy and not fall prey to the politics of the moment and legislation by anecdote.

John Chaconas, now the celebrated citizen from St. Amant, LA pretty well sums the situation up in his statement:

> I believe wetland regulations can and do work well * * * Property rights are essential. Like most Americans I believe my property rights do not extend to harming the property of my neighbors. What is wrong here is not wetland policy gone awry, but the arrogant belief that some can do whatever they want with their property and all others be damned.

Even opponents of wetland protection might agree that the National Academy of Sciences [NAS] study is not just any study. In 1992, Congress commissioned the NAS to complete a study which would resolve the confusion surrounding wetlands science. This project was intended to be the definitive study of wetlands functions and values, ultimately answering the question, What is a wetland?

While it is true that this study only defines functional wetlands and it is up to Congress to decide what a jurisdictional wetlands should be, it is beneficial to take what this study tells us to heart. The NAS study verifies that the wetlands regulations dictated under H.R. 961 are without merit. Furthermore, the committee leadership chose to move forward without the benefit of this study. Today, they only have themselves to blame for the careless and haphazard policy measure, H.R. 961, that they bring to the House floor.

Sound wetland policy; hydrology, must consider the nature of re-charge areas for ground water and aquifer replenishment. Often the affects of such modification does not become apparent for decades. Furthermore, these wetlands provide areas and regions for water purification, filtering out and slowing down runoff, holding back harmful erosion, breaking down the pollutants and nutrients, providing aerobic and anaerobic action. To naturally clean the surface waters before they concentrate in rivers, lakes, and our oceans.

Today we can no longer depend upon de facto protection, rather we must establish a State-Federal partnership, a cooperative effort not one of confrontation—the relationship is seamless but can we have a sound, natural national environmental policy.

Certainly sound science and sound judgment based on a reasonable approach to the

role of the Federal and State government is the basis of good policy. Set the politics aside and support the Boehlert amendment to H.R. 961.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman and my colleagues, I rise in very strong opposition to the amendment offered by the gentleman from New York [Mr. BOEHLERT]. I truly believe the gentleman from New York has offered his amendment in very good faith. But I do not know about the terrain of upstate New York. I have not been there. But I have certainly been in the terrain of southern Missouri, in that area bordering the Mississippi River, and I think I do know a true, pristine wetland from a mud puddle.

□ 1645

Now, the problem is most mud puddles are being classified these days as wetlands.

Now, the Boehlert amendment has been cited as being the recommendation of the National Governors Association, and it may well have the blessing of the National Governors Association. But everyone in reality knows that this amendment was written or consulted by the Association of State Wetlands Managers in consultation with environmental groups. A lot of people report to Governors, but that does not mean that the Governors all know the intimate details of what they are signing off on here.

The fact of the matter is, and it is a fact, and the gentleman from New York and the gentleman from Maryland probably know this, that the word "wetlands" does not appear in the main provisions of the 1972 Clean Water Act, and that the word appears only once in a parenthetical phrase in 9 U.S. Code annotated pages of the current section 404 text.

I can tell you that over the last 15 years, as I have traveled around my district hearing the problems of farmers and small landowners related to wetlands, I have been challenged, "How can you hold us accountable to these wetlands definitions, when in fact there really isn't such a thing in the basic law? It is all a matter of regulation that has come to us through the rulings of four different agencies of the Government, all of which are in conflict one with the other?"

There was a point in time through the delineation manual that they got more together than apart, but the fact of the matter is, most people who are being regulated about wetlands are being regulated essentially at the whim of four different agencies who do not in fact have their common purpose always in focus before them.

This amendment does not streamline or reform the 404 program, but it adds new regulatory requirements to the existing law. The emphasis is on restoring wetlands and watershed management, and not on reform. The claims of reform mask the real intent of this amendment.

I am afraid this amendment also aggravates the existing multi-agency mismanagement by creating yet another bureaucracy, a new bureaucracy, to oversee the program. This new committee headed by the EPA would include four other Federal agency heads, representatives from three additional organizations, and 10 State wetlands experts, hand picked by the EPA.

This is adding gross insult to injury, to exacerbate an already indefensible and ill-advised policy of our Government. We have got to reform the current process and the current regulations, and we have got to do that by law, which the basic bill here does. This amendment would create new roles for regulators and land use planners at every level, but virtually no role for the regulated public or the private property owner.

I have a letter here that is signed by a number of different organizations, but when I give you the names of some of them, you will recognize them as organizations representing people who would be confronted on a daily basis with wetland law and regulation.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I want to compliment the gentleman for his statement. If there is anything that we need to do in this clean water bill, it is reform wetlands and eliminate, at least reduce, the horror stories which the American people have told us up to the thousands. I compliment the gentleman for pointing out that indeed rather than reforming wetlands, this actually incredibly creates a new bureaucracy, a new committee headed by the EPA, which includes four other Federal agencies, representatives from three additional organizations, and 10 so-called State wetland experts, picked by whom? Picked by the EPA.

I compliment the gentleman for focusing on this. If there is anything that needs reforming and real reform, it is the wetlands provision. The gentleman has been a leader in this area, and through your knowledge and your persuasiveness, I think we have a good opportunity of making some real reform, and I would emphasize that the amendment we have before us now completely guts any chance of reform of this troubled wetlands regulatory program.

So I join with the gentleman in attempting to defeat this amendment so that we can have real wetlands reform.

Mr. EMERSON. Mr. Chairman, reclaiming my time, I thank the gentleman. If I still have some time, I will not read the entire letter, but it is a letter in strong opposition to the Boehlert amendment urging that we keep the language of the bill. Among those organizations registering in strong opposition, and that is their word, "strong," are the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, the Wheat Growers, the Cattlemen's Association, the Corn Growers, the Cotton Council, National Council of Farmer Cooperatives, National Water Resources Association, United Fresh Fruit and Vegetable Association, and on and on and on. Those are just some representative groups. I might also say, the gentleman from Minnesota [Mr. VENTO] made a little talk about conservationists and saying the fact of the matter is on the Republican side there are not many conservationists.

Most of the Members on the Republican side are conservationists, and the conservationist point of view is represented by the text of H.R. 961. I might say with due deference and respect to everyone, that it is the elitist preservationist point of view that is represented by the Boehlert amendment. It is by the Government regulators. They are the ones who are supporting the Boehlert amendment, and not the people who have to live with these onerous laws everyday.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman from Missouri for yielding and for the very fine work he has contributed to the work of the full Committee on Transportation and Infrastructure.

A couple of things I want to point out: First, the Boehlert amendment includes the same exemptions for agriculture as the committee bill. One of the reasons why it does is that the gentleman from Missouri has been so persuasive, so we have included those same exemptions as the committee bill. Plus we have added an exemption in response to a concern expressed by our colleague, the gentleman from Iowa [Mr. LATHAM] to deal with repair and construction of tiles on agriculture land.

I would also point out this convoluted committee that creates so much concern is an advisory committee. What we do is reach out to the States, to the Governors, and to local governments and say we are going to work with you, Federal, State, and local government, but we are shifting the decisionmaking authority from Washington to the States.

Two States right now have performed in an exemplary manner: One is New Jersey and the other is Michigan. I think more States should follow their lead. I could not agree more with the gentleman from Missouri. Washington is not the source of all wisdom, and agriculture is important, and both of those facts are recognized in the Boehlert amendment.

I thank the gentleman for his generosity.

Mr. EMERSON. I thank the gentleman for asking for the additional time. I would only reply to the gentleman that the signers of this letter, and I refer to them, I do not agree with your amendment for the reasons that I have stated, but these are the people who live with the current regulations and would live with your law, were your substitute, your amendment, to prevail.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 2 additional minutes.)

Mr. EMERSON. Mr. Chairman, these people are not just a bunch of dumb farmers, a term I hear thrown around. These are people who have obviously looked at your amendment and, because of their vast experience going back over a number of years, have some means, intellectually, of gauging the effect of your amendment.

They say there has been a lot of misinformation circulated regarding the Boehlert wetlands amendment. It is being portrayed as being 70 percent of the text of H.R. 961 and as being friendly to agriculture. It is in fact neither. The Boehlert substitute, and it goes on to say other things, will have serious negative impact on agriculture and small landowners. It substitutes the use of, and I know you are going to say this is to the substitute and not to the amendment, however, let me say to the gentleman, substitutes, perpetuates, perpetuates the use of the 1987 manual and greatly expands the reach and the complexity of wetlands regulation. The 1987 manual is in fact a very large part of the current regulatory mess.

I will be delighted to yield to the gentleman.

Mr. BOEHLERT. Mr. Chairman, I am glad the gentleman read the substitute. What you are referring to is an amendment, a broad-based amendment considered last week by the House. We earned 184 votes. We did not get the majority, but we earned 184. I would assume all of those would stay with us as we go on with the wetlands. But when you more narrowly look at the wetlands issue, as we have done in this specific amendment, and when you specifically address the needs of agriculture, and I am proud to serve as chairman of the northeast agriculture caucus, I am very mindful that our farmers are among our best stewards of our land, and I wanted to work with them and not against them.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. EMERSON] has expired.

(By unanimous consent, Mr. EMERSON was allowed to proceed for 1 additional minute.)

Mr. EMERSON. Mr. Chairman, I understand what the gentleman has just said. However, I want to point out, there are references to the Boehlert substitute and the Boehlert amendment. In the interest of time I was not reading the entire letter in its context. But inasmuch as the letter is dated today, May 15, there is no question that they are referring to your amendment, and not to the substitute that we acted upon last week. For everyone who may be concerned about the interests of agriculture and small land owners and other people who are subject to onerous land use regulation, without reference to law, it is mostly a matter of regulation and not law. I urge your most serious consideration and opposition to, and a vote against the Boehlert amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words in support of the Boehlert amendment.

Mr. Chairman, I rise also in support of the Boehlert amendment, and would like to point out that one of the major reasons why I do support it and why I think it should pass is because of the support by the National Governors Association. Their support is there primarily because of concerns that States have about the impact of the committee mark, of the bill itself, on the various State wetlands programs.

One of the main points that I would like to get across today is the fact that the Boehlert amendment helps the States. The Boehlert amendment is the one that the States generally prefer because of their concern they have about their existing programs.

As the gentleman from New York [Mr. BOEHLERT] mentioned, my own State of New Jersey is particularly concerned because we do have an excellent program approved by the Federal Government. Many States have developed wetlands protection programs that mimic the framework of the Federal program developed under the Clean Water Act. Each of the States committed large amounts of time and resources working with Federal officials and the public to develop and win approval for their programs.

All that could be wasted if the Federal wetlands program is scrapped by H.R. 961. Every State law and regulation will have to be revisited and revised for a lower standard of protection. I know some will say what is to stop the States from doing something on their own under the committee mark? The pressure will build, I believe, for States to change their programs.

With regard to the definition of the wetlands, the new definition contained in this bill contributes to elimination of protection for up to 80 percent of wetlands currently protected. In my home State of New Jersey, the definition contained in this bill would eliminate virtually all of New Jersey's wetlands from regulatory protection. The proposed definition is the same unanimously ejected across the Nation when proposed by the EPA in 1991 because it has no scientific basis and would be administratively burdensome to implement.

□ 1900

Now, with regard to preclassification, preparing wetland maps suitable for the proposed classification system, not including functional assessment, would cost an estimated $500 million in the lower 48 States. In New Jersey, our current mapping effort would be rendered worthless under H.R. 961, a waste of $3.4 million that has already been spent.

If you look at the takings issue, and again the Boehlert amendment basically changes that considerably, the Congressional Budget Office estimates that the cost of buying all high value wetlands in the lower 48 States would cost between $10 and $45 billion. Although I do not have specifies for the State of New Jersey, price estimates on six properties for which the New Jersey DEP has information range from $590,000 for a 9.4-acre parcel in Morris County to $2.6 million for a 67-acre property in Ocean County.

Beyond that, the takings provisions in the bill imply that any public benefit that may result from wetlands regulation is secondary to the onerous restraints it places on the private property owner. As was mentioned before, in my home State, 94 percent of permit applications are approved. So if you think about it, if there are so many approved, why is it such a negative impact on property owners?

Mitigation. I am very concerned that the committee mark relies too greatly on mitigation to replace wetlands protection. A number of State studies have shown that there are limits to the effectiveness of mitigation because of the limited knowledge of the inherent values of wetlands. It is an ecological mistake to rely on mitigation to replace wetlands protections, in my opinion.

I would really like to stress more than anything else the effect of this

bill on State programs. This bill, I believe, would ultimately destroy New Jersey's wetland program and all the important gains that have been made since the program was implemented in 1988. The bill eliminates incentives for States to take their own initiatives to implement a wetlands program. As I mentioned, pressure will exist on States to change their laws to reflect the weak provisions of the bill.

Ultimately, I think that is going to cause conflict, uncertainty and a lot of delay at the State level.

By contrast with the bill, the Boehlert amendment would essentially, which has been developed by the National Governors Association, would provide incentives for States to assume authority over wetlands regulation through increased delegation from the EPA. This is exactly what happened in New Jersey. This is what we want to see if we want the States to take a larger role.

It also sets up this coordinating committee of Federal, State and local officials to help develop and field test national wetlands policies and strategies. Again, recognizing that there need to be some changes in the program.

But the amendment does not include any provisions like those in the bill establishing the new requirements to compensate landowners for losses in property value resulting from the Federal regulation. Again, the substitute or, I should say, the amendment in this case would actually eliminate those provisions and the costs that would be incurred because of it.

So I would urge my colleagues to support the Boehlert amendment.

I would also like to enter into the record an editorial that was in the Sunday New York Times, this Sunday, May 14, that basically talks about the bill and why the bill, the wetlands provisions of the bill essentially do not make sense.

They cite, of course, the report from the National Academy of Sciences. And essentially, Mr. Chairman, the reason why the New York Times takes the position that it does is because they feel that the existing bill, existing statute, I should say, the current law strikes a sensible balance between conservation and the need for economic growth. I do not think we should change that.

Mr. Chairman, I include for the RECORD the article to which I just referred.

Mr. KIM. Mr. Chairman, I move to strike the requisite number of words.

[From the New York Times, May 14, 1995]

POLITICS AND SCIENCE IN THE HOUSE

Unless its members have an attack of good sense, the House of Representatives will shortly reverse two decades of struggle to preserve the nation's valuable but diminishing wetlands. If it does so, it will be sacrificing sound science to political expediency and corporate lobbying. It will also be committing an act of supreme mischief against America's environment.

Early this week the House will vote on a bill concocted by a group of anti-regulatory Republicans and their conservative Democratic allies. The bill would cripple many of the basic protections provided by the Clean Water Act of 1972. This act has been regarded by experts in both parties as a major environmental success story, not least because it has rescued one-third of America's lakes and streams from terminal decline.

There is much in this retrograde bill to dislike, but the most controversial of its "reforms" would establish a new and far narrower definition of what constitutes a wetland. Scientists now estimate that there are just over 100 million acres of wetlands remaining in the 48 contiguous states, doing what wetlands do so well: filtering pollutants, providing habitat for wildlife and nourishing organisms essential to the food chain. The bill's narrower definition would make at least half of this irreplaceable acreage available to developers, farmers and industry, mainly the oil and gas companies.

This is a fool's tradeoff. We would lose natural areas the country desperately needs in exchange for development areas the economy can do without. Yet the tradeoff is hardly surprising since the bill was drafted in tandem with special interests that would love to get their hands on land that is properly off limits under existing Federal regulations.

Equally unsurprising, though terribly disappointing, is that the bill's sponsors did not have the courage or wisdom to wait for and acknowledge the results of a National Academy of Sciences report on what is admittedly a combustible issue. The report was ordered by Congress itself two years ago to provide a credible scientific basis for regulating wetlands, thus removing the issue from politics. But in matters of the environment, the hallmark of this new Congress is to place servility to special interests ahead of science.

The report, released last week, does not directly address the House bill. Even so, it is a convincing indictment, making clear that the bill's assumptions have no basis in research or theory.

To take only one example, the bill says a wetland would not be eligible for Federal protection unless it is saturated by water at the surface for 21 consecutive days during the growing season—the warmer and drier months of the year. The academy says a far more accurate definition would involve saturation over shorter periods, saturation in the root zone of plants rather than at the surface, and saturation that occurs during the fall and winter.

The 21-day test is the same definition that Dan Quayle's Competitiveness Council tried unsuccessfully to foist on the Environmental Protection Agency in the waning days of the Bush Administration. At the time, Federal scientists warned that Mr. Quayle's definition would leave half the nation's wetlands unprotected, including a big chunk of the Everglades, the bottomland hardwood forests in the South, the wetlands along most Western trout streams and nearly every "prairie pothole" used by migratory birds. This disastrous scenario is almost certain to play out if the House bill is approved. Taken together, its provisions are even more threatening than anything Mr. Quayle had in mind.

The academy describes the existing regulatory system as "scientifically sound and effective in most respects." What it is really saying is that the nation has already struck a sensible balance between the imperatives of conservation and the need for economic growth. That balance has taken years to achieve, and the House would be reckless to disturb it.

Mr. KIM. Mr. Chairman, I rise in opposition to the Boehlert amendment, because it deletes section 803 of H.R. 961.

This deletion will have a tremendous impact on California. Section 803 exempts maintenance of flood control channels and drinking water reservoirs from the wetlands permit requirement.

During the committee markup I pushed for the flood control exemption and I offered the drinking water reservoir exemption. Our committee had a full debate on these issues. My amendment was unanimously approved and the bill passed 42 to 16.

Now the Boehlert amendment strikes these out and that's why I can't support this amendment.

Let me tell you why the flood control and drinking water reservoir issues are so important not only to California, but also the entire Nation.

First, flood control channels require periodic maintenance. They have to be clear and free of obstructions and debris otherwise water will back up and flood all over the place during storms.

Under current law, flood control agencies must obtain wetland permits to clear vegetation out of a channel with mechanized equipment. It's OK if you clear it by hand, but you can't use power equipment or a bulldozer without a permit.

The problem is that it takes months to get a wetlands permit out of the Federal Government. And if you've ever lived in California, you know that when it rains, it pours. There is simply no time to get a Federal permit.

Let me give you one example of a major problem we had in Ventura County, CA, during the 1992 floods.

Ventura County tried for months—unsuccessfully—to obtain a wetlands permit to clear vegetation from a flood control channel. When torrential rains finally came, it took two Congressmen and Governor Wilson to secure an emergency wetlands permit.

The county sent bulldozers into the channel during the storm just a few hours before the flood hit. While that area was saved, other communities were devastated.

Because of problems like these, I made sure H.R. 961 specifically exempted flood control channels.

The second point I made in committee was to amend the bill to exempt maintenance activities in drinking water reservoirs. The problem is that when water levels are low, vegetation grows on the edges and inside the reservoir. Then the water rises again, the vegetation is obviously submerged and the Government calls it a wetland and requires a permit.

Come on, that's not a wetland.

Without my amendment, each time you lower the water level of a drinking water reservoir to clear the vegetation

from the sides—or make structural repairs—you must obtain a wetlands permit.

Once again, under current law it's OK to do it by hand, but not with a machine.

In California, water districts have to hire small armies of manual laborers to clean out reservoirs. That's ridiculous.

Again, these two concerns, the timely maintenance of flood control facilities and drinking water reservoirs, are particularly important to California.

These concerns were well addressed during the full committee markup session, and our committee approved them unanimously.

It's sad this amendment strikes out these two important, already approved provisions.

I urge my colleagues to defeat this amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. KIM. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, the gentleman from California raised some legitimate concerns. We are sort of feverishly checking through these.

Mr. KIM. Check section 803, which was deleted by this amendment.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, I want to read from the exemption section of my substitute: "exemptions are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures, such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs, where such maintenance involves periodic water drawdowns which provide water predominantly to public drinking water systems, groins, riprap, breakwaters."

The point is, you have a legitimate concern and we have addressed it in the Boehlert amendment. I wanted to share that language with you so I think that perhaps you might be supportive of the Boehlert amendment.

Mr. KIM. I would like to see that.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Boehlert amendment.

Mr. Chairman, I rise in strong support of the Boehlert amendment to protect the wetlands that are vital both to our environment and to our economy.

Wetlands are life-sustaining filters of our natural world—they remove pollutants from our water and provide critical habitats for fish, plants, and other wildlife.

I believe we must maintain strong protections for our wetlands. Like many of my colleagues, I also believe we need to expedite the wetlands permitting process and provide more consistency. This amendment does that.

But the bill before us is much too extreme. Rather than fix wetlands regulations it guts them entirely. This bill puts at risk as much as 80 percent of all wetlands in this country. In my home State of Connecticut, more than half the wetlands would be endangered under this bill. More than 97,000 acres of Connecticut's wetlands could be lost.

This is bad environmental policy and it is bad economic policy. I know this firsthand from the experience with Long Island Sound in my district and State.

Wetlands serve to filter out nutrients and toxics that otherwise would end up in Long Island Sound. Our current policies have allowed us to successfully restore more than 1,500 acres of critical tidal wetlands along Long Island Sound. The result is cleaner water in the sound and a substantial reduction in beach closings along the sound in Connecticut, from 292 in 1991 to 174 in 1993.

Wetlands are also vital to the fisheries industry that is so important to my home State of Connecticut. Connecticut is second only to Louisiana in oyster farming. This industry depends on wetlands to provide necessary food and habitat for spawning. In Connecticut, oyster farming is responsible for more than 400 jobs and contributes $200 million to the economy annually. The destruction or degradation of our wetlands would have a devastating impact on this industry.

Wetlands are a precious commodity. I urge my colleagues to protect this valuable resource and support the Boehlert amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what I would like to do is show a few illustrations to my colleagues in the Chamber this evening that show some contradictions to the, I guess, to some of the testimony we have heard here.

First, I want to offer a perspective to the Clean Water Act to the Members of the House and the American people. That is, this is an act to clean America's water. Usually when we look at lakes, rivers, streams, we have no sense of the small amount of water that we actually have for the purposes of human consumption. If you took all the water on the planet and put it into a 1-gallon jug, you would see that you would have less than a teaspoon of that gallon of water for use and purposes that we as human beings need it.

So water, regardless of what the planet looks like, is a very scarce resource.

I would like to refer to this chart here showing the complexity of the permitting process under the existing Clean Water Act regulations.

The complexity of the process that someone has to go through to get an individual permit is rather complex. I have to admit to my colleagues that a general permit is extremely, or actually well over 95 percent of all people who apply for general permits get them with no problem at all. They do not have to go through this lengthy process.

What I would like to tell you that is in the Boehlert amendment, and I would encourage everybody to do this, is to pick up the Boehlert amendment and turn to pages 22 to 24 and see how pages 22 to 24 just about completely eliminate much of the complexity in the permitting process by a whole series of exemptions.

What I would like to do is go back to the reason we have a Clean Water Act. I want everybody to look at this picture. This was not an untypical picture of pollution coming out of a pipe like this 20 years ago. I know we are debating wetlands. We are not debating nonpoint or we are not debating point pollution, which is what this was.

□ 1915

What the Clean Water Act did over the many years was to eliminate problems like this. Problems of point source pollution, which the Clean Water Act has eliminated over the last 20 years, the point source pollution caused problems such as this. We are trying to get rid of this. We do not want to bring this back. We are dealing with wetlands, we are dealing with a much more complicated situation than point source pollution, we are dealing with nonpoint source pollution, and we do not want our rivers to look like this. The Clean Water Act, to show you its success, and to show you that same picture, has cleaned up that river.

We all recognize there are problems with the complexity of getting a permit, or there are too many agencies involved in getting the permit. These kinds of things can be eliminated and they can be solved.

Mr. Chairman, what I would like to explain, and one of my problems with the existing bill, is if we want our rivers to look like this, the Clean Water Act up to this point has adhered to a large extent to science. We do not want to get rid of the science. I will hold this picture up.

Mr. Chairman, if we abide by the regulations that are in the act or in the bill before us now, this particular picture, which everyone in here would agree is wet, this particular picture would not be considered a wetland. It would not be protected. The reason for that is, it is a little complex, it deals with science.

The existing bill calls for 21 consecutive days' saturation at the surface, which this meets. It calls for hydric soil, which this meets. Also, it calls for an obligate wetland species which is not present here, because in a few weeks after this picture was taken this begins to dry out. It begins to dry out because the forest here, it is a forested wetland, begins to take up the moisture.

Rather than getting into, like I said, some of the science here which is a little too complex, one of the major problems with the bill before us is that it excuses, it eliminates, it has nothing to do with science and the criteria on which we base what a wetland is. If we want clean water, we have to get, I admit, rid of some of the regulations, which this amendment does, but we have to hold onto the science.

I want to give one other example, and I will do this for the farmers and people that live in urban areas. If Members will bear with me just for a moment, I am going to draw another picture.

This is the land. On the left side of the picture, we are going to see corn. When farmers put fertilizer and a bunch of other things on their fields, there is a certain amount of nitrogen that goes through the soil that is not taken up by the corn.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. GILCHREST] has expired.

(By unanimous consent, Mr. GILCHREST was allowed to proceed for 1 additional minute.)

Mr. GILCHREST. Mr. Chairman, when the nitrogen goes through the soil, some of it is taken up by the corn, but much stays in the soil and will go down into the groundwater.

On the other side we might have an urban area, on the other side of that cornfield. The urban area has a problem with stormwater runoff. Let us say in the middle of these two places you have a forested wetland. That forested wetland could have been the picture that I showed you that does not meet the criteria, but what a forested wetland does, what all wetlands do, as the groundwater moves underneath it, it takes up that nitrogen, purifies the water, adds to the quality of it, so people do not have to worry about drinking water that is polluted. Wetlands filter out well over 90 percent of the pollution. Forested wetlands are some of the most important. Wetlands have different characteristics from one part of the country to the other.

My time is up, Mr. Chairman. I strongly urge my colleagues to support the Boehlert substitute.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Boehlert amendment. The Boehlert amendment will protect our Nation's wetlands by replacing H.R. 961's faulty wetlands provisions with reasonable reforms.

Mr. Chairman, I represent the Santa Rosa Plain, in Sonoma County, CA, which is covered by more than 5,000 acres of seasonable wetlands. These wetlands are a valuable part of the area's ecosystem and provide habitat for endangered plant and animal species.

Unfortunately, the wetlands of the Santa Rosa Plain were being destroyed, often due to inappropriate development. Therefore, in Santa Rosa, local, State, and Federal agencies under the guidance of the Corp of Engineers began working with the Sonoma County environmental and business communities to help craft a preservation plan for the Santa Rosa Plain. This plan is close to completion.

When it is complete, it will determine what parts of the plain can be developed and what parts must be preserved. Once the plan is completed, wetlands on the plain will no longer be destroyed, and developers will know which areas are safe to develop, thereby eliminating costly delays.

Mr. Chairman, the Santa Rosa preservation plan is an example of how Federal agencies, in cooperation with local entities, can implement the Clean Water Act to successfully protect precious wetlands while permitting appropriate development. Mr. Chairman, I believe Congress should continue to support cooperation like this. The bill we are considering today, however, H.R. 961, will do just the opposite.

H.R. 961 guts wetlands protections. It ensures that the Santa Rosa Plain preservation plan will be useless, and thousands of acres of precious wetlands in my district and around the Nation will be lost forever.

Mr. Chairman, the Boehlert amendment is a sensible alternative which streamlines regulations without destroying our Nation's wetlands. I urge my colleagues to support the Boehlert amendment and preserve the wetlands of the Santa Rosa Plain and the wetlands of the Nation.

Mr. HERGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. The regulations and policies which have been promulgated under section 404 of the Clean Water Act have evolved into an impenetrable maze of conflicting and confusing rules, restrictions, and enforcement measures that are wreaking havoc throughout the country, and particularly in my northern California district.

These sprawling and invasive regulations come not from one but three different government agencies, each pushing a different agenda, and each operating according to its own prescribed set of rules.

Mr. Chairman, this morass of regulations has moved far beyond the simple protection of our Nation's wetlands. What once were reasonable and necessary laws and regulations have been taken to ridiculous extremes. The promotion of wise stewardship has changed into an all-out effort to further preservationists' agendas. Regulations based on cooperation between policymakers and property owners has been replaced with intimidating and heavy-handed enforcement measures which devalue property and disregard rights guaranteed by the Constitution.

Mr. Chairman, I cannot see how this amendment, which creates more bureaucracy, rather than removing it, can help the situation. The family farms, small family owned businesses, and rural communities in our country do not need more committees and studies. What they do need is relief from the oppressive and extremist-driven bureaucracies and regulations which are driving them into the ground.

They need a reasonable definition of wetland that does not require the same degree of protection and mitigation for seasonal puddles that is given to legitimate habitat. They need policies that require the Federal Government to compensate them when it devalues their property. They need to be assured that preserving the livelihoods of families is at least as important as preserving habitat.

Mr. Chairman, title VIII of H.R. 961 will unscramble the regulatory maze under section 404, and begin to bring common sense back to our wetlands laws. It will consolidate confusing and conflicting jurisdictions into one regulatory body. It will begin to reverse the preservationists' extremism that is relentlessly chipping away at private property rights. It will remove the confusion and fear that is intimidating property owners who are unable to understand, much less adhere to the law. It will require the Government to pay property owners when it devalues their land.

In short, Mr. Chairman, title VIII requires Federal bureaucrats to protect people as well as habitat, and bring our current law back within the parameters of the Constitution. Mr. Chairman, we do not need more regulation, we just need more common sense. I strongly urge my colleagues to join me in voting no on the Boehlert amendment.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman, Mr. Chairman, because I could not agree more with the gentleman about the excess of bureaucracy and regulations in Washington. That is precisely why we crafted the Boehlert amendment in the manner in which we did. We do not create a huge new bureaucracy. What we do do is create an advisory committee, composed of a representative from the National Governors Association, the National League of Cities, and the National Association of Counties. What we want to do is bring these people in in an advisory capacity.

Second, we agree with you that there have been loose definitions of what a wetland really is. That is why we tried very hard to delay action until we had the benefit of the National Academy of

Sciences report, which was just released last week. The National Academy of Sciences report really says in the committee bill the basis for defining wetlands has no scientific basis whatsoever. It is by the seat of their pants.

What we are trying to do is have good science define wetlands. I am not mad at the scientists of America. I want to use them to the best advantage, and have common sense prevail, as the gentleman wishes, too. I thank the gentleman.

Mr. HERGER. Mr. Chairman, I would like to comment to the gentleman from New York, who is the author of the amendment. I have 10 counties in my rural 36,000 square mile district, with unemployment as high as 20 percent in some of them.

The CHAIRMAN. The time of the gentleman from California [Mr. HERGER] has expired.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Frist, Mr. Chairman, let me set the record straight. The scientific report that was just issued to define wetlands did not say to this Congress "You should necessarily protect every wetland as we scientifically define it." It did not. What it said is: "What we are going to give you is a reference definition. Then you make the policy decisions as to which of these so-called wetlands, by scientific definitions, to protect."

The point is the Academy said: "This is our reference definition of what a wetland is. That means that is what you use as a reference, what you are going to use as a reference, to see which of these you want to protect, which you want to protect more strongly, which deserve more or less protection."

Let me also put the thing in perspective. What we are debating right now is an amendment that was contained in the substitute which this House already turned down last week, an amendment that deals with the part of that substitute that would, in fact, delete, almost, the wetland reforms that are in the bill, and substitute, instead, a package of language that the House would have to adopt if they adopted this amendment, authored by those who have opposed property rights in this body, and who want every wetland, as defined by those scientists, to be subjected to the kinds of protection current law does under the 1987 manual.

Let me tell the Members what is wrong with that. First, what is wrong with that is if we do not in this bill, as the bill currently does, begin to define wetlands on the basis of which wetlands are truly functional, which really makes sense protecting with this heavy hand of Federal regulation, and define instead those that have some limited functional value, and those which have no real functional value whatsoever, such as an isolated wetland inside an urban area, if we do not do that in this bill, we are left with the status quo. We are left with laws and regulations built around what some scientists declare to be a wetland, which may not even resemble a wetland in your home State and in your home county.

Second, Mr. Chairman, if we adopt this amendment, we completely undo, we completely reverse, what this House has done with 72 Democrats and almost, the great majority, I guess 90 percent, of the Republicans earlier this year in the 100 days in defining the right of private property owners to compensation when the Government regulates their lands values away.

□ 1930

I want to take a brief minute to reacquaint Members with that issue.

In the case of Florida Rock, a case that started in 1978 when the Corps issued a cease and desist order upon the plaintiff not to use his property, a case that is still in court, that was again decided in the court of appeals, I think, for the second or third time, and has now been remanded to the Court of Claims for the second or third time, the court said in that case, in answer to the defendant's complaint, the U.S. Government, the defendant argued that, well, using this property, this activity, would eliminate wetlands protection within the valuable habitat and food chain resources.

The court said,

> Defendant's argument stands our traditional concepts of private property rights on their head. It is impossible to use one's property in society without having some impact, positive or adverse, on others. Courts do not view the public's interest in environmental and aesthetic values as a servitude upon all private property, but as a public benefit that is widely shared and therefore must be paid for by all.

In short, the Government in protecting wetlands in America, which is indeed a good and worthy goal, cannot create a servitude on your or my property for the public good without compensating us. That is what the court said, that is what the bill does, that is what gets eliminated by this amendment.

The court cited a list of other laws that protect the environment where Congress has already specified that some sort of compensation must be given: the Wilderness Act, the National Trail Systems Act, the Wild and Scenic Rivers Act, and the Water Bank Act.

Here is a quote from the court of appeals in the Florida Rock case:

> What these regulatory schemes have in common is that in each case the property owner's interest has been considered and accommodated, not sacrificed on the alter of public interest. By contrast, the regulatory scheme pursuant to which plaintiff's land was rendered economically useless"—the wetlands laws—"provides for no accommodation whatsoever of plaintiff's right to use and enjoy its property.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I want to take you quickly through a real case, too, the Bowles decision.

Here is a fellow who bought a lot in a subdivision, specifically lot 29 of Treasure Island Subdivision, Brazoria County, TX. None of his neighbors applied for nor did they require a Corps of Engineers permit to build their House.

This fellow had that property, I think, for about 10 years, and litigated 10 years in court for the right to build on the property ought to be compensated.

The Corps of Engineers in his case, because he checked to see whether he needed a Corps of Engineers permit, said, "No, you can't build on that property."

This was a $70,000 lot, pretty expensive waterfront lot. All of his neighbors are building on that property all this while. The Corps says, "You can't build on it. We think it's a wetland." Not you and I, not the people of the United States defining what a wetland is and what is going to be regulated in Congress. What the Corps of Engineers said a wetland was.

The Corps said, "You can't use the property." Then they said, "If you sue us for compensation we're willing to pay you what it's now worth, $4,500."

Our Justice Department litigated that case for 10 years. Mr. Bowles, I should add, was one of the good guys. He was on the conservation committee. He was in the nature conservancy in Texas. But he was denied the right to build on his property, specifically the right to get a permit to put a septic tank in so he could build his house.

Ten years later, the court of appeals finally said he was due in the Court of Claims compensation equal to the value of his lot before the Government took away the use of that property, the $70,000 he was taken, that was stolen from him when the Corps of Engineers said you can no longer build on this property.

The court rendered in his favor and said, "This case presents in sharp relief the difficulty that current takings law forces upon both the Federal Government and the private citizen. The Government here had little guidance from the law. The citizen likewise had little more precedential guidance than faith in the justice of his cause," and I might add a 10-year trip in the court of appeals and the Court of Claims.

What this amendment does that we are debating today is to tell Mr. Bowles, and everyone like him, "If you don't like the way the Federal Government treats your property, if you don't

like the way the Corps of Engineers defines a wetland, if you don't like the way they regulate the use of your property away, well, you go to court and settle it over the next 10 years if you can afford it. If you can't afford it, I'm sorry, you don't get justice in America."

That is what this amendment does, because it takes away the private property rights compensation provisions of this wetlands reform.

Let me say it again. The bill does two things critical that the amendment destroys. The one thing it does, it gives some guidance in law as to what wetlands are truly going to be protected all the way and which ones are going to be protected somewhat and which ones are truly not worthy of the kind of functional protection that Mr. Bowles was subjected to when he could not build on his residential lot.

Second, it provides compensation. This amendment destroys both of those reforms. It ought to be rejected just as the substitute was earlier rejected.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. BOEHLERT, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank my distinguished colleague for yielding. I always enjoy listening to him. He is very eloquent. But I would remind my colleague that if you refer to a peach as a banana and keep referring to a peach as a banana, it does not make a peach a banana.

Mr. TAUZIN. I am certainly glad we had that conversation today.

Mr. BOEHLERT. The fact of the matter is this House has spoken on the issue of takings and on the issue of private property rights. That matter is now before the Senate. What is resolved between the House and the Senate will apply to this matter, and you know it.

Mr. TAUZIN. Reclaiming my time, Mr. Chairman, you cannot say that.

Mr. BOEHLERT. I just did.

Mr. TAUZIN. Well, you said it but you cannot really mean it. The President of the United States stood up on Earth Day and in effect said, "I don't care what's in the private property rights bill that's over in the Senate right now, how it's completed, what ti says, what's in it, I'm going to vote "no" on it by vetoing it."

That bill has already been vetoed by the President in a speech he made on Earth Day. If we are going to protect private property rights, we now have to do it in the bills where it pertains, in the wetlands reform bill and in the endangered species reform bill. That is our only chance of giving compensation to landowners.

Mr. BOEHLERT. If the gentleman will further yield, my puzzlement is, what do the opponents have against good science? We have finally received a long-awaited report, 2 years in the making, over $1 million in expenditure to develop this report. Incidentally, the prominent scientists that participated were not paid. They produced a report that was released to the American people last week, "Wetlands, Characteristics and Boundaries."

Among other things, they point out something that you have done repeatedly, that there are different wetlands in different areas of the country. If I may read for just a moment from an excerpt on a report,

> The United States contains many different kinds of wetlands, from the cypress swamps of Florida to the peatlands of northern Minnesota and from mountainous headwaters to tidal salt marshes. The differences among wetlands in various parts of the country account for much of the difficulty in wetlands delineation.
>
> Wetlands regulation—a source of considerable friction between private landowners and the Federal Government—is needlessly complicated by multiple definitions, field manuals and agency responsibilities. The use of a single regulatory definition, a single manual to identify wetlands—

Keeping in mind the geographic differences—

> And, even more ambitiously, the consolidation of regulatory authority within a single Federal agency would improve the regulation of wetlands substantially.

Mr. TAUZIN. Reclaiming my time, the gentleman has made his point. Let me counter that point.

First of all, it is a single definition of wetlands that cause the problem. It is the definition designed by the agencies with the scientists telling them what they think scientifically a wetland is which has caused these problems in America. It is 5 or 6 agencies meeting behind closed doors that produced the last manual that sent this country into a tizzy.

It is time for policymakers now to make a decision in this Congress as to which wetlands deserve how much protection. That has long been overdue.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Let me make a point. If you will look at the very last conclusion in that manual, in the scientific report, you will see that the scientists very carefully said,

> We're not telling you what kind of policy to make on wetlands. We're not telling you whether to protect all wetlands the same way because they are different. We're not telling you that our definition of wetlands should be a legal policy definition. What we've written for you is a reference definition. You take our definition and you define from it which wetlands you need full protection for, which wetlands are you going to treat differently in what region of the country.

That is what the bill does, I should say to my friend. My friend destroys that class A, class B, class C determination as we have in the bill, substitutes a single definition again, which has caused us so much problems, and then destroys the compensation provision by saying in effect that that is out of the bill.

I can say to my friend again, if you truly oppose property rights, I understand that, that is a fair debate, we have had it a couple of times, but that is what your amendment does. It takes property rights out of the bill. If you truly like the system where Federal bureaucrats and their scientists are making policy for America, they will love your amendment and I know you support it.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I have one quick question for the gentleman from Louisiana, one question about the Florida Rock case.

It is a situation where the gentleman bought a parcel of land for about $3,000 an acre. It was going to be a type of gravel pit. If he could have sold it for this type of gravel pit, he could have gotten $10,000 an acre for it, but since it was delineated as a wetland, the value was reduced so he could only get $6,000 an acre for it.

My question is, since it is delineated as a wetland and protected as a wetland, if it was not preserved as a wetland and he did use it and it diminished the value of someone else's property downstream, who would have paid for the devaluation of the property owner downstream?

Mr. TAUZIN. I will be happy to answer the question. There is law in all of our jurisdictions, I know in my State, I assume in Maryland, that provides if I use my property and damage my neighbor, I am answerable to him, I am answerable to him in the State court for my damages. That is current law.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, the current law says that if you do something to your property to damage your neighbor, you have got to pay for that. The bill on property takings that we wrote makes it clear that the only time you get compensated is when the use that has been denied you is not a zoning use prohibited, is not a nuisance

use prohibited but only a use that is designed to protect environmental wetlands.

Second, let me say to my friend, I am not saying the law should not protect the wetlands in the Florida Rock case. Maybe they should have been protected. All I am saying is that if they are protected and the use of that property is denied the owner as in Florida Rock, that he ought not to have to spend from 1968 to 1995 trying to get an answer as to what he should be compensated for.

Mr. GILCHREST. If the gentleman will yield further, I think if you destroy those kinds of wetlands, a number of people whose property would be devalued because their ground water would be contaminated, the vast number of people who would have their property devalued, there is not enough money in America to pay for all that property.

Mr. TAUZIN. Reclaiming my time, if the use is one that damages your neighbor, you don't get compensated under the bill, and you know it.

Mr. PAXON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to engage in a colloquy with the chairman of the Transportation and Infrastructure Committee regarding the definition of concentrated animal feeding operations [CAFO's].

A recent Second Circuit Court of Appeals decision, C.A.R.E. v. Southview Farm, broadly interpreted and—in my view—misconstrued the definition of CAFO's. In particular, the court confused the difference between feedlots and areas that do not involve growing operations and misinterpreted the terms "lot," "facility," and "area of confinement."

The result is that certain agricultural operations, such as dairy operations, could be improperly considered as CAFO's and therefore point sources.

Is my understanding correct that the chairman intends that the term "CAFO's" and the term "concentrated animal feedlot" do not include farming operations where crops, vegetation forage growth or post harvest residues are sustained in the normal growing season over any portion of the farming operation?

□ 1945

Mr. SHUSTER. Will the gentleman yield?

Mr. PAXON. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the gentleman is absolutely correct. Several of the H.R. 961 provisions, particularly section 503, refer precisely to concentrated animal feed operations. As the primary sponsor of this legislation, I can assure the gentleman that at no time did we intend that the terms of the act and the accompanying regulations be construed as broadly.

Mr. PAXON. Mr. Chairman, I thank the gentleman for this clarification, for his overall efforts to ensure a proper balance between environmental regulation and agricultural operations.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield for a question?

Mr. PAXON. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to thank the gentleman for bringing up that issue which does not directly affect the wetlands debates on the Boehlert amendment, but I want the gentleman to know that I strongly support the position taken by the gentleman from New York, and I strongly support the language in the committee report referred to by the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER].

We have addressed the special concerns of agriculture in America and the committee bill does that. The wetlands provision that I am introducing and we are debating right now contains the same exemptions as does the committee bill, plus we add a new exemption for repair and construction of tiles which are so very important to agriculture.

So I thank the gentleman from New York.

Mr. PAXON. I thank the gentleman for his support and again the chairman of the committee for his very helpful efforts in clarifying this matter.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the debate one would draw the conclusion not only by inference but by express statement by the opposition that this really is a battle about those who care about clean water versus those who do not.

I am here to reject that characterization, Mr. Chairman. In fact, wetlands and the environment are very important to me, and I know of no Member in this House to whom they are not important. So let us all stipulate that we are for the environment, as well as for the American flag, motherhood, and apple pie. Those are all good things; we are all for them.

What this battle is really about, and I cannot think of a better crystallization of the difference between the old Congress, the belief in bigger, more powerful Federal agencies and, in essence, a bigger, better, more powerful Federal Government, versus a smaller, more accountable Federal Government. That is what the debate is really about with this Clean Water Act, Mr. Chairman.

You know, we ought to stop and ask ourselves: Where does the U.S. Congress derive the authority to regulate wetlands, for example? It comes from the U.S. Constitution, from the so-called commerce clause, which happily is finally starting to be properly interpreted after 60 years of abuse by the Congress and the Supreme Court, and in the Perez decision decided recently we finally got a reasonable definition of the limits of the power of Congress under the commerce clause. Those things which Congress seeks to regulate under the commerce clause have to bear some reasonable relation to the clause.

Mr. Chairman, this is a battle between those who support a bigger Federal Government versus those who support a smaller and more accountable Federal Government. It is really a battle between those who want to empower bureaucrats with vast discretionary authority versus those who believe elected officials ought to be making our policy in the U.S. Congress. It is really a battle between arbitrary administrative rulings versus good science. Ironically enough, I say to the gentleman from New York, we believe in good science. That is why H.R. 961, as reported by the committee to the floor, is here. It embodies good science, and we believe very deeply in good science.

Let me just mention why the Boehlert amendment is flawed, in my opinion. No. 1, it strikes all the property rights provisions out of the bill, including the right to compensation for property owners whose land is devalued by more than 20 percent due to the Federal wetlands regulations. No. 2, it eliminates the three-tier classification system created by the bill which is designed to give greatest priority to those wetlands that are in most need of protection. No. 3, it retains the current expansive definition of wetlands. Indeed, under the Boehlert amendment, and this is true under present law, this is deemed to be a water of the United States. Is that not ludicrous? This picture is north of Stockton, CA; yes, this is a wetland according to existing law and according to what it will be if the gentleman's amendment should be enacted.

H.R. 961 was produced with an aim to ending this kind of administrative abuse.

Also, this Boehlert amendment removes the provisions that streamline the current highly bureaucratic system for wetlands permitting, giving four agencies the power to veto wetlands permit applications. The committee bill makes the Corps of Engineers the sole agency with the power to grant or to refuse a permit.

So, those are the reasons why I think this is an undesirable amendment. If you believe in Big Government, if you believe in bureaucrats, if you believe in arbitrariness, keep the status quo, because it works great. The only ones who are disadvantaged by it are those who happen to own property by the sweat of their brow and cannot get through the permit process. And we heard from the gentleman from Minnesota, I think who said this, maybe

the gentleman from New York: 90 percent of all of these Corps of Engineers permits are granted. What that figure fails to mention is the number of people that dropped out.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. DOOLITTLE. Ninety percent, the figure was 90 percent of the permits are granted by the Corps of Engineers. It ignores the fact that a huge number of people fell out of that statistic, those who tried and just gave up. They did not have the 2 years or 4 years or 5 years or as in the case of Chico, I will tell you about the 16 years to get through the process. They gave up and they were not counted, because it did not count in that statistic. So it is a very misleading statistic. I just throw that out; it is very misleading.

I chaired the wetlands task force for the Resources Committee. We went around the country and held various hearings. Let me just tell you briefly what we found out. We heard from Bob Wilson, a man who owns property in Idaho. He went through with his permit, the corps came out, they had extensive negotiations. The corps finally granted his permit to build a house. He built a very expensive, about a half-million-dollar house, and then, incredibly, a corps field official came along and discovered quote unquote that the hydrology had changed on this particular land and what was once an upland when the house was built was now a wetland, and demands were being made for him to do something about it.

Well, he went through the process again and that managed to get it straightened out, probably because the corps was too embarrassed to actually be willing to take that case forward and expose it to the harsh light of public review.

Pastor Enns, pastor of a church in Chico, CA, known as the Pleasant Valley Assembly of God, this is a 500-member congregation, all of its contributions are received voluntarily.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 3 additional minutes.)

Mr. DOOLITTLE. This gentleman began the process of building his church. Sixteen years later, $300,000 of his congregation's money down the drain and there is no church, and 25 percent of it has been roped off as a wetland.

These people are not in the business of development. They are trying to build a church.

The Sares Regis Corp., they are in the business of development, and they are in Mr. POMBO's district, in the northern end of it. They have about a 1,200-acre parcel of land. In 1988 the first application was made for a permit. We are in 1995 today. Seven years later they have still not done anything with it because the different agencies keep upping the ante. First they wanted 15 percent of the land set aside because it contained features like this right here, and then it went up to 25 percent, and they finally agreed to 25 percent. A demand was made for more, and they agreed to 30 percent, and that is not enough. Thirty percent, in fact it was more than 30 percent, it was nearly one-third of their land, 356 acres with a development value of $30 million, and that was not enough to satisfy the Federal bureaucrat. That is an abuse, Mr. Chairman. And that is what this bill is designed to correct amongst other things.

I want to tell you about Mrs. Cline. Nancy Cline, Sonoma, CA, bought land, 350 acres of land, been in farming continuously since 1930. One year the owner of the land, in fact the next to the last year the former owners of the land grazed cattle. These folks tried to farm their land and the bureaucrats showed up and they said, "You can't do that, you need a permit, you are filling a wetland." They said, "What do you mean. It has been farmed since 1930. I am sorry." They threatened them with $25,000-a-day civil fines and actually at one point threatened if they did not give in to criminally indict them. They had to hire an attorney to defend themselves. They went around, and I would love to read you this but my time is running out, I will tell you the FBI and EPA went door to door to the neighbors and interviewed the neighbors. What is these people's religion? Do they have a temper? What are they like?

George Washington said power is not reason, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master. And I would submit to you that we uncovered many examples of the heavy hand of government, naked force.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland to ask his question.

Mr. GILCHREST. One comment and one quick question. The comment is we want to get rid of the bureaucracy that creates the kind of horror stories.

The CHAIRMAN. The time of the gentleman from California has again expired.

(On request of Mr. GILCHREST and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The other thing is I really wish some of the Corps and EPA people from California could come to Maryland and see how we work out our problems, and we really do work the problems out in apparently a much simpler manner than it is done in some of the Western States, but looking at the picture I would like to ask, it really looks like there is some farming activity being done there. It looks like tractor tires and the field has just been plowed up. I would like to ask the gentleman if that is a farming area. Then it is now without either one of the bills exempt from regulatory jurisdiction of the Corps as far as wetlands is concerned because of the prior converted cropland; also the Corps allows people to farm wetlands if they have been farming wetlands.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. I can explain what is going on in this picture. It is grazing land, which the Corps does not consider agriculture. So they cannot.

In California under current law what is happening right now, grazing is not agriculture. Therefore they cannot plow that up. That is what they are doing right now.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(On request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I just cannot let pass the statement by my good friend from Maryland about how wonderful everything is in Maryland. My congressional district borders Maryland, and I can tell you in western Maryland there are hundreds of people who are furious about the environmental Gestapo which is there and which is attempting to tell them how to live their lives and what to do with their land beyond all reason. So things might be well on the Eastern Shore, my good friend, but in the neck of the woods I come from which borders on western Maryland there is outrage at what this environmental Gestapo is doing.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from New York.

Mr. BOEHLERT. I want to allay the gentleman's concerns, because the Boehlert amendment provides a specific exemption for grazing land, so I say to the gentleman from California [Mr. POMBO] and the gentleman from California [Mr. DOOLITTLE], I want you to know we addressed your concern.

Let me tell you who is outraged. The American people are outraged by the prospect of eliminating 60 percent to 80 percent of our Nation's wetlands.

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The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(By unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. Mr. Chairman, I ask for an additional minute to reply because this is not the whole story. I need to reply.

Let me just say here that in our part of the State there is a lot of land like this and there are a lot of people like this that would like to grow houses, not farms, on it or not grazing, and they owned the property, and under your amendment you are not going to let them do that because this is going to be classified as a wetland for which a permit must be granted, must be required, in order to do anything, and your amendment does not let good science prevail, because you do not see the framework for the classification, A, B, or C.

I heard you read from the report. Let me just say we make the policy that the Secretary is to promulgate, a classification system, A, B, or C, according to the most ecologically significant land in that order. That is where the good science is going to come, helping us determine whether it is A, B, or C.

Mr. BOEHLERT. If the gentleman will yield further, there is nothing, nothing, absolutely nothing, let me repeat, nothing in the committee bill that refers to science.

What are we afraid of? We spent $1 million in 2 years to hear a report from the National Academy of Sciences, and we are ignoring it.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. HAYES. Will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. I have a letter addressed to me today where numerous agricultural groups, including the Farm Bureau, American Feed Industries, American Meat Institute, Sheep Industry Association, Soybean Association, and others, are all in opposition by name to the Boehlert amendment.

My question to the gentleman would be: If the agricultural provisions are supposedly taken care of, then do I have 50 or so incompetent agricultural organizations, or do I have a continued inability of some to recognize that they are not helping farmers but hurting them under either the current situation or the proposed amendment?

Mr. BOEHLERT. If the gentleman will yield, let me stress, on page 21 of the Boehlert amendment, there is a whole list of exemptions for agriculture. Given the choice, we understand human nature, given the choice of no regulation or some regulation, what are people going to choose? Obviously, no regulation. But the fact of the matter is there are 250 million Americans from coast to coast who are concerned about drinking water, who are concerned about flooding, who are concerned about tourism and fishing, who are concerned about so many things that are ignored.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the time for me to respond to my good friend.

I cannot let pass, and I am sure my good friend does not mean, really mean, no regulation. To suggest our bill provides no regulation is obviously false. Our bill provides substantial regulation.

What it does do, it sets up three categories of wetlands, A, B, and C. So, for my good friend, I know in the hyperbole of the moment, to talk about no regulation, I am sure he does not mean that, and our bill does provide regulation. It simply does not, and I plead guilty, it does not provide the onerous, heavy-handed regulation that the gentleman's amendment provides.

Mr. BOEHLERT. If the gentleman will yield further, because it is the gentleman's time, the fact of the matter is this is not my opinion. It is prominent scientists. The 17 scientists who developed the Academy of Sciences report on wetlands estimate 60 percent of our Nation's wetlands will be lost if we adopt the committee bill.

I agree with the chairman; I have the highest regard for the chairman.

That is why we are trying to incorporate in our amendment special exemptions for agriculture, and we are trying to address the needs of Governors and State and local governments.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I wish to respond to the last statement.

I believe what the report says is not that 60 percent of wetlands will be lost, but rather that 60 percent of the wetlands will be unregulated by the Federal Government. There is a vast difference, and indeed I am informed by several people that even the 60 percent figure is something that is not substantiated. So there is a vast difference between wetlands being lost and wetlands not being regulated by the Federal Government.

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Louisiana.

Mr. HAYES. Under no instance in the report is there a reference to this loss. It has been thrown around on this House floor as if it is somewhere scientifically written. It is specifically never covered in that report. It does a disservice to the chairman to make that reference. But if so, would the gentleman give us a page number in which such a percentage or reference is made?

Mr. SHUSTER. And I would say further, under our bill, if the gentleman's State wishes to impose more stringent wetlands regulations, the gentleman's State may do so.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. BOEHLERT, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. DOOLITTLE. I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I thank the gentleman very much. I appreciate that.

The gentleman from Louisiana [Mr. HAYES], I would like to point out that the estimate of 60 percent loss of the Nation's wetlands comes from William M. Lewis, Jr., Chair, who is professor and Chair of the department of environmental population at the University of Colorado. That statement was made at the public briefing provided for Members of Congress, their staff, and the news media. I was there. A limited number of Members of Congress, a lot more staff, and a lot of media, and that is why the media has picked up on this 60 percent loss of wetlands, because it comes from the Chair of the committee, a very distinguished scientist. I have no idea if he is a Republican or a Democrat or a green or a brown or whatever he is, but I know he is concerned about our environment.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. SHUSTER, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. I ask for the additional minute to quote what Dr. Lewis actually said. I have in front of me, during the question and answer session of the briefing, Dr. Lewis, previously referred to, was asked, "What percentage of wetlands currently under the jurisdiction of the 404 program would be deregulated?" Deregulated, not eliminated, deregulated, after the 21 consecutive day requirements were enacted. His first response was, and I quote, "I don't know." When prompted further, he said, "I guess the amount would be in the tens of percent, 20, 30, maybe 40 percent." End of story.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has again expired.

(At the request of Mr. HAYES, and by unanimous consent, Mr. DOOLITTLE was allowed to proceed for 2 additional minutes.)

Mr. HAYES. If the gentleman would yield further and give me a moment to ask a question of the chairman, who was it who made that inquiry?

Mr. SHUSTER. If the gentleman will yield, I understand it was the gentleman from New York [Mr. BOEHLERT] that made the inquiry.

Mr. HAYES. The gentleman from New York [Mr. BOEHLERT] made the inquiry; it is not secondhand. I hope he would recall it.

Mr. SHUSTER. That makes this story even better. Thank you.

Mr. DOOLITTLE. Let me make my statement.

Mr. BOEHLERT. We are up to 40 percent. We are getting closer.

Mr. DOOLITTLE. I would just like to point out here: What in the world are we afraid of? We are not talking about plowing over all the Nation's wetlands by this bill. We are saying the Federal Government has gone too far in trying to assert its jurisdiction. We are going to, as the new Congress, make a correction in the course. The State of Maryland or any other State, if they feel that the policy should be different, is free to take that policy. But under the U.S. Constitution, in our view, our jurisdiction needs to be cut back. This bill provides a policy that assures protection to wetlands that uses a classification system, A, B, or C. It assures reason, balance, and flexibility, which we have none of under the present system, where all we have is the naked hand of Government, $25,000-a-day civil fines, being threatened by Federal agencies, and if they fail at that, they will threaten to indict you, as they did Mrs. Cline.

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Maryland.

Mr. GILCHREST. The gentleman from California said, "What are we afraid of?" Why do we not use the classification or the delineation criteria from the National Academy of Sciences, which I think we all, after looking at it, would have some sense that is a good classification, and then we can use their criteria in this bill, and then we can regulate or not regulate, whatever we want to.

Mr. DOOLITTLE. Reclaiming my time, we are going to do that. We have got A, B, and C. We, the elected officials, set that up. Then we are going to use the science that is in that report because the Secretary is the one that makes those determinations, and he is going to specify in the regulations what are the criteria for A, B, and C.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find this debate very interesting tonight and believe that maybe it is time that a voice from the Midwest is heard on this problem.

We have heard a lot from the South and from the West about the problems with the wetlands, but I want to say that I strongly oppose the amendment to H.R. 961 on wetlands. This amendment would strip out the provisions of this bill in title VIII, reject sensible wetlands policy reforms which have been crafted in this bill, and replace the language with a much more workable form of regulation for our wetlands. In fact, the House rejected the bureaucratic language of the sponsor of this amendment as part of the Saxton substitute.

For many years, farmers and businessmen and landowners have struggled and wasted millions of dollars on lawyers' fees, trying to make sense out of the current wetlands permitting process. Critics of the wetlands provision in H.R. 961 make it sound as though the current section 404 of wetlands delineation process is an orderly, scientifically sound process. Anybody outside of Washington, DC, who has tried to obtain a section 404 permit knows the present system is a bureaucratic morass, subject to the whims of EPA, the U.S. Corps of Engineers, Fish and Wildlife Service, and the bureaucrats of the Federal Government.

In fact, when I was visiting in what is now the consolidated Farm Service agency in my home county, I asked them how they established wetlands in my home county. "Oh," they said, "We got out some maps, and we sat there, and that is the way we decided what was wetlands," in this highly developed agricultural county, and, of course, if anybody came in, they probably made some adjustments. But most people did not even know about the delineation.

So, when we talk about the loss of wetlands, what we really have to do is establish what were and are and is truly wetlands because it was not done in a very scientific way.

And if the present system is not bad enough, this amendment directs the EPA to establish a wetlands coordinating committee. The committee is to develop a national wetlands strategy and recommend new, new regulations to the EPA and the Army Corps, among other things.

My colleagues, issuing additional wetlands regulations and creating new bureaucracy is absolutely ludicrous. Have the proponents of this amendment not learned anything from the November election? I would also hope that Members will not be fooled by the rhetoric of the supporters of this amendment.

The Boehlert amendment does not embrace sound science. Its primary purpose is to keep the current, unworkable Federal wetlands policy in place, the net effect of which is to keep property off limits to acceptable alternative uses.

Simply stated, if you want to preserve and expand the present section 404 permitting bureaucracy, then you should support the Boehlert amendment. But if you want to replace the current wetlands permitting with clear, sound public policy, then you would reject this amendment.

It is no accident that American agriculture supports title VIII of H.R. 961 as is. Farmers are sick and tired of the Federal bureaucrats determining that mandate drainage ditches are navigable waters of the United States, are sick and tired of Federal bureaucrats walking onto their farms and determining that ag areas are wetlands. If agriculture is to receive major reductions in programs, there must be corresponding relief from meaningless, useless, and inappropriate Government regulations, such as the current wetlands situation.

Anybody who listened to voters last November knows that the citizens are absolutely fed up with big Government and bureaucratic arrogance. The voters are demanding smaller and more sensible government.

Agricultural people know what true wetlands are. Agricultural people are certainly interested in preserving true wetlands because they know the benefits. We do not want to destroy wetlands, but we do not want to be encumbered by wetlands designations for property that is not wetlands.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(By unanimous consent, Mr. EWING was allowed to proceed for 2 additional minutes.)

Mr. EWING. Mr. Chairman, I believe, as do most, that the provisions of H.R. 961, as is, will do what is a reasonable job of defining our wetlands.

I do not question the proponents of this amendment are well intended, but you have provisions under this bill through different State legislatures to enact if additional regulations are needed.

Finally, Members of this body who support the restoration of personal property rights contained in this amendment, in this bill, should support the wetlands language of 961 and vote against the Boehlert amendment.

In closing, I would urge Members to join the chairman and vote for fair, clear wetlands delineation as currently in this bill.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

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Mr. BOEHLERT. I do not want to point out a misstatement. I think it was inadvertent. The Federal, State and local government coordinating

committee, contrary to what was alleged, does not have any regulatory authority. It serves in an advisory capacity only. Why did we create it? To reduce duplication, to resolve potential conflicts and to efficiently allocate manpower and resources at all levels of government.

Mr. EWING. To whom will they be reporting?

Mr. BOEHLERT. We include representatives from the National Governors' Association, the National League of Cities, the National Association of Counties, in an advisory capacity. In effect, what we say is, "Come let us reason together."

Mr. HAYES. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Louisiana.

Mr. HAYES. Would the gentleman accept an amendment to his amendment stating that it has no regulatory power whatsoever?

Mr. BOEHLERT. I would be more than happy to.

Mr. HAYES. Then I will be delighted to make that tomorrow.

Mr. EWING. Reclaiming my time, the purpose of the committee is then—will have no influence on regulations?

Mr. BOEHLERT. It is there to serve in an advisory capacity.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. EWING] has expired.

(On request of Mr. SHUSTER and by unanimous consent, Mr. EWING was allowed to proceed for 1 additional minute.)

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EWING. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. This so-called advisory committee was made up of 18 people. Ten of the 18, a majority, will be handpicked by the EPA, so the people the EPA picks will recommend to the EPA what kind of regulations to impose upon the American people.

Does the gentleman begin to get the drift of who is going to be calling the shots here? It is the same old regulatory crowd, the same old environmental gestapos, that is who, and that is why we should defeat this amendment.

Mr. EWING. Reclaiming my time, the chairman has adequately and very accurately stated just the reason that we cannot stand any more committees. We cannot stand any more of this regulatory overkill that we have had in America, and an 18-member committee, with 10 of them appointed by the EPA, bodes very, very bad for regulatory relief.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. EWING. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, this committee will serve without compensation. This committee will serve——

Mr. EWING. Reclaiming the balance of my time, I think that is totally irrelevant to whether this committee is going to be another bureaucratic agency.

Mr. SHUSTER. That means they will be committed fanatics.

Mr. EWING. Absolutely.

I yield back the balance of my time.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this debate has been very interesting for a number of reasons, and I think that, if we look at what the debate has centered upon, I know earlier in testimony they talked about clean water, and one of the things that they brought up was a picture of a polluted stream.

As my colleagues know, we are all against water pollution, we are all in favor of clean water. And that is not what the debate is about. What the debate centers upon is whether or not the U.S. Congress will make the tough decisions.

For a number of years, actually since the Clean Water Act was passed and they somehow found wetlands within it, Congress has refused to make the tough decisions, the policy decisions. Therefore, all of the decisions governing wetlands have been made by regulators, bureaucrats, and by the courts.

And I say to the gentleman from New York, Mr. BOEHLERT, you talked about using good science. Well, I strongly believe that we need to use good science and that that should be the basis for our environmental decisions. But I also believe that it is our obligation and responsibility to make tough policy decisions.

One of the problems in this picture was brought up earlier. One of the problems that we have out west is wetlands that look like this, that have nothing to do with—we cannot tell from this picture, but there is no inlet or outlet from this wetland. It is a mud puddle. It is a hole in the ground. It is a low place.

Now I say to my colleague, "You have said that you know in your amendment that grazing is agriculture and would be exempted from the regulations of the permitting process." I will tell my colleague one thing that happened in my district in an area that looked exactly like this. It was grazing land, and had been for many, many generations, and for those of my colleagues that do not know, cattle business has not been so great lately, and the gentleman decided that he would be better off trying to farm the land in order to try to make a profit off of it, and he wanted to plant vineyards on it. And they told him he could not plant vineyards on it because of wetlands like this that were on the property, and he said, "But agriculture is exempt from it. Under current law, agriculture is exempt."

And they said, "Well, no, because you are converting from one agricultural use to another. Therefore, you are changing the use of the land from grazing to vineyards."

So I say to my colleague, "Even under your language that you bring out, I don't believe that the bureaucrats would take that as an answer for it."

So, what he told him was,

> Okay; I'll stay out of the wetlands. I won't plant any vineyards in the wetlands. I'll just plant them on the sides of the hills, and I'll contour the hills and just stay completely away from them. I'm putting in a drip irrigation system so there won't be any runoff.

The answer came back, "No, you can't do that because you will change the drainage on the land from what is currently there, and you can't do that."

So he was struck with an unprofitable piece of property because the cattle business is not real good right now. He was stuck with an unprofitable piece of property that he could not make any money off of, that he could pay the mortgage on and pay the property taxes on, but he could not make any money off it because they were restricting what agricultural use.

Now, notice I have not talked about development of any kind, not about building a single home on any of this. It is one agricultural use to another, and, under the current definition, they are saying, "You can't do that. You can't change from one agricultural use to another, and they are restricting his ability."

Mr. Chairman, that is why I believe that the property rights provisions in the chairman's bill are so important, because right now we have the regulators and bureaucrats running out there who, at no cost to them, at no downside to them whatsoever, and actually an upside because they just expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction by taking a wetlands that looked like this, they expanded greatly their jurisdiction. Therefore, they need more employees, a bigger budget, more pickups, more helicopters so they can go out and search their land and look for these valuable wetlands that look like this. They expanded their agencies because they expanded their jurisdiction, and because of that property rights and the takings part——

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 4 additional minutes.)

Mr. POMBO. If there is a cost to the agency, if there is a cost associated with taking this person's livelihood away from them, taking their property

away from them, all of a sudden wetlands like this, they will no longer put those kinds of restrictions on them.

Now, we all know, as my colleagues know, I went around the country as part of the wetlands task force and had the opportunity to see wetlands that I have never seen before. My entire district, except for the tops of the hills that my colleagues see here, is considered a wetland, my entire district, because of the idea that, if the water rises to within 18 inches of the surface, that that makes it a wetland, and that was, in mind's eye, what a wetland was all about, and this was land that people farmed, that they had been farming for 4 or 5, 6 generations, and they only time it ever got wet was when it rained or when they irrigated.

Now, when I went to Louisiana, I saw wetlands; I mean they had water on the ground, 18 inches of water, 2 feet of water, standing on the ground. Now, I can understand, OK that is wetlands, but why is this a wetlands?

I say to my colleague, now, if you don't have property rights protection in there, there is no book to stop the agency from getting out of control. In your amendment you talk about going back to the 1987 delineation manual and sticking to that until we get something better. You define wetlands in your definitions of your amendment as land that supports aquatic vegetation or wetlands-type vegetation. That is your definition of a wetland.

I say to my colleague, now, on your way home tonight, or when you come in in the morning, because it's going to be dark here, go by just 395, make a right, go down about a mile, and you'll see a sign that says the future site of the Fairmount Hotel, and it's an acre or two of land that has toolies, that has sitting water on it, that looks, by every definition, as a wetland, but this is land that's been developed for a long time that we tore down an old building. They're putting up a new one.

I say to my colleagues, I mean you have got to have something more to it than that. You've got to define the difference between the wetlands I saw in Louisiana and this. You've got to define the difference between what the value of these wetlands are to the environment. You don't do that; that's what we're trying to fix.

Mr. Chairman, we are trying to stop the agencies from going out, and running amok, and trying to do this type of thing. That is what has to stop. I say to my colleague, your amendment to this bill doesn't do that, and I understand the importance of wetlands in different parts of the country. I heard the people in North Carolina talk about the importance of wetlands to their area. I heard the people in Louisiana talk about the fishermen, talk about the importance of wetlands to their livelihood. I heard the people in Vancouver talk about the importance of wetlands to their livelihood, but there is a big difference between the wetlands that they talk about and the wetlands that look like this. They are not the same thing.

Mr. BOEHLERT. Mr. Chairman, would the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to read one section, section 818, definitions. The term "wetland" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and that, under normal circumstances, do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

Mr. POMBO. OK. Now, does the gentleman understand his definition because I am going to ask the gentleman a question about that?

The CHAIRMAN. The time of the gentleman from California [Mr. POMBO] has expired.

(By unanimous consent, Mr. POMBO was allowed to proceed for 3 additional minutes.)

Mr. POMBO. I say to the gentleman, If you understand your definition of what is in your amendment, if I had a broken water pipe, and the land was sufficiently saturated so that it would support the kind of vegetation that is in a wetland, would that not fit your definition?

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from New York.

Mr. BOEHLERT. No, it would not, because that was manmade, and it is frequency that the gentleman is ignoring. That was a one-time occurrence.

Mr. POMBO. Reclaiming my time, I have read the gentleman's amendment. Reclaiming my time, the gentleman's definition states that it is land that is saturated enough so that it will sustain aquatic vegetation.

Mr. BOEHLERT. But the gentleman is forgetting the frequency part of the definition. That is important.

Mr. POMBO. Yes, if the land is wet long enough, it will support that kind of vegetation.

In my house in California, across the street they have a cattle trough, and it runs over all the time because it comes out of a spring and it supports aquatic vegetation. It has got toolies down the cattle pasture. It is saturated long enough to fit the gentleman's definition, and it is not a wetland, and that is the kind of stuff we are trying to stop. I say to the gentleman, You don't allow us to do that. You're getting back into the original reason that the Clean Water Act was passed. We wanted to stop polluted rivers. We wanted to stop polluted rivers.

Now, somewhere along the line they decided that we were going to regulate wetlands under the Clean Water Act, and there is a reason to protect wetlands. We all understand that. Any of us that have done our homework understands the reason to protect wetlands, real wetlands. But there is a big difference between differing types of wetlands. I say to the gentleman, What you have in your home State is not the same as what I have in my district.

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What Mr. HAYES has in Louisiana is not the same as what is in my district. You are not giving us the ability to differentiate between those. You are throwing it back to the bureaucrats, throwing it back to the regulators and telling them you are going to make the decision. You are avoiding making the tough policy decisions that have to be made. Let us give it to the bureaucrats.

One of the things that has frustrated me the most about serving in this body is that we intentionally draft legislation to be as vague as possible so that we can always blame it on the regulators. We can always blame it on the bureaucrats. It is always their fault. It is never our fault.

Unless we start making changes like this bill has in it, we will never correct these problems. Make the tough decisions.

Mr. SHUSTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HAYWORTH) having assumed the chair, Mr. MCINNIS, 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. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT ON CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1996

Mr. EHLERS. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until midnight tonight to file its report on the concurrent resolution on the budget for fiscal year 1996.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HAYWORTH). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEDICARE AND THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, our Republican colleagues tell us they want to fix Medicare. But I find it curious that fixing Medicare was never a Republican priority until they needed to pay for a $345 billion tax break for the wealthy.

Even now the Republicans have failed to put forth a concrete plan that will ensure the long-term solvency of Medicare without compromising health care costs and quality for our Nation's seniors. All the Republicans have put forward is a proposal to cut Medicare by $285 billion. This plan is all cuts and no reform.

This convenient discovery of a Medicare crisis is nothing but a smokescreen for the real Republican goal: They want to use Medicare as a piggy bank for their tax giveaway to the wealthiest 1 percent of the taxpayers.

The GOP budget takes away $1,060 in Medicare benefits from seniors on fixed incomes to pay for a $20,000 a year windfall to those Americans making over $350,000. Courageous? Hardly.

And, what of the Republican plan for reform? While the Republicans don't mind being specific about tax giveaways and Medicare cuts, they've taken a Let's Make a Deal approach to Medicare reform. They've given us door No. 1, door No. 2, and door No. 3, but they want to pass the buck on who makes the painful choices.

Regardless, it's clear that seniors will be stuck with the booby prizes. Secret documents from the House Budget Committee show that the Republican plan would force seniors to pay more in deductibles, premiums, and copayments.

According to House budget committee documents, options the GOP has proposed would:

Increase the deductible that beneficiaries must pay for doctors' services before Medicare coverage begins. The annual deductible, now $100, would be raised to $150.

Nearly double the monthly $46 premium to $84 by the year 2002. That would be an increase of $456 a year for seniors—just in increased monthly premiums.

Charge co-payments of 20 percent for home health care and laboratory tests.

Republicans call these extra costs for seniors part of the fair shared sacrifice needed to balance the budget. But there's nothing fair and nothing shared about this sacrifice. All the sacrifice will come from seniors, many on fixed incomes who simply can't afford these extra costs. And the benefits go primarily to the wealthy in the form of tax cuts.

It's no wonder that Republican Representative GEORGE RADANOVICH of California said the following: "If we had come out with this budget as our Contract, they wouldn't have voted us in."

Amazingly, while some Republicans are honest enough to admit that balancing the budget will be painful, Speaker GINGRICH claims that $283 billion in Medicare cuts will be painless. The Speaker wants to have it both ways: He claims that the Republican plan saves money and balances the budget, and in the same breath he also claims that this plan increases Medicare spending. These claims beg a simple question: If the Republicans aren't cutting Medicare, then where are the savings?

True, overall Medicare spending in the year 2002 will be more than it is today. But the spending level in the Republican plan falls woefully short of keeping pace with health care inflation or with increased enrollment in the program. The consequence of the Republican plan will be reduced benefits, higher costs, or both. Republicans know this is the case and it's time to come clean with the American people.

These drastic cuts in Medicare have come as a surprise to many Americans. Even to many Americans who voted in the new Republican majority in 1994. Remember the GOP "Contract With America"? Medicare cuts weren't included in the Republican blueprint.

But now that the Republicans have given away all the goodies of the Contract in the first 100 days, they need to find someone to pay for them. And seniors on Medicare are a convenient target. That's what this is all about.

Promises made, promises kept—that's been the Republican rallying call of late. But it seems that Republicans have forgotten our solemn promises to America's seniors.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), on May 15 and 16, on account of personal business.

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 Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. UNDERWOOD, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Ms. PELOSI.
Ms. SLAUGHTER.
Mr. KANJORSKI in two instances.
Mr. POSHARD.
Mr. KENNEDY of Rhode Island.
Mr. VOLKMER.
Mr. RUSH in two instances.
Mrs. MALONEY.
Mrs. MEEK of Florida.
Mr. JOHNSON of South Dakota.
Mr. GEPHARDT.
Mr. GEJDENSON.

(The following Members (at the request of Mr. EHLERS) and to include extraneous matter:)

Mr. BLILEY.
Mr. RAMSTAD.
Mr. BEREUTER.
Mr. HOUGHTON.
Mrs. KELLY.
Mr. DAVIS.
Mrs. MORELLA.
Mr. CRANE.
Mr. FLANAGAN.

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Tuesday, May 16, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

876. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Department of Energy to sell Eklutna and Snettisham projects administered by the Alaska Power Administration, and for other purposes; jointly, to the Committees on Resources, Commerce, Ways and Means, the Judiciary, Transportation and Infrastructure, Government Reform and Oversight, and the Budget.

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. ARCHER: Committee on Ways and Means. H.R. 1590. A bill to require the Trustees of the Medicare trust funds to report recommendations on resolving projected financial imbalance in Medicare trust funds (Rept. 104–119, Pt. 1). Ordered to be printed.

Mr. KASICH: Committee on the Budget. House Concurrent Resolution 67. Resolution setting forth the congressional budget for the U.S. Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–120). 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. GEPHARDT (by request):

H.R. 1635. A bill to combat domestic terrorism; to the Committee on the Judiciary, and in addition to the Committees on Banking and Financial Services, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLILEY (for himself, Mr. MCINTOSH, Mr. CONDIT, and Mr. STENHOLM):

H.R. 1636. A bill to provide a more complete accounting of national expenditures and the corresponding benefits of Federal regulatory programs through issuance of an accounting statement and associated report every 2 years, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. CRANE:

H.R. 1637. A bill to amend the Internal Revenue Code of 1986 to repeal the requirement that a taxpayer must receive a ruling from the Secretary of the Treasury in order to determine the deduction for contributions to a reserve for nuclear decommissioning costs, and for other purposes; to the Committee on Ways and Means.

By Mr. DORNAN:

H.R. 1638. A bill to amend the Immigration and Nationality Act to provide that petitioners for immigration classification on the basis of immediate relative status to a citizen shall be required to pay only one fee when such petitioners are filed at the same time; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 1639. A bill to amend the Ethics in Government Act of 1978 with respect to honoraria, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, House Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself and Mr. RIGGS):

H.R. 1640. A bill to provide a low-income school choice demonstration program; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. FRAZER, Mr. UNDERWOOD, and Mr. WARD.

H.R. 66: Ms. WOOLSEY.

H.R. 70: Mr. FALEOMAVAEGA.

H.R. 359: Mr. HALL of Texas, Mr. FOX, Mr. STENHOLM, and Mrs. LINCOLN.

H.R. 399: Mr. GREENWOOD and Mr. CLYBURN.

H.R. 407: Mr. ROEMER.

H.R. 427: Mr. SENSENBRENNER, Mr. MCHUGH, Mr. LAUGHLIN, Mr. BARTON of Texas, Mr. BONO, and Mr. HANCOCK.

H.R. 433: Mr. GALLEGLY.

H.R. 526: Mr. HEINEMAN, Mr. FUNDERBURK, Mr. COBLE, and Mr. BARTLETT of Maryland.

H.R. 534: Mr. FRANK of Massachusetts, Mr. ENGEL, Mr. FRANKS of Connecticut, Mr. COSTELLO, Mr. BREWSTER, Mr. CARDIN, Mr. HOKE, Mr. TORKILDSEN, Mr. HYDE, Mr. CRANE, Mr. TRAFICANT, Ms. FURSE, Mr. BATEMAN, Mr. COYNE, Mr. OBERSTAR, Mr. PETRI, and Mr. VISCLOSKY.

H.R. 580: Ms. PRYCE, Mr. BAKER of Louisiana, and Mr. WARD.

H.R. 592: Mr. HEFLEY.

H.R. 713: Mr. MENENDEZ.

H.R. 731: Mrs. MEEK of Florida, Miss COLLINS of Michigan, Mr. LAUGHLIN, and Mr. BRYANT of Texas.

H.R. 783: Mr. JACOBS, Mr. RADANOVICH, Mr. BROWDER, Mr. STENHOLM, and Mr. QUILLEN.

H.R. 803: Mr. TAYLOR of North Carolina, Mr. KENNEDY of Rhode Island, and Mr. MARKEY.

H.R. 899: Mr. MCCRERY, Mr. HAYES, Mr. ZIMMER, Mr. CAMP, Mr. MCCOLLUM, and Mr. SCARBOROUGH.

H.R. 927: Mr. MCCOLLUM, Mr. ROYCE, Mr. DORNAN, Mr. CALVERT, Mr. SHAW, Mr. GUTIERREZ, and Mr. DUNCAN.

H.R. 957: Mr. GILMAN.

H.R. 1118: Mr. MCCRERY.

H.R. 1161: Mr. JACOBS.

H.R. 1242: Mr. LATHAM, Mr. HOBSON, and Mr. TATE.

H.R. 1362: Mr. MCINTOSH, Mr. MORAN, Mr. CANADY, Mr. BATEMAN, Mr. MYERS of Indiana, and Mr. QUILLEN.

H.R. 1425: Mr. TORRES.

H.R. 1448: Mr. TAYLOR of Mississippi and Mr. MONTGOMERY.

H.R. 1486: Mr. RADANOVICH.

H.R. 1490: Mr. ACKERMAN, Mrs. SCHROEDER, and Mr. DORNAN.

H.R. 1533: Mr. WAMP, Mr. BONO, Mr. CALVERT, and Mr. HEFLEY.

H.R. 1560: Mr. BARRETT of Wisconsin, Mr. COLEMAN, Mr. CONYERS, Mr. DURBIN, Mr. SERRANO, and Mr. WATT of North Carolina.

H.R. 1566: Mr. NEAL of Massachusetts.

H.R. 1594: Mr. LOBIONDO, Mr. ENGLISH of Pennsylvania, Mr. KNOLLENBERG, and Mr. EMERSON.

H. Con. Res. 35: Mr. CALVERT.

H. Con. Res. 42: Mr. SOLOMON, Mr. MATSUI, Mr. HOLDEN, and Mr. BLUTE.

H. Con. Res. 50: Mr. HOLDEN and Mr. ANDREWS.

H. Res. 30: Mr. SANFORD, Ms. NORTON, Mr. HANSEN, Mr. WICKER, Mr. FATTAH, Mr. HOYER, Mr. CASTLE, Mr. CONDIT, and Ms. MCKINNEY.

H. Res. 138: Mr. BAKER of California, Mr. GUTKNECHT, Mr. SHADEGG, Mr. NEUMANN, Mr. DOOLITTLE, Mr. UPTON, Mr. MILLER of Florida, Mr. STEARNS, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. ZIMMER, Mr. INGLIS of South Carolina, Mr. FOX, Mr. EWING, Mr. CHRYSLER, Mr. THORNBERRY, Mr. FOLEY, Mr. TIAHRT, Mr. STOCKMAN, Mr. CHABOT, Mr. METCALF, and Mr. JONES.

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. 1114: Mr. ROYCE.

H.R. 1120: Mr. RAMSTAD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. RIGGS

AMENDMENT NO. 66: On page 276, strike lines 3 through 7 and insert in lieu thereof the following:

"ponds, wastewater retention or management facilities (including dikes and berms, and related structures) that are used by concentrated animal feeding operations or advanced treatment municipal wastewater reuse operations, or irrigation canals and ditches or the maintenance of drainage ditches;".

EXTENSIONS OF REMARKS

POLICE OFFICERS' MEMORIAL

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RAMSTAD. Mr. Speaker, today is National Peace Officers Memorial Day, a day dedicated to the 13,814 peace officers who have given their lives to protect their communities.

Two years ago I stood in the well of this House to share my grief over the death of a friend of mine, Minneapolis Police Officer Jerry Haaf, who was slain in the line of duty.

At the time, I was haunted by thoughts of another cop friend, J.W. Anderson of the Wayzata Police Department, who was killed in 1982.

The names of these two brave cops are now inscribed on the walls of the National Law Enforcement Officers Memorial, located just a few blocks from here.

Tragically, Jerry and J.W. were just 2 of 17 Twin Cities area police officers who were slain during the line of duty since 1970. Mr. Speaker, because we must never forget their ultimate sacrifice, I want to share these names:

James Sackett, St. Paul; Roger Rosengren, Ramsey County; Inno Suek, Minneapolis; Joseph Pudick, Minneapolis; Howard Johnson, Roseville; George Partridge, Jr., Minneapolis; Curtis Ramsdell, Columbia Heights; David Mack, Minneapolis; Michael Cassman, Minneapolis; Richard Miller, Minneapolis; Bruce Russell, Roseville; Richard Walton, Oakdale; James Anderson, Wayzata; John Scanlon, Robbinsdale; and Jerry Haaf, Minneapolis.

Mr. Speaker, with great sadness I report that two new names will be added to the list of Twin Cities police officers on the walls of the National Law Enforcement Officers Memorial. Just last year, two of St. Paul's finest police officers, Ron Ryan, Jr., and Tim Jones, were slain in the line of duty on the same day. Like all Minnesotans, that tragic day will live in my memory forever.

On Friday, August 26, 1994, Minnesotans were celebrating the first week of the State fair. I was at the State fair in St. Paul early that day, fresh back from Washington.

On the way to the fairgrounds that morning, reports started trickling in about what would soon become forever etched in Minnesotans' memories as one of the worst days in State history for our brave law enforcement officers. Just a few blocks away from the fair, a brave St. Paul police officer, a rookie, Ron Ryan Jr., the son of another St. Paul cop, was answering a routine call about a man sleeping in a car in the parking lot of Sacred Heart Church on Hope Street.

It was the last call he would ever take in a far too brief but decorated career in law enforcement. Witnesses report that Officer Ryan walked up to the car at about 7 a.m., shined his flashlight inside, then walked away. Then the man in the car shot Officer Ryan many times in the back, got out of his car and walked over to Ryan, who lay dying on the ground. He turned him over, went through his pockets, seized Officer Ryan's gun and fled. By 8:30 a.m. 26-year-old Officer Ryan was pronounced dead.

This early-morning shooting set off a massive manhunt. St. Paul Police Officer Tim Jones, a 16-year veteran of the force, had the day off. But when he heard about the slaying of his fellow officer, Jones volunteered to join the manhunt.

Officer Jones and his canine partner, Laser, had become nationally renowned for their law enforcement efforts. At about 10:40 a.m., it appears that Laser tracked down the suspect, who then shot both Officer Jones and Laser to death. It is a sad irony that Officer Jones was shot by the gun that the suspect had taken from Officer Ryan.

Officer Jones had dedicated his life to law enforcement, especially the St. Paul department's canine program. He spent hour after hour, virtually all his free time, working with Laser and other officers in the canine program. Officer Jones and Laser were inseparable in life as they were in their tragic death.

In spite of this tragedy, we can still hope that the war against crime can be won because of the commitment of law enforcement professionals like Officers Ryan and Jones. We have newfound appreciation and respect for the skills, bravery, and dedication of officers like Officers Ryan and Jones. Every day, men and women in law enforcement serve on the frontlines and put the safety of the community ahead of their own lives.

I hope every visitor to our Nation's Capital will visit the Law Enforcement Officers' Memorial at Judiciary Square. Seeing the names carved in the walls will help people realize what cops and their families risk every day they put on the badge.

Mr. Speaker, we honor the dead like Officers Ron Ryan, Jr., and Tim Jones by respecting the living. Today we honor these two Minnesota officers and law enforcement officials everywhere by thanking their families for their sacrifice and sharing their grief.

I also hope the members of this body will honor the memory of slain officers through our actions on this floor. Let us continue to promote policies that help the brave men and women in law enforcement prevent the tragedy of crime and violence.

TRIBUTE TO THE CENTENARIANS OF THE WASHINGTON AND JANE SMITH HOME

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RUSH. Mr. Speaker, it is my great pleasure to rise today to offer my sincerest congratulations to five truly wonderful women, who on Tuesday, the 16th of May, will receive special recognition from the Social Security Administration for having reached the extraordinary age of 100 years old.

The recipients of this special honor are Ms. Edith Gutridge, Ms. Margaret Van Huben, Ms. Margaret Byrne, Ms. Anna Conner, and Ms. Ruth Kennedy. Each of these distinguished ladies have touched so many people over the years, and they are to be applauded for their achievements over the past century.

I wish to extend to each of them my best wishes on this wonderful occasion, and am proud and honored to enter these words of commendation into the RECORD.

HOGO DECIUTIIS HONORED FOR LIFETIME OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the sad passing of Hugo DeCiutiis: A great American, a life-long educator, and community activist.

Mr. DeCiutiis grew up in Manhattan's Lower East Side until the outbreak of World War II, when he dutifully joined the 8th Army Air Force in England. After the war, Hugo returned home to continue his education; an ongoing pursuit that was destined to encompass the rest of his life.

With help from the GI bill, he graduated from City College of New York, Brooklyn College and Adelphi University with three different masters degrees in chemistry, earth science, and education. Convinced that there could be no higher calling than passing his knowledge on to future generations, Mr. DeCiutiis spent the next 32 years in the classroom, teaching chemistry and science at W.T. Clarke High School in Westbury, Long Island.

Mr. DeCiutiis' passion and devotion to education did not stop at the classroom door. He was an extremely active member of the Westbury School Board, where he distinguished himself as a tireless advocate for funding for public education. He will always be remembered for his efforts to achieve equitable State funding in public schools.

As a former school teacher, I have the highest degree of respect for those who choose to make education their life's work. Mr. DcCiutiis' accomplishments in the field of education exemplify what it means to be to be a teacher, and like all good teachers, he never stopped trying to become a an ever better educator.

In addition to his direct involvement with education, Mr. DeCiutiis' was also devoted to the betterment of the entire community. He was a tutor at the Family Services Association of Hempstead, a member of the Westbury Historical Society, NAACP, Central Westbury Civic Association, LIFE—Learning is for Everyone—and co-founded the summer day camp GIFT—Great Ideas For Tomorrow—at the Lutheran High School in Brookville.

Mr. Speaker, I would ask that my colleagues join me in saluting Hugo DeCiutiis, and extend our sympathy to his children and family. His life represents the best of American values, and his tireless dedication to educational achievement and public service are an example to us all. Mr. DeCiutiis understood that one person can make a difference in the lives of others, and with that simple tenant, he has left a legacy that we should all hope to emulate.

NUCLEAR DECOMMISSIONING COSTS SIMPLIFICATION ACT OF 1995

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. CRANE. Mr. Speaker, one of the issues that the voters expect this Congress to address relates to the elimination of unnecessary and burdensome Federal requirements and regulations. In that spirit, I am today introducing legislation, the Nuclear Decommissioning Costs Simplification Act of 1995, which will take one small and reasonable step toward simplifying our Tax Code.

Under current law, section 468A of the Internal Revenue Code permits a utility to elect a deduction for the amount of payments made to a nuclear decommissioning reserve fund. The fund must be dedicated exclusively for the payment of costs associated with decommissioning a nuclear power reactor. The amount of the deductible payment for a particular tax year is limited to the lesser of: first, the nuclear decommissioning cost included in the taxpayer's cost of service for ratemaking purposes or, second, the so-called ruling amount as determined by the Internal Revenue Service [IRS]. In order to claim a deduction, the taxpayer must submit a detailed application to the IRS which sets forth the computation of the ruling amount.

It has been indicated to me that the process required by section 468A is the only provision of the Internal Revenue Code in which a deduction is made conditional upon pre-approval by the Secretary of the Treasury. Moreover, preparation of each ruling request costs utilities thousands of dollars in legal and other fees in addition to the $3,000 user fee imposed for filing the ruling request. In many cases, utilities have more than one reactor, in which case the utility must absorb the preparation costs and pay the filing fee several times in a single year. For example, a taxpayer with four reactors that contributes to four reserve funds would incur costs in excess of $50,000 to submit four ruling requests.

Mr. Speaker, perhaps this unique pre-clearance procedure would be necessary if there was a particular risk of fraud, abuse, or miscalculation. However, there is no evidence that any such risk exists or ever has existed for that matter. Nevertheless, the pre-clearance requirement lives on in the Internal Revenue Code. The time has come to recognize that the process that utilities go through to comply with section 468A is entirely computational, and presents no unusual set of circumstances requiring the abandonment of the normal rule that taxpayers take deductions subject to a subsequent audit.

The Nuclear Decommissioning Costs Simplification Act of 1995 is truly a simplification proposal. The bill, if enacted, would modify section 468A by striking the requirement that the taxpayer must request and receive a schedule of ruling amounts from the Secretary of the Treasury as a condition to claiming a deduction for payments to the nuclear decommissioning reserve fund. The bill would not result in larger deductions because the current substantive rule limiting the deduction would remain in place. The proposal simply would have the effect of treating the deduction for amounts paid into the fund in the same manner as other deductions are treated and if, on audit, the IRS determines that an excess amount was deducted by the utility, additional tax payments, interest, and penalties would be imposed.

Mr. Speaker, this reform may not be as dramatic as some others that we have debated in the House this year, but it is no less worthy. The bill I am introducing today is narrowly targeted to relieve utilities of a regulatory requirement that long ago outlived its usefulness. It will neither create a tax loophole nor compromise safety, but it will strike a small blow for sensible deregulation. I am hopeful that this legislation will be considered in the context of tax legislation this year, and I urge my colleagues to support this effort.

TRIBUTE TO PAT SCHNEIDER

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. DAVIS. Mr. Speaker, I rise today to pay tribute to one of Fairfax County, VA's outstanding public school teachers, Mrs. Pat Schneider.

When the executive of a company retires, special dinners, gold watches, and high accolades are the order of the day. However, when some of our public servants retire, few seem to notice.

In Fairfax County, one our school teachers, after teaching for almost 35 years, is retiring at the end of this school year. For 23 years, Mosby Woods Elementary has been the benefit of Mrs. Pat Schneider's excellent teaching skills. Like most teachers, Mrs. Schneider has worn many hats beyond that of the classroom teacher. Before the 1994 school year and the formal addition of a vice principal, Mrs. Schneider would step in as acting principal when needed. Involved with many extracurricular activities, Mrs. Schneider is best remembered as the teacher sponsor of the Student Council Association.

How does a teacher know if he or she has effectively reached their classroom constituents? Of course, test and papers will reflect the academic aspects of successful teaching. However, beyond reaching a child's mind, the best teachers will also touch a child's heart. Mrs. Schneider's success in reaching the hearts of her students is quite evident as former students are always dropping by her classroom to say "hi" and grab a quick hug or word of encouragement.

As Fairfax County loses a teacher of excellence and Mosby Woods a dear friend and colleague, there are no gold watches or black tie dinners but her community offers her a heart felt "thank you," and I know my colleagues join me in honoring her years of service to our kids and thank her for leaving her community a better place for her efforts.

CHICAGO'S NORTHWEST ASSOCIATION OF REALTORS FIGHTS TO PROTECT THE HOME MORTGAGE INTEREST DEDUCTION

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. FLANAGAN. Mr. Speaker, a home purchase is the largest investment most American families will ever make. American homeowners take pride in their properties and contribute to their communities. Real estate and housing comprise the engine that drives America's economy, accounting for 15 percent of the gross domestic product.

The home mortgage interest deduction on the homeowner's Federal income tax return has proven to be a strong incentive to invest in the American dream of home ownership. The home mortgage interest deduction is a continuous, many decades old tax equalization provision allowed by the Federal Government to home owning American citizens. Eliminating, or further limiting, within the current Federal Tax Code, the home mortgage interest deduction will surely result in a sharp decline in property values and American homeowners experiencing a significant drop in the value of their homes. Eliminating, or further limiting, within the current Federal Tax Code, the home mortgage interest deduction will create a likelihood of a regional or national housing recession.

Depressed housing and real estate markets would result in reduced local tax revenues and less money for our communities to perform such basic services as schools, sanitation, police protection, and firefighting. Depressed housing and real estate markets would quickly result in the need for higher local property taxes. Eliminating, or further limiting, within the Federal Tax Code, the home mortgage interest deduction will result in fewer people buying homes and the destabilization of the foundation of our local communities.

The efforts of the officers, directors, staff and members of Chicagoland's Northwest Association of REALTORS to protect, within the framework of the current Federal Tax Code, the sanctity and integrity of the many decades old home mortgage interest deduction is hereby duly noted. I urge my colleagues in the House and Senate to take no legislative action that would result, under the current Federal Tax Code, in either further limiting, or eliminating, the home mortgage interest deduction afforded to American homeowners.

SCREENING FOR COLORECTAL CANCER: THE PATIENT AND THE PHYSICIAN'S RIGHT TO CHOOSE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Ms. SLAUGHTER. Mr. Speaker, I rise today to discuss the Colorectal Cancer Screening Act of 1995, and why I became a cosponsor of this legislation. The bill, H.R. 1046, is intended to establish the basis for a comprehensive colorectal cancer screening program in the United States. The bill is designed, however, to leave the important decision about how to screen for colorectal cancer where it belongs—with the patient and his or her physician, not the Federal Government.

Colorectal cancer screening is, as the saying goes, "an idea whose time has come." A number of recent medical studies confirm that the best way to reduce the mortality rate for colorectal cancer is to ensure that more of the approximately 60 million Americans between the ages of 50 and 75 follow the recommendations of the American Cancer Society and be screened every 3 to 5 years for early signs of precancerous polyps in the colorectal area. About 150,000 new cases of colorectal cancer are diagnosed in the United States each year, and more then 60,000 Americans will die from this disease. Thousands of these deaths could be prevented by catching the disease at the earliest possible stage through screening.

The Colorectal Cancer Screening Act of 1995 amends the Social Security Act to include coverage for periodic colorectal cancer screening as a covered benefit under the Medicare Program. This will ensure coverage for screening individuals over the age of 65, and hopefully will lead private health care plans to establish screening programs that start at age 50.

Equally important, the Colorectal Cancer Screening Act of 1995 does not force the Federal Government into the physician-patient relationship with regard to the decision on how to screen for colorectal cancer. The bill permits a number of current screening procedures to be used, and establishes a mechanism through which new technologies can be included as they are developed and can be provided within the reimbursement levels set pursuant to the legislation.

It is critical that we leave the decision on how to screen to the physician and the patient for a number of reasons. First, with regards to current technologies, the medical literature indicates that colorectal cancer screening can be accomplished with a number of different procedures, each of which has distinct advantages and disadvantages. For example, screening with sigmoidoscopy is generally seen as more convenient than the other procedures because it can be performed by a general physician during a comprehensive physical, and costs about $125 to $200. The clear disadvantage of sigmoidoscopy, however, is that it reaches only one-half of the colon and, therefore, is incapable of finding about 50 percent of the cancers and precancerous polyps. As a result, it is impossible for a physician to tell a patient who has been screened with sigmoidoscopy that they do not have colon cancer or precancerous polyps in their colon.

By contrast, the barium sulfate enema examination and colonoscopy are capable of examining the entire colon and can detect between 90 and 95 percent of the polyps and lesions. The disadvantages of these procedures are cost—barium enema charges are about $200 to $350, and colonoscopy charges commonly exceed $1,000—and convenience. In addition, the risks of perforation from colonoscopy are about 10 times greater than for the barium sulfate examination. The Colorectal Cancer Screening Act of 1995 keeps the Federal Government out of the process of deciding which procedure is right for each patient.

The other critical reason to leave individual screening decisions to physicians and patients is that it allows for the development of new technologies. For example, a number of research centers in the United States are working on a new technology for colorectal cancer screening that uses computers to create a virtual reality image of the colon and colorectal area from a single 45-second CAT scan. It has the potential to make colorectal cancer screening more cost-effective, and more accepted by patients than the current alternatives. Unlike other proposals for colorectal cancer screening, the Colorectal Cancer Screening Act of 1995 encourages research and development on these new technologies because it provides a mechanism to have the procedures covered under Medicare when it is ready for patient use.

In conclusion, medical research has provided the evidence to make clear that it is time for the United States to develop a program for colorectal cancer screening. Today, less than 1 percent of all Americans over the age of 65 have ever been screened for colorectal cancer. That has to change.

The goal of the Colorectal Cancer Screening Act of 1995, H.R. 1046, is to cut by 50 percent the number of Americans who die of colorectal cancer—30,000 lives. Including colorectal cancer screening as a covered benefit under Medicare will establish the beginning of a program that can accomplish this goal. I urge my colleagues to examine this legislation, and hope that you will join me as a cosponsor of the bill.

TRIBUTE TO JACK V. CAPPITELLI, JR. AND ROBIN S. SCHWARTZ

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today to offer my sincere congratulations to Mr. Jack V. Cappitelli, Jr., and Ms. Robin C. Schwartz. Jack and Robin were wed on Sunday, May 14 in Montclair, NJ.

Jack, who is formerly of Old Bridge, NJ, is the son of Mr. Jack Cappitelli, Sr. and his wife, Mrs. Theresa Cappitelli. From Old Bridge he moved on to enroll at Rutgers University where he graduated in 1990. He went on to study medicine at the New Jersey University of Medicine and Dentistry. Today, Mr. Cappitelli is contributing his services to his local community as a resident physician at the Robert Wood Johnson Hospital in New Brunswick, NJ.

Robin grew up in Cedar Grove, NJ, and is the daughter of Mr. and Mrs. Theodore Schwartz. She graduated from New York University in May 1992 with a masters degree in urban planning. She now serves as a municipal credit analyst at Moody's Investor Service in New York City.

As Jack and Robin begin their new life together I sincerely hope that their years are filled with happiness. I know that they must be excited to begin a journey hand in hand—partners in life. I ask all my colleagues to join me in congratulating Jack, Robin, and both their families while wishing them the best for a long and prosperous life together.

COMMUNITY PSYCHIATRIC CLINIC CELEBRATES 60 YEARS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MORELLA. Mr. Speaker, on May 17 I will have the honor of participating in the Gala 60th Anniversary Celebration of the Community Psychiatric Clinic [CPC]. The clinic has been a leader in providing high quality mental health services in Montgomery County since its founding in 1935. It remains dedicated to serving those who are most vulnerable among us—abused children, low-income single mothers, immigrant families, and emotionally troubled adolescents.

CPC was founded in 1935 by concerned citizens who recognized the need to bring health services out of metropolitan areas and into the community, to serve people where and when they need help. The inspiration behind this small group of local citizens was a politically active and socially aware suffragist, Lavinia Engle, who became one of Montgomery County's most admired citizens, and who is being honored with a posthumous award by CPC tonight.

The clinic began in then-rural outreaches of Montgomery County in a small office above a bank in Rockville. Services were available 1 day a month and the clinic's initial budget was

$50. In its 60th year, CPC is a $3.6 million agency that will serve more than 4,500 individuals this year.

While these numbers are striking, what is most significant is that CPC has grown in response to the very special needs of our country's population, in particular, the needs of those without a powerful voice of their own. Many of the economic and social changes of the last decade have been particularly felt by women and children and the growing elderly population in our community. As early as the 1960's, CPC had developed an adolescent "drop-in" program. Redl House, a residential facility for troubled boys aged 8 to 12, began in 1982, and Camp Greentree, a therapeutic summer program for 80 emotionally disabled children, will celebrate its 25th anniversary this year.

CPC's commitment to the community continues. Recognizing the emotional strains on many needy families and the difficulties they often face in accessing services, CPC has begun offering school-based programs. Through its outreach efforts, the clinic continues to work with all families in crisis, including adults in work-training programs and elderly persons and their families.

It is with great pride that I join in honoring CPC after 60 years of service. CPC is an example of our community at its best, founded by local citizens, sustained by a dedicated staff and board, and forging new directions through a continued commitment to those in need. I look forward to CPC's next decades, knowing that the clinic will continue to set the pace in responding to the increasingly demanding and complex human needs of the future.

TRIBUTE TO THE CENTENARIANS OF THE WEDGEWOOD PAVILION NURSING HOME

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. RUSH. Mr. Speaker, it is my great pleasure to rise today to offer my sincerest congratulations to three truly wonderful seniors, who on Tuesday, the 16th of May, will receive special recognition from the Social Security Administration for having reached the extraordinary age of 100 years old.

The recipients of this special honor are Mr. Frank Howard, Ms. Mary Simmons, and Ms. Bertha Williams. Each of these distinguished centenarians have touched so many people over the years, and they are to be applauded for their achievements over the past century.

I wish to extend to each of them my best wishes on this wonderful occasion, and am proud and honored to enter these words of commendation into the RECORD.

"A PATTERN OF SLIGHTS TO OUR STRONGEST ALLIES"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. BEREUTER. Mr. Speaker, as leader of the free world, the United States has been ably joined in our foreign policy pursuits by a number of steadfast friends and allies. Nations such as France and, in particular, Great Britain, have stood by the United States when others remained silent. While international relations have changed dramatically with the end of the cold war, we should understand that we cannot, we must not, take these relationships for granted. Indeed, in the post-cold-war era, the United States can ill afford to slight our friends and allies when a wide range of challenges to our economic and security interests abroad cannot be effectively confronted unilaterally.

Two actions, in particular, have recently frayed the strong ties binding the United States with Great Britain—our staunchest ally in Western Europe. To the consternation of the British Government, the Clinton administration first granted visas to members of the Irish Republican Army and then invited IRA leader Gerry Adams to the White House. Moreover, relations between the United States and its West European allies have been seriously strained as a result of failed efforts to quell the conflict on the Balkan Peninsula. There have been occasions when the Clinton administration proposed major initiatives in Bosnia-Hercegovina without consulting our European allies—nations that have thousands of troops on the ground. Such affronts to our best friends, whether intended or not, are actions that do little but to undermine our longstanding relations with these nations.

Mr. Speaker, this Member would point out that the most recent slight to our European allies occurred during the 50th anniversary of the Allied victory in Europe. As noted in the May 9, 1995, Omaha World Herald editorial entitled "Clinton's Affront to England, France," President Clinton's decision not to participate in the English and French V–E ceremonies was a shabby way to acknowledge those allies that did so much not only to halt Nazi aggression in World War II but to protect the free world during the cold war era. This Member commends this editorial to his colleagues.

[From the Omaha World Herald, May 9, 1995]

CLINTON'S AFFRONT TO ENGLAND, FRANCE

President Clinton showed little loyalty to America's staunchest World War II allies and even less to the lessons of history when he chose to commemorate the 50th anniversary of V–E Day in Moscow rather than with other Allied leaders in more appropriate cities.

Clinton sent Vice President Al Gore to represent the United States in London, Paris and Berlin. This was a shabby way to acknowledge the allies that did so much to save the Free World, allies that after the war formed the Atlantic Alliance to protect freedom in the decades since.

Russian President Boris Yeltsin deserves criticism, too. Yeltsin, whose position as head of the Russian nation is far from solid, was unwilling to celebrate V–E Day outside of Moscow. Yeltsin should not have forced Clinton into such a choice.

Just as the "Big Three" leaders of World II, Franklin Roosevelt, Winston Churchill and Josef Stalin, met together during the war, so today's American, British and Russian leaders should have stood together on the 50th anniversary of V–E Day.

Yeltsin should not have set up such a situation, and Clinton should not have allowed himself to be manipulated so cynically with a schoolyard me-or-them ultimatum.

Certainly, the Soviets paid dearly in blood and treasure in order to defeat Germany on the Eastern Front. And yes, this was integral to the Allied victory. Moscow, however, embraced virtue only out of necessity.

Despite Allied efforts to enlist the Soviets, Stalin initially signed a nonaggression pact with Germany. Only when Hitler violated that pact by invading the Soviet Union did Stalin come to his senses.

Through it all—betrayal by Stalin, the fall of France, the blitz, the darkest days of the war—England and her people refused to waver. In his ultimately unsuccessful plea that the Vichy government not give in to the Nazis, Churchill reminded everyone of how much was at stake in the war against Hitler:

"If we can stand up to him, all Europe, may be freed and the life of the world may move forward into broad, sunlit uplands. But if we fail, the whole world, including the United States and all that we have known and cared for, will sink into the abyss of a new dark age."

Clinton chose not to honor this rich and moving legacy during the commemoration of V–E Day. It was an affront to the people of England and the people of France.

HEATHER WILLIS, VOICE OF DEMOCRACY WINNER

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. VOLKMER. Mr. Speaker, I rise today to honor a high school senior from Bowling Green, MO—Heather Willis. Heather has been named a national winner in the 1995 Voice of Democracy Program and the recipient of the Robert A. Stock Memorial Scholarship. The Voice of Democracy program is sponsored each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary, asking high school seniors to write and record a 3–5 minute essay on a patriotic subject.

I believe that Heather's essay, "My Vision of America," is an excellent example of what we hope our children are learning in school: An understanding of the principles on which this country was founded and the realization that we all have a part to play in its continued greatness.

I feel that Heather, the daughter of two school principals—Keith and Charlene Willis, has clearly demonstrated a maturity beyond her years. She's hoping to attend Missouri University-Columbia to pursue a career in either law or journalism, and I am sure she will excel in either field.

I urge my colleagues to take a few minutes to read this very thoughtful essay.

MY VISION FOR AMERICA

It was a single candle that lit mine, and in the chain of events, I lit another until finally the room was filled with illuminated faces.

Many of you have seen it at a candlelight service. A dark room lit by the flame of one candle, the light growing brighter and brighter as the flame is passed.

It always amazes me that the instigation of one small spark, one small idea, one person, can make such a difference in a chain of events. If one did not start such an event, would anything be accomplished?

The United States of America is considered to be one of the most powerful and influential nations in the world. It has been constructed in this fashion because of the power given to its people.

Out of all the people who started this nation, there stood out among them a number of sparks that passed on the flame of a dream.

A man, who would not allow our country to be suppressed under England's rein, led a convention of independence. His ideas struck many others and together, the land we call home was granted independence.

A president who believed a nation should stick together. A president who said, "With malice toward none, With charity for all." A president who freed a race, helped make our country what it is today.

A song writer, who watched the flag of our nation withstand the firing of guns and the storms of the sky believed that the nation this flag represented had to be just as strong. He wrote what today brings thousands of Americans to tears, what today unites a nation. Something as simple as a song.

The hopes and dreams of our nation have solely depended on a people to make them reality. We have the power to make or break our nation. Our forefathers have handed us the torch—it is our turn to pass it on.

Where do we start? We start with me—we start with you.

A dream is a wonderful thing to have, that is unless it stays just that—a dream.

What is that man had not pursued his dream for independence? What if that president had not pursued his vision? What if?

My vision, and hopefully yours, is that we as families, as communities, as a nation, as a people, start working together as a unit. We, as a people, need to understand that as long as we have dreams, there is always room for reality—but if we keep fighting each other there will never be peace. If the notes were never written, there would never have been a song.

You and I are the future of this nation—let's not let it down. We need to look deep within ourselves and believe that as one person, we have the power to make a difference.

Our late president John F. Kennedy once said that "One person can make a difference . . . and each of us must try."

I challenge you to take your hopes and dreams for this nation and ignite the imagination of those around you. Your ideas may fan a flame and America will brighten. The light will grow because of you.

One writer has observed that: Rosa Parks was just one person. She said one word. She said it on December 1, 1955. She said it to a bus driver. The word was no. She said one word and a nation blushed. One word and a world talked. One woman said one word and 17,000 people walked.

Yes, "One person can make a difference . . . and each of us must try."

My vision is to illuminate a nation—one step at a time. In order to start this fire, I need you, my neighbor, to pass on the flame. America needs you to pass the flame. We, the citizens of the most powerful nation in the world, must become an international source of light, each person holding the flames of a dream, and then we as a nation can set a world on fire.

WEST VALLEY ACHIEVES SAFETY MILESTONE

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. HOUGHTON. Mr. Speaker, I'd like to extend my congratulations to the workers at the West Valley demonstration project in the 31st District of New York. They have completed 1 full year—over 2 million work hours—without losing 1 day due to a work related accident.

The West Valley demonstration project, created in 1980, is addressing both a local and national need for radioactive waste management technology.

At the project, the Department of Energy is developing and implementing technology to safely solidify the liquid high-level radioactive waste that is currently stored at the site.

When the project started in 1982, a team of 50 employees began building the team that has developed, installed, tested, and is now preparing for fully remote operation of a unique vitrification system.

By 1996, the system will begin solidifying the liquid high-level waste at the site into durable, solid glass suitable for safe storage and disposal.

West Valley's safety and technology achievements are a real tribute to western New York workers, and their dedication to quality and performance.

I join many others in congratulating the employees of the West Valley demonstration project for a job will done.

TRIBUTE TO LEE J. KAUPER, DIRECTOR OF THE FRANKLIN DELANO ROOSEVELT VETERANS HOSPITAL

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. KELLY. Mr. Speaker, I rise today to pay tribute to Lee J. Kauper—a resident of the 19th Congressional District—who will soon be retiring from his post as the director of the Franklin Delano Roosevelt Veterans Hospital in Montrose, NY. His contributions to those in and around his facility have been seemingly limitless.

Appointed director of the veterans hospital on June 2, 1991, he has promoted an active and innovative agenda. The Westchester County facility provides tertiary psychiatric care and primary medical services in conjunction with long-term care and substance abuse treatment. The 800-bed facility is the fifth largest public employer in the country with more than 1,400 full-time staff. And in excess of 70,000 outpatient visits are logged each year.

He has dedicated the better portion of his life to the service of his country, first as a member of our Nation's military and then later on as an administrator caring for our Nation's veterans.

Aside from these personal accomplishments, Mr. Kauper is an active member of his community—a member of the Peekskill Rotary Club, vice chair of the Federal Executive Board, a board member of the Combined Federal Campaign, a board member of the Peekskill Chamber of Commerce, a member of the Northern Metropolitan Hospital Association, a member of the American Legion Advisory Board, and the list goes on and on.

The America we all know and love is typified by the spirit of dedication to the preservation of the community. The idea of individual sacrifice has long been ingrained in our national identity, and its individuals such as Mr. Kauper, who so ably maintains this tradition.

Both the patients and staff of the Franklin Delano Roosevelt Veterans Hospital and the people of Westchester County have a great deal to be thankful for in having people such as Mr. Kauper preserving this ideal. In this spirit Mr. Speaker, I urge my colleagues to join me in offering my personal congratulations and heartfelt thanks to Mr. Kauper, not just as Members of Congress but as members of one community—America. Mr. Speaker, on behalf of the friends, colleagues, and admirers of Lee Kauper, I hereby express my heartfelt appreciation for his years of service and recognize the joyous occasion of his retirement.

IN MEMORY OF ELIZABETH GLASER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Ms. PELOSI. Mr. Speaker, Sunday was Mother's Day. I rise to honor the memory of Elizabeth Glaser, a brave and loving mother who led national efforts to call attention to pediatric AIDS.

Elizabeth went door to door in Congress to make the case for increased funding for pediatric AIDS research. Her moving speech at the Democratic Convention in New York inspired the Nation. Her relentless advocacy led to major increases in funding for pediatric AIDS research and congressional attention to pediatric AIDS prevention and patient care concerns.

Thursday, May 11, Members of Congress, administration officials, and pediatric AIDS advocates appeared before the Commerce Committee to present views on preventing HIV transmission from mothers to newborns. The hearing highlighted all that Elizabeth accomplished through her work. The focus of the hearing was to find ways to implement remarkable research findings from the National Institutes of Health [NIH] where researchers developed medical treatments to reduce from 25 to 8 percent the number of newborns infected by their mothers during pregnancy and delivery.

Elizabeth Glaser's advocacy had led to this research that will give thousands of infants the opportunity for a healthy life. We lost Elizabeth to AIDS last December. But her legacy is with us and is cause for honoring her memory on Mother's Day.

H.R. ——, THE REGULATORY ACCOUNTING ACT OF 1995

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. BLILEY. Mr. Speaker, today I am introducing H.R. ——, the Regulatory Accounting Act of 1995. The Regulatory Accounting Act of 1995 provides an important tool to understand the magnitude and impact of Federal regulatory programs on our economy. Currently, the executive branch and Congress devote a great deal of time and effort to prepare and debate the annual budget of the Federal Government. This budget determines how much money the Federal Government will collect and where it will spend the money. The budget for fiscal year 1995 is approximately $1.5 trillion.

The Federal budget, however, fails to take into account the full impact of Federal programs on the U.S. economy. The Federal Government also imposes tremendous costs on the private sector, State and local governments and, ultimately, the public through ever-increasing Federal regulations. Some recent estimates place the compliance costs from Federal regulatory programs at over $600 billion annually and project substantial growth even without new legislation. This amounts to $6,000 per year per family. The costs are often hidden in increased prices for goods and services, loss of international competitiveness in the global economy, lack of investment in private sector job growth, and pressure on the ability of State and local governments to fund essential services, such as crime prevention and education.

The benefits of Federal programs are no doubt substantial. Lack of accountability and regulatory reform, however, has left many Federal programs inefficient or marginally productive. Unlike the private sector, where freedom of contract and free market competition drive price and quality, Federal programs are only accountable through the political process. Moreover, historically, both Congress and the executive branch have driven growth in Federal regulatory programs, creating layer upon layer of bureaucracy at great cost and with diminishing returns for the American people. If Congress and the executive branch do not take concrete steps to reform these programs, the United States will surely decline in the world economy. Consequently, the quality of life for our children will also decline.

The Regulatory Accounting Act of 1995 is an important management tool to evaluate the cumulative impacts of regulatory programs through an accounting of national expenditures and statements of corresponding benefits for each regulatory program. The cumulative impact of regulatory costs must be debated at the same level that taxing and spending are debated; after all, they are all driven from the same two sources—the private sector and the American people. Rule-by-rule evaluations are insufficient to capture cumulative impacts or manage national expenditures. Moreover, a national debate that focuses solely on the $1.5 trillion Federal budget without accounting for the additional $600 billion in annual regulatory costs is an incomplete and uninformed debate that leads to poor national policy and management of resources.

What is needed is an accounting tool that allows the Federal Government to fully understand the cumulative impact of Federal programs. The Regulatory Accounting Act would provide such a tool. The bill requires the President to provide an accounting statement every 2 years respecting the costs of regulation to the private sector and State and local governments, and Federal Government costs by program or program element. The President would also provide quantitative or qualitative statements of corresponding benefits. Such an accounting offers the opportunity for comprehensive analyses of impacts on our economy through an associated report. The bill also provides for input from the public and opportunities to identify areas for regulatory reform.

The legislation changes no regulatory standard or program. It will, however, provide vital information to Congress and the executive branch so they may fulfill their obligation to ensure wise expenditure of limited national economic resources in all regulatory programs.

SALUTE TO THE UNIVERSITY OF SOUTH DAKOTA'S DISASTER MENTAL HEALTH INSTITUTE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to take this opportunity to commend the University of South Dakota for taking part in an effort to assist children with their pain and fear over the horrible and cruel bombing of the Oklahoma City Federal Building. This monstrous act, which killed and injured so many of our fellow citizens and brought sadness to so many Americans, has also scared and altered the innocent minds of our children. In contrast to this heinous act of cruelty, countless men and women all over our country have unselfishly given their time and prayers to those affected by bombing, and I am particularly proud of the University of South Dakota's efforts to comfort and ease the pain of children who feel unsafe as a result of the Oklahoma City bombing.

The University's Disaster Mental Health Institute has teamed up with the American Red Cross, the American Psychological Association, AT&T, and other health professionals from the region to operate the Children Heal Hotline, a 5-day nationwide crisis telephone line for children. I am extremely proud of USD's efforts to pull America together in order to help our children and I think the establishment of the crisis line for children is an excellent example of how people and organizations all over our country have come together to do what ever possible to offer assistance to our fellow citizens who are victims of the tragedy which took place in Oklahoma City.

The Disaster Mental Health Institute at USD has reached out and helped countless South Dakotans deal with the floods and related difficulties associated with the floods of the past years and I am pleased that other Americans will benefits from the great work done at the Institute. It is organizations like USD, and their efforts, which give us hope for our future, and restore our faith in mankind. I ask my colleagues to join me in recognizing and saluting the University of South Dakota for their outstanding service and devotion to our children.

TRIBUTE TO STANLEY G. TATE AND THE FLORIDA PREPAID COLLEGE PROGRAM: COLLEGE EDUCATION FUNDING MODEL FOR THE NATION

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mrs. MEEK of Florida. Mr. Speaker, in 1987, the Florida Legislature created the Florida Prepaid Postsecondary Education Expense Program to allow families to prepay college tuition and housing expenses for their children at a lower rate than the projected costs at the time of enrollment.

As a member of the Florida State Senate, I strongly supported this innovative program to help parents assure quality college educations for their children.

A driving force behind the program, and a key reason for its outstanding success, is the chairman of the board of the Florida Prepaid Postsecondary Education Expense Program, Stanley G. Tate. Mr. Tate has worked tirelessly in the legislature, in our Dade County community, and in our State to make this program the model for the Nation that it is today. His guidance, expertise and energy has helped make the program what it is today.

As of this year, the Florida Prepaid College Program has a surplus of $106 million—which continues to increase—with net assets in excess of $1 billion. Over 325,000 contracts have been sold, assuring Florida youngsters fully paid tuition when they are ready to go to college. Once again, the program has been declared actuarially sound by its auditors.

Of particular importance to me is the steps that are being taken to increase awareness of and participation in the program in minority communities throughout the State. Advertising in minority markets has been increased, and minority participation is at its highest level ever. In addition, the Florida Prepaid College Foundation's Project STARS [Scholarship Tuition for At-Risk Students] has received matching funding of $1 million from the State of Florida to provide college scholarships for economically disadvantaged students. The $1 million will be combined with $1 million in private sector donations to provide 950 scholarships for such students throughout the State.

Mr. Speaker, I salute the Florida Prepaid Postsecondary Education Expense Board and

commend this excellent program to my colleagues for their consideration.

PERSONAL EXPLANATION

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall Nos. 324 and 328, I missed these votes on May 12 due to some important business in the District. I would have voted "no" on rollcall vote No. 324 and "yes" on rollcall vote No. 328.

THE ANTITERRORISM AMENDMENTS ACT OF 1995

HON. RICHARD A GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 1995

Mr. GEPHARDT. Mr. Speaker, today I am pleased to introduce the President's antiterrorism legislation in the House, to help ensure that America never endures the kind of tragedy which shook Oklahoma City on April 19.

What happened in Oklahoma City was an unforgivable act of cold-blooded cowardice. There is no posture or principle which justifies the ruthless killing of innocent children. There is no cause or commitment which excuses such random death and destruction.

We must do more than merely convicting those responsible for this horrific act of violence, and bringing them to swift and certain punishment. We must serve warning to all who would use extremist means to advance their extremist ideas: We will use the full force of our laws to find them, to punish them, and to rid our society of their hateful acts. And when those laws aren't enough, we'll write tough new laws to rein in their wanton bloodshed and terrorism.

That is why this legislation is so important. It will help our law enforcement agencies root out terrorism more quickly and effectively, to help make the atrocities of Oklahoma City a closed chapter in our Nation's history.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 16, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine the National Academy of Public Administration's study on the Environmental Protection Agency.

SD–G50

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.

SD–192

Armed Services

To hold hearings on the national security implications of U.S. ratification of the Strategic Arms Reduction Treaty (START II).

SR–222

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Finance

To continue hearings on the fiscal solvency of Medicare and the status of the program's delivery of health care services, focusing on methods to preserve and improve the Medicare program.

SD–215

10:00 a.m.

Foreign Relations

Business meeting, to mark up proposed legislation to authorize funds for and to reorganize the State Department.

SD–419

Governmental Affairs

To hold hearings to examine proposals to reorganize the Executive Branch.

SD–342

Joint Economic

To hold hearings to examine the use of the flat tax, focusing on the potential for economic growth.

SD–106

10:30 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Legal Services Corporation.

SD–116

2:00 p.m.

Armed Services

Acquisition and Technology Subcommittee

To resume hearings on S. 727, to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal year 1996, focusing on dual-use technology programs.

SR–232A

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

2:30 p.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.

SD–192

MAY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings to examine the administration of timber contracts in the Tongass National Forest and administration of the Tongass Timber Reform Act of 1990.

SD–366

Finance

To resume hearings to examine various flax tax proposals.

SD–215

Governmental Affairs

To continue hearings to examine proposals to reorganize the Executive Branch.

SD–342

Rules and Administration

To resume hearings to examine management guidelines for the future of the Smithsonian Institution.

SD–106

Small Business

To hold hearings to examine the Small Business Administration's 7(a) business loan program.

SD–628

Indian Affairs

To hold oversight hearings on the recommendations of the Joint Department of the Interior/Bureau of Indian Affairs/Tribal Task Force on Reorganization of the Bureau of Indian Affairs.

SR–485

Joint Economic

To hold hearings to examine issues relating to economically-targeted investments.

2226 Rayburn Building

10:00 a.m.

Foreign Relations

Business meeting, to mark up proposed legislation authorizing funds for foreign assistance programs.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

10:30 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs.

SH–216

1:00 p.m.

Armed Services

SeaPower Subcommittee

To resume hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on the Marine Corps modernization programs and current operations.

SR–232A

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD–138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Treasury Department, and the Federal Election Commission.
SD–192

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on proposed legislation to extend the deadlines of certain hydroelectric projects, including S.283, S.468, S.543, S.547, S.549, S.552, S.595, and S.611.
SD–366

3:00 p.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on S. 727, to authorize funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on bomber force issues.
SR–222

MAY 19

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD–192

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings to examine adult education programs.
SD–430

MAY 22

2:00 p.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Architect of the Capitol, and the Government Printing Office.
SD–116

Governmental Affairs
Post Office and Civil Service Subcommittee
To resume hearings on Federal pension reform, focusing on how Federal pension plans compare to private sector plans.
SD–342

MAY 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal nutrition programs.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on financial management.
SD–192

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on NASA's Space Station Program.
SR–253

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 620, to direct the Secretary of the Interior to convey, upon request, certain property in Federal reclamation projects to beneficiaries of the projects and to set forth a distribution scheme for revenues from reclamation project lands.
SD–366

Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485

2:30 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings to review the Department of the Interior's programs, policies and budget implications on the reintroduction of wolves in and around Yellowstone National Park.
SD–366

MAY 24

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD–192

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine international aviation policy.
SR–253

Governmental Affairs
Oversight of Government Management and The District of Columbia Subcommittee
To hold oversight hearings on aviation safety.
SD–342

10:00 a.m.
Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on research and the future of U.S. agriculture.
SR–328A

MAY 25

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 638, to authorize funds for United States insular areas.
SD–366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Marketing, Inspection, and Product Promotion Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on Federal farm export programs.
SR–328A

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs of the Department of Defense, focusing on Army and certain Defense agencies.
SD–192

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the financial and business practices of the American Association of Retired Persons (AARP).
SD–215

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on property line disputes within the Nez Perce Indian Reservation in Idaho.
SD–366

MAY 26

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the General Accounting Office, and the Office of Technology Assessment.
SD–116

JUNE 6

9:30 a.m.
Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on resource conservation.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on intelligence programs.
S–407, Capitol

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–138

Energy and Natural Resources
Energy Production and Regulation Subcommittee
To hold hearings on S. 708, to repeal section 210 of the Public Utility Regulatory Policies Act of 1978.
SD–366

2:00 p.m.
Joint Printing
To hold oversight hearings on the activities of the Government Printing Office (GPO).
1310 Longworth Building

JUNE 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Service and the Selective Service System.
SD–192

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10:00 a.m.
Judiciary
Youth Violence Subcommittee
To hold hearings to examine the welfare system's effect on youth violence.
SD–226

JUNE 13

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.
SD–192

JUNE 15

9:30 a.m.
Agriculture, Nutrition, and Forestry
Production and Price Competitiveness Subcommittee
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.
SR–328A

JUNE 20

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.
SD–192

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.
SD–192